

Denver Journal of International Law & Policy

Volume 13
Number 2 *Winter*
Symposium - Human Rights

Article 6

January 1984

Influencing U.S. Foreign Policy on Human Rights

Otwin Marenin

Follow this and additional works at: <https://digitalcommons.du.edu/djilp>

Recommended Citation

Otwin Marenin, *Influencing U.S. Foreign Policy on Human Rights*, 13 *Denv. J. Int'l L. & Pol'y* 237 (1984).

This Article is brought to you for free and open access by the University of Denver Sturm College of Law at Digital Commons @ DU. It has been accepted for inclusion in *Denver Journal of International Law & Policy* by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, digitalcommons@du.edu.

Influencing U.S. Foreign Policy on Human Rights

Keywords

Human Rights Law, International Relations, Legal History

Influencing U.S. Foreign Policy on Human Rights

OTWIN MARENIN*

The pursuit of human rights has not been a major preoccupation of the Reagan administration, in contrast, at the very least rhetorically, to the Carter administration which made human rights a central pillar of its foreign policy. Human rights goals are now pursued quietly, through diplomatic back channels, with little public knowledge of either effort or effects. Meanwhile, human rights abuses continue unabated almost everywhere, among allies and opponents of the United States. In short, there is no shortage of situations, abuses and incidents in which the U.S. could intercede, and in which the powers, resources and leverage of the US could be used more frequently, precisely and with more telling effect.

What can be done by members of the public to encourage the salience of human rights as a foreign policy goal?¹ I will argue two points: that personal revulsion, indignation, hope, or fervor are not enough if the goal is to influence foreign policy (though they do provide the motivation for individuals to become involved in human rights activities); and that one must understand the general constraints under which foreign policies in the human rights area are made. Influencing foreign policy is a political process and one needs to understand the political process to influence effectively. Such work is difficult, time-consuming, incremental at best, frequently frustrating and often ends in failure. Yet it can and should to be done.

Two general conditions make shaping and influencing foreign policy difficult: namely, human rights are a *foreign* policy and they are a *policy*. Additionally, foreign policy decisions reflect ideological preferences and perceptual images, and in the Reagan administration such preferences limit the visibility and importance of human rights as a goal for US foreign policy. These three conditions make working for human rights quite difficult, for they provide the Reagan administration (as they would all

* Visiting Professor, Graduate School of International Studies, University of Denver; Department of Political Science, University of Colorado at Boulder.

1. An excellent discussion of human rights policy in the U.S. is found in L. Schoultz, *HUMAN RIGHTS AND UNITED STATES POLICY TOWARD LATIN AMERICA* (1981). The Office of Public Safety Program has been little studied; the best available analysis is T. Lobe, *U.S. POLICE ASSISTANCE FOR THE THIRD WORLD* (Ph.D. dissertation; University of Michigan, 1975). Kissinger's dissent is found in United States Government, *The National Bipartisan Commission on Central America, Report of the National Bipartisan Commission on Central America* (January 1984). Jeanne Kirkpatrick argues the distinction between totalitarian and authoritarian repression in her article, *Human Rights and American Foreign Policy: A Symposium*, in *COMMENTARY* 42-45 (November 1981).

others) with legitimating reasons for deemphasizing human rights.

By the statement that human rights is a *foreign* policy, I mean that human rights legislation and efforts develop within three contexts: the context of other policy goals, of domestic politics, and of disagreements about definitions of human rights.

All countries have a human rights policy. All profess, in their rhetoric, a commitment to people's welfare, to social justice, to the abolition of barbaric practises, to the elimination of discrimination and abuses of power which harm the right of individuals and of communities to develop freely and autonomously. Such rights are universally 'accepted' in international charters and in the common vocabulary employed by states. Yet countries also pursue two other major foreign policy goals—national security, and the power and alliances to ensure its protection, and the economic well being of its citizenry and the stability of international trade, finance and investment which guarantees a style of living countries have become accustomed or aspire to.

The promotion of universal values and moral standards (of which human rights are part) is caught in a matrix of trade-offs, a need to balance contradictory demands (so decision-makers see them) which cannot be met at the same time or with equal emphasis. Human rights abuses by an ally, whose support is seen as essential for the protection of some strategic security goal, may have to be 'tolerated' in the 'national interest', though with a heavy heart and dismay. To argue, then, that human rights ought to be primary, simply because they are human rights, will not convince decision-makers as their occupational environment looks more complicated, 'requires' them to look at trade-offs, changes the emphasis to be attached to various goals. Decision-makers can say that though violations of human rights are personally abhorrent and against the spirit of free and unfettered expression and protection of the individual enshrined in American Constitutional life, circumstances are such that were one to pursue human rights the country's security and well-being might well be jeopardized. This is not an artificial dilemma, created merely to justify neglect or excuse inaction. Such choices do exist, must be made, and have to be justified. We are all familiar with the rhetoric; they are the staple of news coverage.

A second context is domestic politics. The priorities and emphases given different foreign policy goals reflect the inclinations of decision-makers, their 'best' judgment and ideological preferences, yet also are structured by the influence and activities of interested groups, lobbyists and elected representatives—directly through appeals, pressure, public exhortation and indirectly through the electoral process. Domestic politics influences not only the salience of human rights but its specific foci as well. For example, a strongly organized lobby keeps the plight of Soviet Jewry in the public limelight and the decision-memoranda of officials; the equally dismal state of the Bahais in Iran or the Indians of Guatemala finds no voice to speak for them consistently and powerfully.

The third context is the absence of agreement on the meaning of human rights. There exist voluminous dissertations on first, second and third generation human rights, on the priorities to be assigned various conceptions, or the necessary trade-offs when policies are carried out. No consensus exists. The absence of agreement on what is meant or should be meant by human rights is no mere semantic matter. It has practical, political consequences. Most fundamentally, the lack of consensus leads to arguments about trade-offs among rights. The variety of conceptions and the practical, policy priorities among them 'pushed' by different groups complicates advocacy of human rights in general. First of all, it makes human rights an easy rhetoric for officials to use—to uphold one's own actions and challenge those of opponents, for officials can always find some conceptions which can be bent to that purpose. Second, by stressing a particular conception practically any foreign policy can be labelled a human rights policy—if not in the immediate future then in the long run or as the best possible outcome within given constraints. Support for a military government which represses its people is nonetheless better for local people, in the long run, for it will lead to stability, the capacity for economic development, the potential for transformation into more democratic forms of politics. Third, particular emphases have come to be associated with ideological stances, e.g., political and individual rights with 'democratic' cultures and systems, economic and community rights with 'socialists' orientations. Such associations integrate the vocabulary of human rights into ideological conflict and make consensus even more difficult to achieve. The temptation is great to label the actions of opponents violations of human rights, for that is a powerful term to legitimize one's critique.

In sum, human rights as foreign policies are part of the general foreign policy process, caught up in long-term considerations of national and economic interests and ideological conflict which structure the perceptions, field of action and specific decisions of officials. That one may disagree with how the officials perceive the world, the priorities they attach to different goals, or their calculations of long and short term interests and effects, that is fairly irrelevant for trying to understand and influence the process. The need to choose among policies exists and must be taken account of when lobbying for human rights. Within the constraints of that process, decision-makers apply human rights pragmatically (as trade-offs), inconsistently (in response to the pressure of demands) and rhetorically (by choice of definition and emphasis).

A second general condition is that human rights policies are *policies*, which have three characteristics. First, policies are not accidents; they are outcomes of a political process; and they are not policies until implemented. To change the neglect of human rights into positive actions requires being able to use the political process which creates and implements policies.

Policies are normally defined as sets of decisions which pursue a general goal. Policies are thought through by rational decision-makers; they

are not decisions made by accident or on the spur of the moment. Most likely, and one has to assume that policy-makers act the way most other people do, they have thought about morality and values and human rights when deciding on a choice; human rights have been weighed and found wanting when balanced against other goals and means. To come to a policy-maker, then, with the cry and the proof that human rights have been violated and that US foreign policy ought to take account of such violations in itself means little for that is not news to officials (though specific data may be). In short, when human rights are neglected they are neglected on purpose and sometimes after what policy makers like to call an 'agonizing choice'. A choice made that way has a strong hold.

Second, policies are the outcome of a political process, meaning simply that groups and individuals have worked hard and long to influence particular decisions or shape general themes in foreign policy. To change a policy means influencing these groups and not merely gain the ear of a powerful politician, for politicians listen to the 'heavenly choir' (Shattschneider's felicitous phrase) interest groups perform.

Third, policies are mere rhetoric until implemented, until bureaucracies are organized, resources committed, commitment encouraged and progress evaluated to check that rhetoric has become the motive and agency for change, both in the US and abroad. There are many potential slippages in the transmission of intent as laws pass from Congress and the Presidency to the field office in Brazil or Thailand. Implementation itself is a political process as different agencies fight for control of territory, resources, images and personal advancement. Working for human rights should not stop in the halls of Congress.

Existing human rights legislation, such as the abolition of the Office of Public Safety program in 1973 and 1974, the Harkin amendment to the foreign aid bill of 1975, or the creation of the Office of Human Rights and Humanitarian Affairs in the State Department in 1976 is on the books because interest groups, and individual legislators worked hard to place them there. Attempts to pass similar legislation had been introduced in prior Congresses, but it was not until enough information, organization and pressure could be brought to bear that the majority of votes needed for passage could be collected. Human rights advocates during the Carter Administration were successful partially because high level officials in the executive, including the President, were favorably inclined to listen to their arguments, yet more so because they knew how to lobby effectively, what arguments would be persuasive with which legislator, what information convincing to another; they knew how to husband their resources—what legislator to write off and who wavered on a given vote. In short, human rights legislation and implementation, as is the denial of their importance, are the result of conscious political effort.

A third constraint on the promotion of human rights as a major foreign policy goal lies in the ideological beliefs of the current Administration. Three beliefs seem especially pertinent to this analysis: distrust of human rights rhetoric; the perception of the world as primarily divided

into East and West, free versus totalitarian camps; and a focus on systematic change.

Human rights rhetoric is suspect ideologically to Reagan and his advisors. An emphasis on human rights is seen as a kind of weak-kneed liberalism, an undue concern for moral standards in a world which knows and fears power and lives by strength. For real mean and strong women do not worry about human rights when the bully is loose on the block. Sometimes, human rights advocacy is seen as a revolutionary plot, an attempt at subversion internally and internationally. For who yells most violently about violations of human rights—leaders of revolutionary movements, demagogues from Third World countries and socialist stooges, who hide their real intents behind the legitimating rhetoric of human rights as they try to shame and degrade the US. Indeed, the issue of human rights is seen to give opponents of the US an additional tool in their rhetorical arsenal. For example, why sign the genocide convention sponsored by the UN, for it might lead to calls for interference in the sovereign domestic conditions of the US (unjustified though they would be), is might be embarrassing and, most galling, the embarrassment would be caused by countries who themselves are major violators, who lack a genuine commitment to the cause which they espouse outside their borders.

A second factor which deflects human rights concern is the basic image of the world held by members of the administration, namely that the central problem and crucial dividing line in the world is the conflict between freedom and repression, between democracy and totalitarianism in its communist disguise, between East and West, and that specific problems, therefore, need to be case in terms of this conflict rather than other terms. Violations of human rights, revolutionary movements, or moral arguments are best understood in their relations to this basic struggle, rather than as local or autonomous standards and processes. For example, violations of human rights by a government (e.g., brutal repression of dissent, economic corruption, or outright murders) are not seen as the basic cause of why people revolt against their government and join revolutionary movements. It is external interference which inflames local grievances; it is the presence and influence of outside agitators which convert situations that could and would have been handled by existing procedures, peacefully and effectively, into direct challenges to the government.

In the struggle between freedom and totalitarianism, allies of the US are friends first and ought to be supported if they understand the basic conflict and are on the right side (ours)—even though their domestic politics may not be totally in accord with what would be expected and demanded in the US. Ambassador Kirkpatrick's well known distinction between totalitarian repressions (theirs) and authoritarian repression (ours) draws a specious line—a line between East and West rather than between violations of human rights and no violations. For the best of reasons—the struggle against totalitarianism—the US may have to condone

human rights violations committed by our allies, that is anti-communist states. Human rights rhetoric and policy are consciously devalued since they may detract from the fight against the larger evil—the spectre of communist world domination. To the 'realist' men and women of the Reagan administration, nothing could be worse than the loss of any country to a socialist movement. As Henry Kissinger argued, in a dissent to the recommendations of his commission on Central America, the conditionality clause (that aid to the Salvadoran military ought to be contingent on progress in controlling the activities of death squads) should not be used to deny military aid to the Salvadoran army if that denial were to lead to the victory of the insurgent rebel forces.

Lastly, the Reagan administration believes in what might charitably be called a trickle down theory of human rights. Human rights are not something which is most effectively achieved by harsh denunciations, by direct appeals to morality and conscience or by ostentatiously publicized efforts to correct a perceived wrong, but by quiet diplomacy and the creation of stable, anti-communist, free market and private enterprise oriented politics. Human rights will automatically come into existence if states are democratic and capitalist. Efforts and attention ought, therefore, be directed into these channels, rather than spent fruitlessly, in trying to achieve immediate and visible human rights results which are unlikely to persist unless the system evolves into an imitation of what the US depicts itself to be.

General constraints which arise from the foreign policy process and the ideological perspectives of the Reagan administration make working for human rights difficult. Yet the work must be done. Since the administration places no high value on human rights as a foreign policy goal, others must take up the slack. Groups and individuals who work for human rights, e.g., Amnesty International or writers who argue the cause of human rights, provide other lobbies and elected officials with the information, the arguments, the support network which enables them to keep human rights violations anywhere in the public eye and on the political agenda.

It would be a tactical mistake, though, to argue the case for human rights by other criteria, for example that human rights are really national interest concerns. Human rights are rights because of their moral value and unless argued on those terms will be devalued into the coin of interests. In a comparison of interests human rights will always lose out to national security, that is, they will be given last place in the ranking of what the US ought to stand for. Human rights, then, would be a convenience, a luxury rather than the essential attribute of the foreign policy of a free society.

My argument deals with attempts to influence foreign policy and does not intend to deemphasize or devalue individual indignation or effort in behalf of human rights. Individuals can work quite effectively, at the local levels, in a variety of ways to help the cause of rights—and such commitment and efforts are the bedrock upon which organizations de-

pend. I have tried to show, mainly, that influencing human rights at the level of foreign policy is a different and more complex task (though not one more worthy) than working for human rights at local levels.

Working for human rights may be unglamorous, slow and incremental yet it works best when based on a clear understanding of how the complex foreign policy process works, what its limitations are and when advocacy is fuelled by the indignation which all violations of human rights deserve.

