

Denver Journal of International Law & Policy

Volume 8
Number 3 *Special Issue*

Article 4

January 1979

The Perspective from the Agency for International Development

Stephen J. Collins

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

Recommended Citation

Stephen J. Collins, The Perspective from the Agency for International Development, 8 Denv. J. Int'l L. & Pol'y 537 (1979).

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.

The Perspective from the Agency for International Development

Keywords

Agency, Human Rights Law, Violence, States

The Perspective from the Agency for International Development*

STEPHEN J. COLLINS**

During the past two years, human rights has emerged as a major force in American foreign policy. The implementation of this policy has had a significant impact on U.S. foreign assistance programs.

Early in the Carter administration, a comprehensive reassessment was made of the direction and policy priorities of existing U.S. foreign assistance programs. It was then determined that two complementary elements—the fulfillment of the basic human needs of the poor, and the promotion of human rights—would be key elements of future foreign assistance policy.

THE EMERGENCE OF HUMAN RIGHTS IN U.S. POLICY

With the establishment of the Charter of the United Nations in 1945, the United States committed itself to promote, respect, and observe human rights and fundamental freedoms throughout the world. It also strongly supported the 1948 proclamation of the Universal Declaration of Human Rights, which established international definitions of human rights.¹

President Carter has reaffirmed this commitment to the promotion of human rights and made it a central part of his

* Adapted from a paper prepared for a conference on human rights, hosted by the International Legal Studies Program, College of Law, and the Graduate School of International Studies, University of Denver, and the Department of Political Science, University of Colorado (Boulder), and held in Denver-Boulder in Spring 1978.

** Program Analyst, Planning Office, Agency for International Development.

1. G.A. Res. 217 A (III), 3 U.N. GAOR, U.N. Doc. A/810 (1948).

foreign policy. As he noted in his address to the United Nations:

All the signatories of the United Nations Charter have pledged themselves to observe and to respect basic human rights. Thus, no member of the United Nations can claim that mistreatment of its citizens is solely its own business. Equally, no member can avoid its responsibilities to review and to speak when torture or unwarranted deprivation occurs in any part of the world.²

Three categories of rights are recognized by the U.N. Charter and the Universal Declaration:

First, the right to be free from governmental violations of the integrity of the person: torture; cruel, inhuman or degrading treatment and punishment; arbitrary arrest and imprisonment, and invasion of the home; and the right to a free trial.

Second, economic and social rights: the right to be free from government action or inaction which either obstructs the individual's efforts to fulfill his vital needs for food, shelter, health care, and education, or fails to adequately support the individual in meeting basic human needs.

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

Beginning in 1973, as concern intensified about repressive, dictatorial governments throughout the world, a movement began in the U.S. to translate the American people's belief in the inherent rights and dignity of the individual into a major focus of our foreign policy. Congress that year initiated a reevaluation of the position of human rights in U.S. foreign policy and the possible effect on U.S. policies and programs in supporting repressive governments. From these deliberations emerged a series of statutory provisions which formalized in law our commitment to the goals of the Universal Declaration on Human Rights.³ Subsequently, additional legislation placed

2. Reprinted in 76 DEP'T STATE BULL. 329, 332 (1977).

3. See, e.g., 22 U.S.C. § 2151n (1976) (international development assistance tied to lack of human rights violations); 22 U.S.C. § 2304(a)(2) (1976) (security assistance tied to lack of human rights violations); and 22 U.S.C. § 2384(f) (1976 & Supp. I 1977) (creation of an Assistant Secretary of State for Human Rights and Humanitarian Affairs).

limitations on U.S. bilateral and multilateral economic aid to countries which engaged in "a consistent pattern of gross violations of internationally recognized human rights."⁴

U.S. BILATERAL ECONOMIC ASSISTANCE

The United States' program of bilateral economic assistance, administered by the Agency for International Development (AID), promotes human rights by helping the world's poor majority to meet their basic human needs and improve their opportunities for economic, political, and cultural development.

As a practical matter, this human rights policy, as supported by and applied to U.S. bilateral economic aid, has both negative and positive components. On the one hand, section 116 of the Foreign Assistance Act directs that no assistance may be provided to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, "unless such assistance will directly benefit the needy people in such country."⁵

The Administration has withheld, increased, modified, or terminated some bilateral economic assistance when it appeared that this action would encourage a government to improve its efforts to respect human rights, or when the continuation of an aid program would have indicated U.S. support for repressive practices or identified the United States with a repressive regime.

At the same time, with active encouragement from the Congress, AID has begun a series of positive programs to help the poor achieve effective access to the rights and protections accorded by international law and/or the law of their countries. It is also exploring new ways to identify and carry out programs which would encourage increased adherence to civil and political rights.

The P.L. 480 Title I Food for Peace program⁶ directs the sale of American agricultural commodities to developing countries with generous repayment terms. Because of the concessionary nature of the program, it is seen as a symbol of Ameri-

4. 22 U.S.C. § 262d (a)(1) (Supp. I 1977).

5. *Id.* § 2151n (a) (1976).

6. 7 U.S.C. §§ 1701-1711 (1976 & Supp. I §§ 1701-1715, 1977).

can support for the governments which receive it. As a result, legislation was enacted last year to provide that no Title I program be concluded with a country which engaged in a consistent pattern of gross violations of internationally recognized human rights, unless the food itself or the proceeds from the sale of the food "directly benefit the needy people in such country." The United States, therefore, last year negotiated special provisions in agreements with a number of governments about which there are serious human rights concerns to ensure that all assistance provided under these agreements will reach the needy people in those countries.⁸

The Administration is committed to the proposal that in developing assistance projects, consideration will be given both to the impact of the program on the observance of human rights in that country, and to whether a program could be seen as supporting a government's human rights policy. When AID makes its budget proposals, it ensures that the allocations of these funds reflect, among other factors, U.S. human rights policy. The countries which most qualify for American economic support are those whose governments are committed to policies which encourage economic development and equitable sharing of that progress.

MULTILATERAL ASSISTANCE

Among the policy instruments available to the Administration for pursuing human rights objectives are the United States' votes and influence as a member of the Boards of the World Bank and other international development lending institutions. The Congress in 1977 directed that the United States Government use its "voice and vote" in these institutions to promote human rights and seek to channel assistance to those countries which do not violate human rights.⁹ The legislation further provides that assistance to governments which are "gross and consistent violators" of human rights be opposed unless it is directed specifically to programs which serve the "basic human needs" of the citizens of that country.¹⁰

7. *Id.* § 1712(a) (Supp. I 1977).

8. *See, e.g.*, Agreement on Agricultural Commodities, May 17, 1977, Indonesia-U.S., 28 U.S.T. 6172, 6184, T.I.A.S. No. 8677.

9. 22 U.S.C. § 262d (a)(1) (Supp. I 1977).

10. *Id.* § 262d (f) (Supp. I 1977).

The law and Administration policy have resulted in U.S. opposition in the past year to specific loans to problem countries in all the international financial institutions of which the U.S. is a member.

While some criticisms have been levelled against the United States for introducing what are considered nongermane political issues into these institutions, the Administration believes that the Multilateral Development Banks (MDBs) are an appropriate forum for advancing human rights. U.S. policy does not hold that such actions "politicize" the MDBs, but rather that economic development is inextricably linked with questions of equity, welfare, and social justice.

An understanding of U.S. position by other member governments in the MDBs, and cooperation from those who share our concerns, are needed if our policy of encouraging improved human rights practices in these fora is to be effective. While a "no" vote or an abstention on a particular loan by the U.S. sends a significant message to an offending government, it does not necessarily alter the flow of resources from the MDBs to that country. To pursue the possibilities of increased cooperation, the Administration recently sent a joint State-Treasury team to several MDB member countries to explain U.S. human rights objectives in the MDBs and solicit the support of these governments. These consultations will be expanded in the near future. Their purpose is to increase and normalize consultations with like-minded governments concerning human rights and to explore areas of potential cooperation.

COORDINATION

In April 1977, an Interagency Group of Human Rights and Economic Assistance was established at the direction of the NSC to coordinate implementation of the Administration's human rights policy as it involved U.S. economic assistance. It was directed that the Group should be chaired by a representative of the Secretary of State and that it should include senior representation from the Department of Treasury, the Department of Defense, the National Security Council, and the Agency for International Development and other involved agencies. The Group meets at regular intervals to discuss the formulation of human rights strategies toward individual governments, to receive reports of changing conditions in specific

countries, and to make recommendations regarding U.S. decisions on pending bilateral and multilateral assistance projects. This Group has recommended the deferral of a number of AID projects and U.S. opposition to MDB loans to some governments whose human rights practices were judged to be highly abusive.

The application of human rights policy in U.S. foreign assistance programs has in some cases required shifts in the design, planning, and implementation of programs. These changes have caused considerable questioning and controversy in the U.S., in the less developed countries, and in some international fora. As a result, the Administration set as an important goal this year, expanding the scope and quality of the dialogue on these policies, with the expectation that greater understanding of their purpose and goals would foster broader international acceptance.

Whatever may be the disagreements on the relative emphasis given the human rights in development policy decisions, the goals of all donors and of the developing countries themselves are clear—self-sustaining growth, the provision of basic human needs, and strengthened economies which can support and sustain the basic needs of their people.

As President Carter noted in his address to the Indian Parliament last January: “human needs are inseparable from human rights; . . . while civil and political liberties are good in themselves, they are much more useful and much more meaningful in the lives of people to whom physical survival is not a matter of daily anxiety.”¹¹

11. Reprinted in 78 DEP'T STATE BULL. 7 (Feb. 1978).