

US < Human Rights > Policy : an appraisal

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From Inauguration Day (January 20, 1977) on, the Carter Administration has been seriously committed to the cause of human rights across the Globe. This *concern* has proven to be very popular with the American public, with major segments of the worldwide public and with the US Congress (1). The present human rights *policy* however, has been largely criticized in the US and abroad (2). In view of these facts, the following points should be stressed : a realistic human rights policy will be a key ingredient of the US's contribution to the buildup of a new world order ; the Carter Administration cannot back out of its human rights commitment ; but it should refine the human rights concept and place it in a global foreign policy priorities' ranking (3).

A US human rights policy appraisal is indicated at this point, because of the 1980 Madrid CSCE (Conference for Security and Cooperation in

(1) D. FRASER, describing the international human rights machinery, stresses the fact that the American public is openly disturbed about past U.S. policies. See *Foreign Policy* 26, p. 156. K. HOUSE notes in *The Wall Street Journal*, May 11, 1978 « ... the administration must pursue its policy with one eye on Congress. Much of the human-rights bureaucracy and its nitpicking approach are required by law. Believing previous Presidents too willing to deal with amoral dictators, Congress in recent years has insisted on restricting U.S. aid to human rights violators unless the money goes to meet basic needs of the poor ».

(2) S. KARNOW, A Double Standard for Human Rights, *The Baltimore Sun*, July 24, 1978. R. EVANS and R. NOVAK, Clout on Human Rights, *The Washington Post*, May 11, 1978. This latter article states in particular : « The expanding policy-making eminence of (the) human rights office is raising some prominent eyebrows on grounds that human rights activists are jeopardizing other U.S. foreign policy objectives, particularly among conservative and right-wing governments with intimate ties to the United States ».

(3) P. FAGEN, Aid the right to food as well as freedom, *The Christian Science Monitor*, August 7, 1978. In this article the link between economic suffering and denial of political rights as well as the lack of respect for the personal integrity of the citizens is established. FAGEN concludes : « The Carter administration should not claim that its aid to repressive governments is help for the needy when it is clear that such governments deprive their own citizens of food, shelter and health-care, just as they deprive them of political and personal rights ».

Europe) follow-up meeting, where a confrontation with the Soviet Bloc is to be expected. This note addresses the following points : 1° US human rights objectives ; 2° present US policy towards human rights ; 3° assessment of the present human rights policy in the US domestic context ; 4° assessment of the present human rights policy in the international context ; 5° possible courses of action for a realistic human rights policy ; 6° concluding comment.

I. US human rights objectives.

By stressing its moral interests in worldwide protection of the individual, the US gains prestige and goodwill among the various peoples — and sometimes nations — around the Globe. Sodoing, the world posture of the US is bound to improve, since it will no longer be regarded as a greedy imperialistic nation with little concern about promoting abroad what it claims to practice at home (4).

In the « cooperation and competition » context with the Soviet Union, it is essential for the US to be looked upon as a friendly nation by the *peoples* of the Third World countries, especially Latin America. This is worth some frictions with the regimes in power, because the main US human rights objective remains to be associated with equitable development and respect of the individual, rather than with the protection of a ruling elite. Such « populist » connection will provide the US with long term credibility in the Third World, in the face of changing regimes. This consideration becomes especially relevant in view of the recent events in Iran and in Afghanistan. Like President Carter said in his « Georgia Tech Speech » of February 20, 1979 : « The US cannot control events within other nations. A few years ago, we tried this and we failed » (5). For this very reason, the US « transcendental » concern and policy in favor of human rights, must aim at achieving a bond of trust between rich and poor, irrespective from the particular regimes in power. The cooperation with the latter would only be on a businesslike level,

(4) This concern of showing to the world what America stands for, was expressed in the early days of the Administration by Secretary of State C. VANCE. « In the early years of our civil rights movement, many Americans treated the issue as a 'Southern' problem. They were wrong. It was and is a problem for all of us. Now, as a nation, we must not make a comparable mistake. Protection of human rights is a challenge for *all* countries, not just for a few ». *Department of State Bulletin*, May 23, 1977, at. p. 505 ; in a speech given at Athens, Ga., on April 30, 1977.

(5) Remarks at a Special Convocation of the Georgia Institute of Technology, February 20, 1979. *Presidential Papers*, Administration of Jimmy CARTER, 1979, at p. 301.

towards the incremental implementation of a consistent strategy (6). The main objective of a revised US human rights policy is to recast the latter within a world order framework. Indeed, human rights problems arise mainly in two kinds of nations : Communist totalitarian countries and Third World poor countries. In both cases, and for the very reason of promoting human rights, the US should *proceed contextually* (7). The goal must be to incorporate values such as peace, national security, economic growth and redistribution in the human rights concept itself. It seems possible to do so within the framework outlined in the Secretary of State's Athens, Ga., Speech of April 30, 1977, where he describes three sets of rights, stating : « Our policy is to promote all these rights » (8).

They are the right to personal integrity, the right to basic economic and social provisions and the right to enjoy civil and political liberties. It is clear that the world order concerns arising in the US relationship with the Communist and Third World nations can all be stated within the Secretary's human rights rhetoric. This way of defining the human rights objective somewhat more broadly, will provide the US with some useful leeway on the level of implementation, without risking the reproach to give up on the principles (9).

By enlarging the scope of the human rights concern shown thus far, the US seeks to increase the receptivity of other nations for its human rights concerns. Indeed, in the United Nations Charter of Economic Rights and Duties of States (1974) — a document the US opposed because of its expropriation, transfer of technology and commodity agreements clauses — the linkage between the respect of human rights (called for in the Preamble) and the substantive economic rights claimed by the Third

(6) The aspects of the human rights policy, relating to cooperation and competition with the Soviet Union, credibility in the Third World and incrementalism in the implementation of a balanced strategy given the nature of the regimes in power are illustrated by S. HOFFMANN, The perils of incoherence, in the « 1978 Issue » of *Foreign Affairs*, February 1979, at pp. 478-479.

(7) The ineffectiveness of the policy, because of its selective application in those few countries where no other vital interests are at stake, leads Coral BELL to calling for clearer human rights standpoints in those cases where other concerns have to be considered. See C. BELL, « Virtue Unrewarded : Carter's Foreign Policy at Mid-term », 54 *International Affairs* (1978) 559-572.

(8) See reference in note (4).

(9) S. HOFFMANN, *art. cit.*, at p. 491 : « We do not need to give up our goals, or to reverse any of the policies we have pursued. But we need to revise them, to make them mutually compatible, to replace both the contradictions and the drift of our Soviet policy with a coherent and flexible strategy. The administration must explain clearly and steadily to the American people and Congress how the pieces fit, what kind of a world we seek, and the means we want to use to get there ».

World (many of which the US approves of), is unmistakable. The US would thus have an acceptable international law basis for pushing human rights *within* a foreign country with which it deals as to aid, trade and technological cooperation (10).

II. Present US policy towards human rights.

The *Administration* started out with an overall policy which was to be conducted independently from any other foreign policy goal (11). Because other nations appeared to link the US human rights criticism to the broader foreign policy agenda, the US fell back on a case-by-case approach, claiming to balance human rights against other interests (12). This led to charges of inconsistency and backing out, while others reproached that the «H.A.veto» in the State Department was an undue obstruction to the conduct of US foreign policy (13).

Congress has a mixed record on human rights. Although it is clearly committed to the cause of human rights on a declaratory level, it failed to circumscribe what it bases its expectations on, what human rights abroad should mean, and further, the Senate failed to ratify four United Nations human rights covenants (Genocide, Elimination of Racial Discrimination, Civil and Political Rights, Economic and Social Rights). Congress did however prohibit military aid to «governments engaged in a consistent pattern of gross violations of human rights unless there are extraordinary circumstances justifying such assistance» (14). It also required that the President report each year about the state of observance of human rights in all nations receiving American aid or buying American weapons.

(10) Around the mid-seventies, it was a big concern to the U.S. to be looked upon as a rich nation committing itself to 'luxury rights', while the Communist world seemed to appeal to the calls of the poor African and Asian nations. See Z. BRZEZINSKI, «America in a Hostile World», *Foreign Policy* 23, summer 1976; and H. KISSINGER, «Toward a New Understanding of Community», *Department of State Bulletin*, October 25, 1976.

(11) This was stated in an unpublished Presidential Directive, no. 30 of February 17, 1978, whose existence was mentioned by Strobe TALBOTT in *Time*, February 27, 1978, at p. 22.

(12) B. GWERTZMAN, «U.S. Rights Report on 105 Lands Is Bleak Except for a Few Gains», *The New York Times*, February 10, 1979.

(13) See the R. EVANS and R. NOVAK quotation in note (2). «H.A.» is the Humanitarian Affairs office of the State Department, in charge of the follow-up of all American foreign policy acts, in view of their compatibility with the promotion of human rights objective of the Administration.

(14) In section 502 B, Foreign Assistance Act of 1976.

III. Assessment of the present human rights policy in the US domestic context.

The main internal effect of human rights policy presently is confusion. Criticisms of « too much at once » leveled against the « H.A. human rights czar », and of inconsistency and « too little later », coexist very strangely, both in public opinion and in Congress. The reasons for this situation seem to be the following: the Administration has failed to propose a clear ranking of its foreign policy goals and to define a precise human rights concern among them; the few human rights successes scored abroad often have to be shielded from high internal visibility so as not to embarrass a foreign government which may be otherwise important to the US; finally — and the preceding reason is an application of this more general statement — there is the *two-audience problem*, i.e., a high pitched declaratory policy about human rights may be counterproductive on the level of policy outcomes, leading to charges of ineffectiveness, whereas a quieter approach generating better human rights results and leaving more room to overall foreign policy pursuits, triggers the charge of softness (15).

It seems to me that the public is ready to accept the necessary foreign policy trade-offs, especially for reasons of national security, peace and SALT, provided that the Administration casts its human rights concern within the proper world order frame, which it should stress more as its ultimate goal (16).

IV. Assessment of the present human rights policy in the international context.

The limited effect of the present policy on Communist countries.

On a principled level, the tension arises between « non-interference in the internal matters of a foreign state » and « respect of an international minimum standard », which can be claimed by a state to protect its own nationals abroad, foreign nationals against their own or another government, and stateless persons. Both of these principles can be found back

(15) S. HOFFMANN explains in his article « No choice no illusions », that there is « no doubt that a livable world order will, at the start, have to accommodate unsavory and imperfect regimes ». *Foreign Policy* 25, at. p. 121.

(16) D. YANKELOVICH, « Public Opinion », *Foreign Affairs*, February 1979. In this article, the author shows that the public isn't ready any longer to follow the President and his foreign policymakers behind a single-minded policy goal. The Vietnam era seems to be the dominant factor in this switch of expectations.

in the Final Act of the Conference on Security and Cooperation in Europe (the so-called Helsinki Final Act) in its Principles VI, VII, VIII and in its famous Basket Three.

The USSR accepts the international minimum standard, but invokes the non-interference principle to stop other nations from judging its implementation within the Soviet Union, except in cases where their own nationals are at stake (i.e., traditional diplomatic protection) (17).

Some assert that, even though the final document of the 1978 Belgrade CSCE follow-up conference does not mention human rights, the USSR actually accepted the *Yellow Handbook* about CSCE follow-up procedures, calling for both a review of past performance within the signatory states and for a prospective look towards ways of improving this performance in the future (18)... How serious the Soviet Bloc really is about these procedures will have to be found out at the 1980 Madrid Conference, since the 1978 Belgrade session had to satisfy itself — in a transactional way — with the mere adoption of the procedural rules, without applying them at once to any real extent.

Grigory Tunkin, a leading Soviet jurist, points out: « (...) the process of forming a customary norm of international law, just as a treaty norm, is the process of the cooperation and the struggle of states » (19). States are said to deal with each other, and individuals are in no circumstances regarded as subjects of international law. This means that the Soviet Union interprets its commitments arising from international documents on human rights to which it has subscribed, as treaty and customary obligations towards the other nations in the venture and not towards the « third party beneficiaries », i.e. its own or foreign citizens who are not covered by any diplomatic protection. The latter case would occur for stateless persons, for citizens of countries which are no party to a document under which rights are claimed and, of course, for all Soviet citizens (20).

(17) There is no statutory basis for the Administration to put pressure on Communist countries for the safeguard of human rights, as none of them except Yugoslavia, receives American aid — abstraction is made of *normal* trade relations —, or buys American arms. See, B. GWERTZMAN, *art. cit.*, in note (12).

(18) Not everybody agrees on the exact content of what the USSR has committed itself to in Belgrade. Henry KISSINGER thinks it to be too little, in terms of the Helsinki Final Act. See *Dialogue*, Fall 1978, nr. 19.

(19) G. TUNKIN, *Theory of International Law*, W.E. Butler (edit.), 1974, pp. 79-83.

(20) H. STEINER and D. VAGTS, *Transnational Legal Problems*, New York., The Foundation Press, 1975, p. 407, quoting TUNKIN: « (...), it is also of great importance that international norms concerning human rights are expected to be implemented through the municipal law of individual states, taking into account the special features of their socio-economic system. *Conventions on human rights do*

Because of this interpretation of the legal character of international human rights documents, every Soviet readiness to talk about past performance in the human rights field — if happening at all — will always be brought up as an integral part of the bilateral « contentieux » between itself and the country with which it discusses the issue, but it will never reflect the willingness to accept these documents as an autonomous source of rights for the individual, directly opposable to the Soviet state and permitted to be claimed by any signatory foreign government in the individual's stead.

Thus, in the international arena, the USSR perceives only « matters of state » and in the process of cooperation and struggle — as Tunkin describes international relations — all important matters of state are seen as interdependent, and therefore necessarily linked to each other. As a result, the Administration's desire to keep its human rights policy « separate » from other dealings with the USSR, had to fail.

It will now be necessary to integrate the priorities of foreign policy towards the USSR, such as SALT, MBFR, and nuclear non-proliferation, with the appropriate level of declaratory human rights rhetoric, coupled to pragmatic actions in this field (21). The « exchange of prisoners » method may be useful in this respect, because it provides diplomatically harmless visibility in the domestic setting for the human rights concern, at the very moment of some real policy achievements. The public will probably not go as far as to condemn the indirect legitimacy which such deals give to the USSR's internal system of stifling dissent, by putting spies on a par with those convicted for speaking out. In my opinion however, this latter point is essential to the Soviet Union and its biggest incentive to go ahead with such deals. At the same time, it reinforces the interstate bargaining aspect about human rights, which is the « international human rights regime » which the USSR wants to promote, for the reasons outlined in the Tunkin statement.

A US human rights policy towards the People's Republic of China has been almost totally absent so far. Although it has been presented to the public since December 1978 that China was opening up, turning to the West and allowing some form of democratic expression of opinion to take place, now that normalized relations are a fact, it will be impossible to continue to take a softer stand towards the PRC, than towards the

not grant rights directly to individuals, but establish mutual obligations of states to grant such rights to individuals » (my emphasis).

(21) See S. VOGELSANG, « What Price Principle : United States Policy on Human Rights », *Foreign Affairs*, July 1978.

USSR. Doing so, would only undermine US credibility and spur the USSR in its claims of anti-Soviet crusade (22).

A more balanced human rights definition, accepting the gradual nature of the progress to be made, will allow the US to be more flexible in giving credit for some human rights achievements to China, and even to the USSR, thus improving the climate for dealing with other high priority issues, while not « giving up » on human rights either (23).

The policy towards authoritarian countries.

Most of these countries are Third World nations, many of which have some sort of a capitalist market economy. The US leverage over them tends to be somewhat bigger. It is my impression, that the real test of the US human rights policy, in the eyes of the worldwide public, has to be passed in these countries : the peoples in most of them expect rather much of the US ; their regimes in power often find the policy a nuisance (24). But, other important foreign policy goals, again benefitting in the first instance the foreign peoples themselves, require that the human rights concept be broadened to include an effective economic and social minimum for all, peace and security. This means e.g. that it would be a valid decision, even from a human rights perspective, for the US to please a regime somewhat more than it otherwise would, in order to promote the nuclear non-proliferation goal in key regions of the world. This may now happen in relation to Pakistan, with the granting of conventional military aid to General Zia's regime, provided that it gives up its plans for « the Bomb » in its protective effort against India and the USSR.

(22) S. SHIRK, « Human Rights : What about China ? », *Foreign Policy* 29, pp. 109-127. Professor SHIRK stresses the many sensitivities of the human rights rhetoric in China : the Chinese proud feelings, « resentful of American expressions of moral superiority », could be hurt, and all sorts of linkages could become in order once the issue is raised. At p. 124 she states : « Once American negotiators raise the issue, they may have to make linkages and trade-offs with other issues, considering, for example, abandoning the cause of Chinese dissidents for a concession by the People's Republic on future American commitments to Taiwan ».

(23) Prof. SHIRK in the same article - see note (22) : « Different countries will stress different aspects of human rights. The important point, as far as U.S. foreign policy is concerned, is that each country's record should be evaluated by more than one aspect. In the case of China, it is appropriate to consider that today, for the first time in modern history, millions of Chinese can enjoy such elemental rights as health and security ». See also J. ERIKSSON, « The Global Poor Do Have Rights », *The Washington Post*, July 30, 1978.

(24) Henry KISSINGER, in the quoted interview with *Dialogue*, seems to differ in opinion on this point. He emphasizes that U.S. human rights policy should be comparatively more lenient towards rightist types of regimes, because « there is an enormous difference between authoritarian regimes which do not observe all democratic practices, and totalitarian regimes with universal ideological claims ».

It would indeed be very hard to condone violations of a person's integrity for whatever reason it be, but the areas of political, economic and social rights are clearly interdependent. It just cannot be an accident that almost all liberal democracies are developed countries! By publicly encouraging the proper trade-off to be made on a per-country basis, the US would increase its standing with the Third World, which — together with the strategic balance and world security — is one of its foremost foreign policy goals.

The Secretary of State in fact, left room for this leeway in implementation, in his Athens, Ga., Speech, by stating: « There may be disagreement on the priorities these rights deserve. But I believe that, with work, all of these rights can become complementary and mutually reinforcing » (25). This sentence reflects indeed an awareness that the political, economic and social rights are interdependent, and that a more subtle approach than « everything all at once » will be more appropriate. It seems to me that this phrase has not been carefully considered in the past three years. And, whereas it certainly is true that for US domestic consumption the payoff is bigger when one stresses the traditional liberal democratic values, it may come close to hypocrisy on a worldwide scale, especially towards the Third World.

I further think that the « internal human rights balancing » *and* the kind of legitimate « human rights vs. non-human rights balancing », as described so far, would provide the US with the needed foreign policy flexibility and credibility, two opportunities now needlessly foregone.

Doubts and reluctance of the liberal democratic Allies.

Europe and Japan seem to be more aware of the interdependence of the three components of the human rights concept, and of this concept as a whole with such related fields as peace, security and overall cooperation. In Europe, the Allies cooperate in the most-stringent-ever international human rights protection system, in which a citizen can sue his/her own state before an international instance (26).

(25) See reference in note (4).

(26) See the 'European Convention for the Protection of Human Rights and Fundamental Freedoms', November 4, 1950. According to article 25 of this Convention, the European Commission of Human Rights may receive petitions « from any person, non-governmental organization or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in this Convention ». The respondent states have to make an optional declaration first, in order to be subject to the individual petition jurisdiction of the Commission, and possibly the Court.

The European nations consider this unique example they give to the world, to be in itself the appropriate level of declaratory commitment to human rights everywhere, leaving scope to a pragmatic approach on the action level. Thus, e.g., the Lomé Agreement assuring a fixed level of commodities' income to the Third World nations associated with the EC, creates a community of interests providing Europe with room for quiet diplomacy in interdependent fields.

The Allies are clearly upset to be downplayed as guarantors of human rights, because they legitimately think that they go further in the example-setting than the US does, by incurring the risks that others will come and look within their borders, and further, they somehow share the view that the position of the rich US to claim « democracy » in the Third World is rather *cheap*.

V. Possible courses of action for a realistic human rights policy.

A human rights policy formulation must answer the questions of *what* human rights are, of *who* will perform the factfinding, the judging and the punishing/rewarding of foreign countries, and of *how* such policy will be implemented and *when*.

An expanded balanced concept of human rights should be the objective pursued: it would recognize the three ingredients of « human rights » in the strict sense, and other vital interests of the peoples concerned, as the ultimate goal to be achieved through a world order strategy.

The latter could then be flexible, yet credible, by stressing on a bilateral per-country basis one aspect or the other of the global package, in a gradual and dynamic process over time. Many competing claims could thus be integrated, such as SALT, MBFR, North-South, The Law of the Sea, and guaranteed oil supplies, without abandoning the human rights cause. Quite paradoxically then, one should reduce the latter to its true proportions, by expanding its scope.

The US should not be the only agent to promote human rights. Unilateralism is vicious and counterproductive in this area. For the reasons we have seen, a concerted strategy with the Allies is indispensable, both on the levels of action and of declaratory policy.

A more collective effort would shield the US from the « holier than thou » criticism, which is now not totally unfounded! Indeed, the US does not accept to be judged either, as many European countries do under the November 1950 Rome Convention on Human Rights.

As one example among many, we might mention that a country as respectable and democratic as the UK has been condemned four times

by the European Court (Strasbourg) since 1975, (1) for blocking access to the courts to a prisoner (27); (2) for « torturing » prisoners in Northern Ireland (28); (3) for whipping young delinquents on the Isle of Man (29) (compare, *Ingraham v. Wright* (30), where whipping of *schoolboys* was OK'd under both the Eighth and Fourteenth Amendments!) and (4) for violating the freedom of the press guarantee by its contempt of court rules (31).

Could the US imagine that a 5 to 4 decision of its Supreme Court would be reversed 10 to 8 in an international court? The answer is more than obvious, if one matches against the European example, the American Bar Association's reasoning for discouraging the Senate from ratifying the four United Nations covenants pending before it: « The Convention places in the hands of nations whose peoples have never known the freedoms guaranteed under our Constitution the power to judge whether those freedoms are being protected properly within our domestic borders » (32). The fallacy of this argument is clear: the only binding text would be the covenants themselves; by accepting a strong multilateral framework — while obviously still being far short from accepting the European Human Rights Court example —, the US would at least acquiesce to the principle of having others look within its own borders, and by acknowledging criticism for cases such as *Ingraham v. Wright*, it would gain all the more authority, both legal and moral authority, for attacking the admittedly heavier violations elsewhere.

As long as the US is unable to solve this dilemma, it should show the utmost sensitivity for other countries' non-interference concerns and for the « sovereign equality of nations » (UN Charter), while pushing for an international minimum standard in pragmatic, prudent and bilateral ways. Sometimes, private channels could be used, such as Amnesty International and the International Commission of Jurists.

These proposals would decrease American visibility in the human rights area and possibly cause concern domestically. In such case, the Administration should stand firm to require consistency from the Congress first, i.e., ratification of the covenants without diluting amendments — such

(27) *GOLDER Case*, Eur. Court H.R., judgment of 21 February 1975, Series A, no. 18.

(28) *IRELAND v. GREAT BRITAIN*, Eur. Court H.R., judgment of 18 January 1978, Series A, no. 25.

(29) *TYRER Case*, Eur. Court H.R., judgment of 25 April 1978, Series A, no. 26.

(30) *INGRAHAM v. WRIGHT*, 430 U.S. 617 (1977).

(31) *SUNDAY TIMES Case*, Eur. Court H.R., judgment of 26 April 1979, Series A, no. 30.

(32) *PHILLIPS and DEUTSCH*, Pitfalls of the Genocide Convention, 56 *American Bar Association Journal*, 1970, p. 641.

amendments would be even more harmful than not ratifying at all, because it would prove to the world in an unequivocal way that the US is not ready to give up the non-interference principle in the case of human rights — a very harsh requirement indeed ! Only if and when the Administration succeeds in this internal persuasion effort, should it become more vocal and out front again, on the international human rights scene. It is on this level that the *real inconsistency* of the US human rights policy lies, and not there where the public seems to perceive it, i.e., in its diverse application to different countries.

The question of *how* to promote human rights then, becomes foremost one of bargaining, both with the Congress and with foreign nations. In the latter context, the broader human rights concept will provide the Administration with the necessary leeway in protecting peace, security and vital US interests, while pursuing an overall world order based on complex interdependencies of the political and the economic. In this respect, it might be prudent as a general rule, to apply the carrot rather than the stick, because selective punishments are likely to come down more harshly on those countries which are « unimportant » to the US while their peoples don't necessarily suffer less from such punishments. Again, tactical flexibility seems to be the guide.

A credible declaratory policy must be maintained, in which the universal respect of human rights is stressed as a key ingredient of world order. The broader context of implementation of this commitment, would make it more acceptable to the Third World, the Communist countries and the Allies, yet it would keep human rights constantly on the agenda of negotiations.

In its declaratory policy, the US should show that it is committed to the values of pluralism and participation, not just within nations, but also *among* nations. This means that the US should be flexible in accepting all sorts of regimes which organize in a credible way the process of political accountability (e.g., Eurocommunists), or make some economic - political trade-offs in the development process.

The *bottomline* to this should be that the US never may tolerate violations of a person's integrity and must make sure that US aid never helps to carry out such violations or identifies the US with them. If some overriding foreign policy concern prevents the US from severing its ties with a country to the point to which it otherwise would because of human rights violations, it should justify itself towards the world, so that it can never be reproached to have concluded secret deals for self-interest. There must be a clear direct proportionality on a per-country basis between US concern for human rights and the degree of its involvement and responsibility in such foreign country.

If the export - import policy and votes in the international financial institutions (IMF, World Bank) go smoothly in favor of a Third World country, the US should press harder in bilateral human rights negotiations. A more refined policy makes indeed a distinction between special supportive relations and normal diplomatic and trade relations. The latter should be pursued as a subgoal in itself, making the pursuit of all other foreign policy goals at all possible ; the former should be part of a specific package deal in which human rights will figure contextually.

VI. Concluding comment.

In view of the complementary courses of action proposed, a realistic US human rights policy should stress *first*, the necessity for the Senate to ratify the UN covenants as they stand ; *second*, to keep up a high level of general declaratory policy in favor of human rights within an equitable world order perspective — somewhat along the lines of the « Georgia Tech Speech » rhetoric (33) —, and *lastly*, make use of the credibility and flexibility gained by the two first approaches, to work diplomatically towards substantive results on a per-country basis.

Summary : US « Human Rights » Policy : an appraisal.

In the wake of the 1980 CSCE follow-up meeting US human rights objectives should be defined contextually so as to include besides the traditional human rights ingredients, i.e. the right to personal integrity, the right to basic economic and social provisions and the right to enjoy civil and political liberties, such values as peace, national security, nuclear non-proliferation, economic growth and redistribution. To this effect, the US should stress more a proper « world order » as its ultimate

(33) In this speech — see reference in note (5) — President CARTER puts on a par his concerns for democracy and freedom, for the simplest necessities of life, for the most basic human rights and for world peace. He thus reinforces his Administration's belief in the three aspects of the human rights policy, stated in Secretary of State VANCE's speech of April 30, 1977 — see reference in note (4) —, while at the same time situating it somewhat better in its appropriate context of inherently related goals. See also H. KISSINGER, *American Foreign Policy*, New York, Norton and Co., 1977 (3), pp. 210-211 ; « Human rights are a legitimate international concern and have been so defined in international agreements for more than a generation. — The United States will speak up for human rights in appropriate international forums and in exchanges with other governments. — We will be mindful of the limits of our reach ; we will be conscious of the difference between public postures that satisfy our self-esteem and policies that bring positive results. — We will not lose sight of either the requirements of global security or what we stand for as a nation. »

policy goal. Doing so would provide it at once with the flexibility needed in the international forum and with the credibility needed on the domestic scene, in order to achieve some visible results. A high-pitched declaratory policy in favor of human rights leads to ineffectiveness with Communist nations and to arbitrary pressures on authoritarian countries which somehow rely on US assistance.

Thus, the US should proceed contextually on the basis of a more balanced « human rights » concept.

