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CHALLENGES

THE RIGHTS
OF SPRING

The Rights of Spring

Principle Over Pragmatism in Human Rights

by
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When winter turns to spring, and cherry blossoms beckon from the tidal basin, a Washington ritual begins anew. Every year at this time, the State Department publishes the Country Reports on Human Rights Practices—a detailed chronicle of documented torture, state-sanctioned killings, censorship and other forms of political repression committed by foreign governments on their own citizens. This collection of reports from U.S. diplomatic outposts abroad is designed to provide Congressional overseers with an official view of human rights on a country-by-country basis. Although not without error, fault or controversy, the Country Reports present the most balanced view of human rights practices in the world today.

The Foreign Assistance Act of 1961, and the Trade Act of 1974, require the Secretary of State to send a full and complete report to Congress regarding the status of internationally recognized human rights in countries that receive assistance, and in all other foreign countries which are members of the United Nations. The reports cover internationally recognized individual, civil, political, and worker rights as set forth in the Universal Declaration of Human Rights. No country, irrespective of size, is immune from reprobation. Thus, tiny Equatorial Guinea gets the same scrutiny as Brazil, Russia, India or Nigeria. It may be the one place where the haves and have-nots are treated equally. Such parity goes a long way in the global promotion of human rights by the United States, and gives America a measure of rectitude few nations can claim.

But for many developing nations—especially those with histories of human rights abuse—the reports are rarely welcome, for in them are plenty fodder for congressional and media criticism. And for many foreign ambassadors (once described by Winston Churchill as honest men sent abroad to lie for their country), the reports can hold the key to their own diplomatic careers. If an ambassador cannot successfully rebut the blow of consistently harsh human rights reports, he could be recalled from Embassy Row.

Traditionally, the organized human rights community, led by Amnesty International, Human Rights Watch, and the Lawyer's Committee for Human Rights, among others, relies on the Country Reports as a starting point for their own excoriation of global human rights practices. Citations to the official record make for compelling copy in the white papers and special reports they circulate on Capitol Hill during the annual review of American foreign aid. Their stinging reports neutralize the spin and apologia that comes from high-priced lobbyists and PR consultants hired by foreign governments to sanitize abysmal human rights records.

Today, we are just as likely to see an A-list Hollywood celebrity championing the cause of human rights as earnestly as any committed activist. Whether it is Ben Affleck, Angelina Jolie or Danny Glover, when the human rights and Hollywood communities conspire to focus on a single country, funds get raised and policies get reviewed. In this sense, the reports have as much impact on a for-

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eign country's image and reputation as almost any other single document.

As one of the most transparent tools of American foreign policy, the human rights reports have a dual utility. On the one hand, they serve as a foil to nudge other nations closer to American notions of democracy. On the other hand, they are shields to keep repressive regimes at arms length when the Administration or Congress deems a country *terra non grata*. A number of U.S. laws limit foreign economic and military assistance to those countries with passable human rights records, but there are many, many exceptions.

Human Rights Under Obama

President Obama's human rights legacy is inchoate, although he gets high marks for emphasis, if not enforcement. So what, if anything, is wrong with the policy? If you listen to critics, it is more a matter of application than aspiration. In other words, the principles, values and ideals which underpin the policy are quite sound. How they are implemented on a country-by-country basis is, perhaps, less tenable. For example, the U.S. tends to overlook the human rights abuses of some Middle East and African governments that are strategic allies for one reason or another, but tends to penalize the abuses of other nations which are less central to our national interests. That seems unfair, undemocratic, and unsustainable.

Historically, the emphasis and enthusiasm on human rights policy have differed among American presidents. The focus on human rights reached its high-water mark during the one-term presidency of Jimmy Carter, where it was criticized as the centerpiece of a feckless, ill-fated, foreign policy, ultimately leading to the Iran hostage crisis. Ronald Reagan overlaid his own worldview and Cold War paradigm on human rights. Under Reagan, even the most hardened and repressive regimes in Latin

America, Africa and Asia were acceptable, provided they ruled on our side of the East-West axis. George H.W. Bush seemed silently agnostic on the subject, but Bill Clinton changed the human rights lexicon by emphasizing democracy and good governance. George W. Bush did not have the luxury of other presidents on human rights. Whatever original intentions President Bush may have harbored, they were subordinated to security following September 11, and he launched the global war on terror. It is probably unfair to judge his administration by any previous standard.

The Internet President and America's Online Policies

As the nation's first Internet president, Obama has chided other governments not only for old-fashioned media censorship, but also for restricting access to the Internet. While the World Wide Web and social media permeate every village of the globe, many countries have thrown up roadblocks to online information. The most prominent perpetrators are China and Saudi Arabia. Other offenders include Vietnam, Russia, Iran, Thailand, Burma, Morocco, the U.A.E., and a host of African nations too numerous to mention. In this sense, their practices are only marginally more benign than the backward regime of Kim Jong Il, who simply blocks all information from North Koreans, many of whom believe they are still fighting the Korean War.

But the Obama Administration should require more from those governments with whom we share strategic and economic interests, if not cultural values. Neither China nor Saudi Arabia correctly can be called democratic, but their selective censorship of online information should be as troubling as the absence of elections or political parties. As we have just witnessed in Tunisia and Egypt, plebian access to independent thought and information can compensate for a stunted civil society at an unprecedented pace. While there are

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no parties or democratic institutions of note in China or Saudi Arabia, there are hundreds of millions of citizens yearning to surf the web freely on their cell phones. Is not the deprivation of thought and information by those governments tantamount to physical starvation or torture?

Global Online Freedom and Protection

Secretary of State, Hilary Rodham Clinton, has become the Obama Administration's point person on Internet freedom. In a stirring series of speeches, Secretary Clinton has called on governments, companies and technology providers to make sure the World Wide Web is a force for human rights. The State Department has launched an Internet Freedom Task Force to integrate these aspirations into human rights policy. Despite the hopeful pronouncements, Internet freedom throughout the world has yet to reach the point where it can be enforced legitimately through law.

That's where Congress comes in. U.S. Representative Chris Smith (R-NJ), the current chairman of the House Foreign Affairs Subcommittee on Africa, Global Health and Human Rights, has attempted for years to pass the Global Online Freedom Act. His last effort was in 2009, but the legislation was unsuccessful. If passed, the bill would have made it unlawful for American businesses to cooperate with Internet-restricting countries in effecting online censorship. It would have amended the Foreign Assistance Act of 1961 to require assessments of electronic information freedom in each foreign country, and would have established an Office of Global Internet Freedom (OGIF) in the State Department. The bill would have required the Secretary of State annually to designate Internet-restricting countries, and would prohibit U.S. Internet service providers from locating in such countries. It also would require those companies to alert the State Department when they received requests from an Internet-restricting

country to reveal the personally identifiable information of a user, except for legitimate law enforcement purposes.

Whatever warts the legislation contained surely were outweighed by the clear signal it would send to Internet-restricting countries about U.S. resolve to treat online freedom like other forms of censorship or freedom of the press. Even if the Administration opposed that bill, it should seize the underlying principles and incorporate them into our foreign policy through authority afforded the Executive Branch. Holding foreign governments—and American companies operating abroad—to a universally enforceable standard is exactly what the world needs to see from this president.

Freedom, democracy and human rights are not solely the province of the West; they are universal principles. America's human rights policy sets high standards for other nations and an even higher bar for itself. Meeting the standard will require us to break from established foreign policy tradition by treating every country equally. Universal enforcement is at the very heart of the issue. For understandable reasons, it has become convention to treat some nations with a light touch when it comes to the Internet. It is now time to depart from convention.

While no one in Washington should expect this to happen overnight, it is fair to expect the President to put principle over pragmatism by making Internet freedom an inviolable element of our human rights policy.

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