

# *Human Rights and Foreign Policy*

## *A Symposium*

A symposium presented by the  
**East Asian Legal Studies Program**  
and the  
**Human Rights Program**  
of Harvard Law School

### **Table of Contents**

1. Preface
2. Morning Session
3. Afternoon Session

### ***Preface***

The East Asian Legal Studies Program and the Human Rights Program at Harvard Law School share a strong interest in the role of human rights in foreign policy. We decided to hold a meeting of a small number of experts in this field. Each of six invited speakers was invited to make introductory remarks, to be followed by a discussion among the speakers and about ten other audience-participants. This event took place on May 8, 1993 at Harvard Law School.

The morning session drew its illustrations primarily from sub-Saharan Africa, while the afternoon session was directed toward the People's Republic of China. The speakers on the morning panel (and the positions that they then or previously held) were:

Jamal Benomar, Director, Human Rights, Carter Center of Emory University.

Michael Clough, Visiting Fellow for African Studies at the Council on Foreign Relations, and author of *Free at Last? U.S. Policy Toward Africa and the End of the Cold War* (1992).

Smith Hempstone, United States Ambassador to Kenya, 1989-1993.

The afternoon panel included:

Li Buyun, Professor, Institute of Law, Chinese Academy of Social Sciences, and Visiting Scholar, Columbia University School of Law.

Aryeh Neier, Executive Director, Human Rights Watch, 1981-1993.

Richard Schifter, Assistant Secretary of State for Human Rights and Humanitarian Affairs, 1985-1992.

The day-long session explored a number of themes that should interest a larger audience. Hence we have summarized and quoted from the discussion to prepare this pamphlet for distribution to individuals and institutions concerned with human rights and foreign policy.

We wish to express our appreciation to the Reginald F. Lewis Fund for covering the expenses of this meeting. The fund is part of a magnificent gift to the Law School from Reginald Lewis of the class of 1968, whose tragic early death last year prevented him from taking pleasure in the uses to which his contribution has been and will be put.

*William Alford*

*Henry Steiner*

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## ***Morning Session***

The morning panel consisted of Jamal Benomar, Director of the Human Rights Program at the Carter Center; Michael Clough, of the Council on Foreign Relations; and Smith Hempstone, U.S. Ambassador to Kenya from 1989-1993. The regional focus of the discussion was primarily sub-Saharan Africa.

**Jamal Benomar** first reviewed the shift in U.S. policy toward a number of African states that stemmed from the end of the cold war. During the cold war, it was "U.S. policy to support any regime which was not flirting with the Soviet block on the argument that 'if we don't support these regimes, they will turn to our enemy.'" This policy often had negative consequences. In countries like Angola and Somalia, the U.S. polarized local conflicts and supported leaders and groups who violated human rights on a massive scale. The bottom line was that the U.S. "Would not raise serious human rights concerns about these regimes even in cases of gross and systematic violation." Today, in countries like Zaire or Liberia, we see "almost total disengagement and surely no positive involvement of the U.S. through attempts to resolve crises." Often the mess in which many African countries were left after the cold war grew out of "the past policies of the U.S. government."

Mr. Benomar gave detailed accounts of U.S. policy toward Ethiopia, Sudan and Chad and drew some illustrations from the post-cold war period. For example, he argued that the U.S. started to show concern for human rights violations in the south of Sudan only after the Sudanese government expressed its support for Saddam Hussein during the Gulf War, and after evidence emerged that Sudan was training Islamic militants from several North African countries. The point was the same: human rights figured in foreign policy only to serve national security goals. No clear strategy emerged. One saw "lack of clarity about who is supposed to be threatening U.S. interests."

In his conclusion, Mr. Benomar underscored that "if you look at present U.S. policy in Africa, you don't see major initiatives at work. You see a policy of near total disengagement, with some exceptions like Kenya where the U.S. spoke loudly and clearly in addressing human rights problems, though only after the cold war was clearly over. There are a few other cases in Africa where individual ambassadors who had an interest in and who raised concerns about human rights led the U.S. to push for improvements. These diplomats had a very important impact."

Michael Clough stressed three themes in his remarks: economic-social rights, the effect of the cold war, and the importance of civil society. He found economic-social rights "less problematic" in Africa than in Asia or the Middle East. In Africa "it is so clear that you need a massive amount of progress at all levels, so that to debate one form of right against another becomes almost an absurd issue." Long-run growth requires major progress with respect to political order and security, human rights and democracy, and economic rights and economic progress. "We simply don't have the luxury to say 'you can do one vs. the other.'"

In Africa, "there's frankly very little evidence that the Asian model works. In Asia, some countries with bad records about promoting human rights and democracy made progress on the economic front, and the political progress followed." This was always the argument advanced by African leaders and their Western supporters: first economic growth, then political rights. But in Africa, states using economic development as a justification for repressing democratic movements "haven't produced in terms of either economic or political development." Nonetheless, it still seems sensible to give much attention to economic growth, with the hope that political development follows from it.

Many of the deficiencies on the African scene - economic, political, social, security - stem from the "weakness of civil society. So what has priority, whether you're talking about economics or politics or anything else, is finding ways to strengthen civil society. I believe that the best way to strengthen civil society is by focusing on the basic human rights like freedoms of association, press, speech and due process of law. These are the kinds of rights that permit civil society to begin to function. By emphasizing them and contributing to the development of civil society, you are also doing what's necessary to contribute to economic development."

Africa yields no evidence that it will stress state-led economic growth, but nonetheless it remains weak in the nongovernmental sectors. "If you can find a way to strengthen and unleash civil society, it's more likely that you'll get out some of the traps that we've seen in the kinds of conflicts that have emerged." Somalia is a classic case, its conflict rooted not in fundamental ethnic and clan divisions but in struggle for control of the state. "If there had been a healthy civil society outside the state, it would have mattered less who captured it."

Mr. Clough then returned to Jamal Benomar's theme about the cold war. He agreed that the cold war legacy was still apparent and could not be ignored. Surely it "affected perceptions in Africa of what U.S. policy was trying, and not trying, to do." Somalia is a good illustration. Many people, even in the U.S., assume that the U.S. was advancing ulterior strategic and economic interests through its intervention in Somalia - Somalia's territory was geopolitically strategic, or there were oil deposits, indeed any reason other than humanitarian concerns. Though these arguments are "patently absurd," the interesting issue is why many people believe them. "The answer is obvious. They look to past U.S. policy where humanitarian interests never adequately explained why the U.S. was involved, and they ask why they should believe that the policies are now shifting. After all, the U.S. didn't choose to get involved in other states with human rights crises like Sudan or Liberia, so the choice of Somalia must rest on ulterior motives, which are probably the old motives."

To confront these beliefs, the U.S. must deal explicitly with its past and explain why past conduct is no longer the pattern. It's not enough to say that the cold war is over. The U.S. must come to terms with the fact that its prior policy was falsely presented to the Congress and public - *i.e.*, not stating directly that human rights and democracy had to be surrendered to national security interests, but rather asserting that U.S. policy was designed to advance human rights and democracy, economic development and stability. "In the case of Zaire, the executive told Congress that if it were allowed just a little more aid, it would have more influence with Mr. Mobutu. That, in turn, would permit economic and political reforms to be implemented. Some people were totally disingenuous, but many officials testifying actually believed that aid would have positive results."

Mr. Clough developed his view that the real culprit was less the cold war than the commitment of the State Department to "quiet diplomacy and constructive engagement." The basic problem lies in the belief that the "best way to get reform and positive change is by developing close personal state-to-state relationships, by gaining confidence of the leaders and leading them down the path. We have to get out of this notion of constructive engagement. The evidence is fairly clear that it doesn't work."

Another problem with former U.S. policy in Africa was the attitude of the "Africanist community in the United States, which historically excused many of the human rights abuses in Africa." Their reasons were understandable, not necessarily wrong, growing out of identification with African governments that had the decks stacked against them. Thus the Africanist community used the development rationale to overlook abuses. The problem really is broader than Africa. Many people who supported liberation movements around the world find it difficult to be critical of the contemporary democratic movements that may lead to oppressive governments. Zimbabwe is a classic case. After 1980 when it became clear that Mugabe was going in the wrong direction to an undemocratic regime, the African American community had trouble shifting from its earlier support.

"I think that we have to be honest that we may face the same situation in South Africa." But a move to repression by a black government is less likely, for South Africa has "a much stronger civil society which in and of itself will act as a check on human rights abuses. Nonetheless, it's important not to excuse an ANC government for abuses once it comes to power just because it's an African government. This is another reason why we have to be wary about saying that the end of the cold war means improvement in human rights."

We must move to an alternative approach, Mr. Clough asserted. Attempts to influence human rights policy by aid cut-offs won't work well, given the sharp reductions in aid to African countries. U.S. aid is only about 6% of the total aid mix going to Africa. Rather, the U.S. should concentrate on "a more society-wide strategy of constructive engagement. Instead of a relationship between an Africanist community in the U.S. and African governments, we should create multiple relationships between different communities in the U.S. concerned with these issues, a major part of which will be African-Americans, but also the human rights community, the development community, the women's community, and so on - as well as their counterparts in Africa. The more we can do to strengthen those relationships, the more we will build the basis within African civil society for democracy and development and political order.

"Also, we would be blocking the ability of governments in situations of political strife to abuse human rights, because of their awareness that a world community would soon gain knowledge about what's happening and then become involved. The evidence is fairly clear that the more knowledge there is of human rights abuses in a particular country, the more that knowledge in and of itself acts as a deterrent to the kinds of gross abuses that we've seen.

Smith Hempstone was the third speaker. He described himself "as at least peripherally involved in the battle for human rights and expansion of democracy in Africa, which no doubt is why I'm unemployed today." Hempstone concentrated on his Kenyan experience as U.S. ambassador, starting in 1989. When the Berlin wall came down that year, "I pointed

out to President Moi that these same fires were breaking out in West Africa and that, sooner rather than later, they would reach Kenya. He had, I said, only two options: to manage inevitable change to his benefit and that of his country, or become its victim. Moi did not get it. He went on ruling in the same heavy-handed corrupt manner. He didn't seem to understand that there was no longer a Soviet Union to be used in blackmailing the Western nations into giving aid.

"Initially I was pretty much alone in my criticism of the government. The State Department and the White House supported me in the sense that they did not criticize me unduly and did not recall me. But one certainly had the feeling that many in Washington did not think that I was the greatest thing since sliced bread. I fear that there is an inbred resistance among the bureaucracy to rocking the boat. Career officers would rather be caught making a rude noise in church than engaging in a confrontation of any sort. They much prefer business as usual."

Mr. Hempstone noted that the Kenyan government tried its best to have him recalled from his post as ambassador, to the point of its parliament passing a unanimous resolution to that effect. Nonetheless, "I repeatedly spoke out against the government's acts." U.S. aid fell. "The Germans, Swedes, Danes and Canadians joined me to form the gang of five which openly opposed human rights abuses in Kenya. Finally in 1991 the Western donors froze their aid, and Moi later agreed to multi-party elections, which Moi won over a sadly split opposition with 36% of the vote. Ambition and greed stopped the opposition leaders from getting together and agreeing on one or the other being the candidate."

On balance, Smith Hempstone agreed with the State Department's assessment that the elections, whatever their problems, were a "significant step" toward democracy. "None of this would have been accomplished had we not kept President Moi's feet to the fire. It's my feeling that protection of human rights and the expansion of democracy should be central to U.S. foreign policy - for reasons earlier stated including that democratic societies generally do not go to war with one another. It makes for a more stable world, leaving aside the questions of equity and human justice."

Of course it will continue to be necessary for the U.S. to consort with despots for reasons of national security. "But those reasons should be compelling and should not be frequent. It is my belief that America could never be true to herself except when she is engaged in the struggle for freedom and liberty everywhere."

Mr. Hempstone made clear that he wasn't suggesting the cut-off of aid to any nation violating human rights. "I am saying that America should give the majority of its economic assistance and its political support to those nations that share our ideals. In this respect, I view human rights in its broadest possible definition, though one must draw distinctions. We would all agree that political murder and torture are totally unacceptable as instruments of state policy. While gender discrimination for cultural reason may be no more than unfortunate, inconsistency does not bother me unduly. As for international cooperation, the U.S. should act with others if it can, but by itself, if it must."

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Several participants asked the panelists to compare U.S. foreign policy bearing on human rights in African countries with the policies of European states like the U.K., France or Belgium. Mr. Clough cautioned against generalizing, for policies of countries varies radically across Africa and much depends on whether a given European country has influence in a given African country. Nonetheless, he believed that questions of human rights and democracy have much less salience in the foreign policy debate in, say, the U.K. or France than in the U.S. Such questions "are much less likely to be a driving force." This may be partly so because the diplomatic community in those countries is far less insulated from political pressure than is the U.S. foreign policy community. Often "human rights is something that is pushed on governments by constituencies within their own countries." The relevant constituencies are far more powerful in the U.S. than in most European states.

A participant questioned whether there was not a certain arrogance in the suggestion that the U.S. try to impose human rights standards and finance its citizens to spend time in a country like Kenya to build a civil society. Such missionaries of development may be ignorant of Kenyan history and culture. The result could be as disastrous as the development models imposed by Western economists and governments on third-world countries.

Mr. Clough responded that he wasn't arguing "for a massive shipment of American representatives of various groups to Africa. What I'm arguing for is a process that, whether we like it or not, is already underway through increasing contacts between various sectors of society. In fact, what I'm very much against is having one or two groups imposing any agenda. We have to see African societies as emerging societies that have their own strengths and vitality and that draw resources from the exchange of information. So I don't see it quite the same as a massive Peace Corps. I see it as much less intrusive and interventionist a form of support for human rights than one that is based on state-to-state relationships."

Mr. Hempstone suggested that people tended to give him too much credit or blame for the events in Kenya. "I think that what happened there would have happened if I had never set foot in the country. The internal dynamics were all in place, although of course things might have occurred at a different pace. But things were underway." Africa's younger generations are "fed up with the sort of governments that they've had. They're not going to put up with it anymore."

Another participant stressed that "in my view there is no other place in the world where current structures of society are as much a product of Western intervention as in Africa - state formations, social and political structures." In Kenya, much repression of the nongovernmental organizations that must form an essential part of civil society was imposed with the approval, if not assistance, of the U.S. during the early decades of Kenya's independence. Hence Kenyans view with suspicion the sudden desire of the U.S. to encourage a move toward multi-party democracy and human rights. One must consult Kenyan groups, not charge nongovernmental U.S. groups with the duty to implement a new U.S. foreign policy aimed at the construction of civil society in foreign countries.

Mr. Clough agreed that Americans can't build Kenyan or any other civil society. Africans must, and "one must recognize their active role." He suggested a new form of partnership rather than an extension of past relationships. In any event, state-to-state influence on Africa will surely diminish, given the reductions in Western and U.S. aid. "What's important is to create all these independent forms of action, which in a sense become a new basis for the relationship between our country and Africa. And I don't even think that this should be unique to Africa. We're seeing it in processes around the world."

Mr. Hempstone commented that he didn't believe it correct to assume that American influence was directly correlated with its amount of aid. In Kenya, the U.S. is now perhaps the eighth largest giver, but the U.S. as a symbol of freedom and as the world superpower enjoys great leverage "out of all proportion to what it gives in aid."

A participant noted that Africa seemed to be a very low priority for the U.S. government, a consequence of the end of the cold war. Mr. Clough agreed. Many Americans see no serious U.S. national interest in what happens in Africa. Nonetheless, he believed that the Clinton administration recognized its importance. Still there were formidable resource constraints, given the amount of investment it would take under the best conditions to do something serious for countries like Zaire or Liberia, or eventually in South Africa. All this requires new strategies in the search to strengthen democracy.

A participant questioned why one should assume that nongovernmental groups in the U.S. of the type that were mentioned would be interested in so-called civil society in Africa or elsewhere. Why, for example, would women's groups take a particular interest in foreign policy problems in Kenya or Egypt?

Mr. Clough replied that "the reality is that American society is more engaged with the rest of the world than it has ever been before." One sees signs of this on a number of college campuses - the many students who have been to Africa or want to go there. Women's groups are involved in a range of cultural exchanges-things like sister cities programs, sometimes real and sometimes symbolic. "What's different about Africa relative to places like Japan or Germany is that many fewer resources go into these types of exchanges or relations. African states aren't rich enough to underwrite such ventures, so it's largely fallen to foundations and universities."

## *Afternoon Session*

The afternoon panel included Richard Schifter, Assistant Secretary for Human Rights and Humanitarian Affairs in the Department of State from 1985-1992; Aryeh Neier, Executive Director of Human Rights Watch from 1981-1993; and Li Buyun, Professor at the Institute of Law, Chinese Academy of Social Sciences, and Visiting Scholar, Columbia University School of Law. This session concentrated on human rights considerations in American foreign policy toward the People's Republic of China, but included other issues such as the question of whether foreign policy should seek to address economic and social rights as well as civil and political rights.

**Richard Schifter** started the afternoon session by urging that we think of "violations of physical security like torture or arbitrary killings, violations of civil liberties such as freedom of religion or association, and denial of the right to vote as closely intertwined." Such violations are not undertaken "at random," but typically "are ways of suppressing dissident political organizations, dissident speech or disapproved religious activity." In the absence of core civil liberties and democracy, people lack the means to contain violations of personal security.

The question of the relationship of economic and social concerns to these rights, Mr. Schifter continued, has spawned a good deal of "fruitless discussion. In our country, a right is viewed as a power to make a claim that is vindicated in the court," while issues such as "economic development, full employment, better health care, or full educational opportunities" are left to the political process. As a consequence, rather than engaging in the debate of what is or is not a right, we should accept that there should be criteria, whatever their label, about what governments must do and what they should do." Such criteria are most fully embodied in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

Mr. Schifter denounced the view that efforts to encourage nations other than the industrialized democracies to follow these criteria somehow constitute an effort to "impose western standards on countries with other cultures." That was

"essentially a racist view." Some parts of the world may have developed standards before others, he said, but that in no way diminished the universality of such standards. "I've thought from time to time that in 1785, there may have been people sitting around in London talking about France who speculated that because it was the country of Bourbons for centuries, France would never see democracy. Or that people thinking about Spain in 1970 might have reached a comparable conclusion."

The task of fostering human rights requires both multilateralism and a variety of policy tools. "The industrial democracies need to join in a common strategy for joint economic measures to pursue human rights objectives. The simple fact is that neither aid nor our trade position gives us the economic clout that we had as recently as twenty years ago. We must therefore persuade our colleagues in the Group of Seven to join with us in analyzing international human rights problems and then acting in an effective and consistent manner." Quiet diplomacy, which may be "blunt and forceful but without publicity," will be a key tool, as will "technical assistance" in developing effective laws and institutions.

China poses an especially complex case. During the late 1970s, the United States government largely ignored China's human rights problems. Throughout the Reagan Administration, "our expectation was that China was on a course that would inevitably result in a loosening of restrictions and compel increased adherence to human rights. Together with our concern to maintain the PRC's goodwill during the Cold War, that caused us not to let human rights concerns intrude into our relations with China." In essence, through both the Carter and Reagan years, "we did try to report accurately on human rights in China, but we did nothing about them."

"Then came Tiananmen Square." The initial response of the American government suggested that human rights concerns had become "sufficiently infused into U.S. policy for the bureaucracy to respond effectively." Various statutorily required measures, including an end to the sale of military equipment and a curtailment of most World Bank lending to China, went into effect. "From the general behavior of my colleagues, including those in the State Department's East Asian Bureau, I had the distinct impression in early June 1989 that we were going to pursue human rights concerns regarding China as we had regarding the Soviet Union."

Mr. Schifter, in what he characterized as the first public description of his thoughts about the "evolution of China policy under the Bush Administration," underscored that this new, more vigorous policy did not come about for the reason that "the China desk officer sat in the Oval Office." President Bush "most assuredly found the arrest and torture of students for the advocacy of democracy to be abhorrent, but he simply did not believe that it was sound policy for the United States to risk its relationship with the leaders of China. He never fully realized that the schoolboys and schoolgirls of the years he had spent in Beijing had become adults, that many of them had been exposed to the ideas of democracy and respect for human rights, and that they had come to believe in and fight for them." Both the President and his National Security Advisor, Brent Scowcroft, "were sympathetic to the Kissinger approach to foreign policy, one that simply did not factor human rights considerations into policy formation."

The result, continued Mr. Schifter, "was that we sent mixed signals to China. We did what the law required, but we made no effort to coordinate a comprehensive China human rights policy with our allies as we had through the CSCE process with regard to the Soviet Union." Most-favored-nation (MFN) status was not suspended. "But let us keep in mind that the law, under its terms at that time, was directed purely to emigration policy." US-led efforts on the multilateral front produced the initial restrictions on World Bank lending, but "after a while that unravelled. Whether we fought hard to prevent it from unraveling, I do not know for sure. I doubt that we did."

What was striking in the midst of this approach was that the "basic commitment to a human rights policy had by then sufficiently imbued the Foreign Service to keep alive a concern in spite of the clear lack of interest at high levels." The concern about China was further nourished by members of Congress from both parties, as well as the general public. "I do want to say that Asia Watch did a very good job in that regard, so that the Administration could not simply shrug off the human rights problems of China."

As a consequence, the idea of sending a "message to Beijing that we cared" did not fade away. The ongoing Congressional concern about the renewal of MFN status "began after a time to have its impact on the Chinese," given how important the American market is for China's exports. The Chinese therefore agreed to receive Mr. Schifter in December of 1990 and again in November of 1991 for serious talks, as well as to continue these discussions in Washington through their embassy. Due to this, Mr. Schifter believes, "the number of people convicted was smaller and the sentences were shorter than they would have been without expressions of concern from the United States." Nevertheless, more could have been accomplished if we "had pressed harder and particularly if our allies had joined us in our protestations."

**Aryeh Neier** first commented on some of the themes just raised. "Like Richard Schifter, when it comes to the question of what issues of human rights the U.S. should be concerned with, I have a hard time drawing distinctions between the questions of physical security, that is, torture and summary executions and disappearances and arbitrary detention on the one hand, and issues like freedom of the press and freedom of speech on the other." Often "torture and

disappearances are a mode of reprisal against those who engage in free expression, although there are nations such as India and Brazil where the infliction of torture may have less of a political motivation and owe more to local corruption."

Questions of physical security and basic freedoms "have to be at the forefront of any concern with human rights in foreign policy." On the other hand, continued Mr. Neier, "when it comes to the question of what are called economic rights, I'm on the side of the spectrum which feels that the attempt to describe economic concerns as rights is misguided. I think that when one expresses this opinion, it is often thought that one is denigrating the significance of economic misery and inequalities. I would like not to be accused of that. I regard economic equity and economic misery as matters of enormous significance. I just don't think that it's useful to define them in terms of rights."

"I am not aware that any of the countries which proclaim economic rights allow people to go to court to vindicate such rights." Inevitably, concerns such as housing, sustenance and employment are questions to be resolved through the political process. In fact, "very often the question of economic rights is raised by governments in bad faith to fend off criticism for their denial of political rights."

As the economist Amartya Sen has shown, asserted Mr. Neier, "the only countries which have suffered famines and where large numbers of people have starved to death are those that deny freedom of speech and deny any kind of accountability in the political process." China, as evidenced by the example of the Great Leap Forward period of the late 1950s and early 1960s in which 14 million people starved to death, is "an outstanding example" of this correlation, for none dared question the policies of Mao Zedong until it was too late. Sudan and some other African nations also qualify as examples, whereas, "India, which is far more overpopulated than any country in Africa, has avoided famine since the end of World War II. In India you have a possibility of correcting mistakes as a consequence of criticism because there is, for example, a possibility of someone's publicizing any shortages that are developing."

Much the same point might be made with respect to the environment. Communist governments in Eastern Europe were not accountable to their citizens for the damage they wrought, much as it is not possible to publish criticism of the Three Gorges project in China that threatens to dislodge over a million people from their homes. "So, I think the arguments can be made that if one is concerned with economic and social inequalities, one of the most important things to do is to protect civil and political rights."

Foreign policy designed to support civil and political rights should strive for consistency, said Mr. Neier. "If you are not consistent, that inevitably makes the human rights cause appear to be simply the servant of some other agenda" and thereby hands an excuse for governments with poor records to ignore demands about human rights. "It is only by consistency that one endows a human rights policy with morality, and if it lacks morality it isn't a human rights policy at all." One problem may stem from the end of the Cold War, for in its wake human rights concerns will "seem less urgent." This phenomenon will reduce some of the visibility that is so important in keeping these considerations before the public. Such a development would be most unfortunate, for "if rights matter to us as individuals, they ought to matter to us as a country. "

Mr. Neier observed that although he was "an advocate of loud diplomacy, that doesn't mean that I denigrate quiet diplomacy." There needs to be, at least broadly speaking, "a coherence" between the positions the U.S. publicly espouses and those it pursues in private. The effort to promote human rights concerns in foreign policy will be "enormously enhanced if it takes place on a multilateral basis."

Mr. Neier then turned to China. He asserted that even those individuals who believe that the economic developments now underway might spur meaningful political liberalization and greater respect for basic freedoms should recognize that "the human rights cause is also served by raising the MFN status question." Prior to the June 3, 1989 events in Tiananmen Square, China was not on the international human rights agenda in a significant way. Had it "faded from that agenda in the immediate aftermath of Tiananmen Square, that would have been a disaster."

Because the date for renewal of MFN status fell on June 3, "purely by accident," it became a vehicle for keeping human rights in China before the public eye. "That was opportunistic rather than a calculated political strategy, but it took on a life of its own." As such, "there is not a fundamental issue of principle involved in the question of MFN; rather it is strictly a tactical question. I have never felt that there was a real possibility that MFN would be revoked. Raising it, however, has been sufficient to get the Chinese worried and, most important, keeps human right issues in the spotlight. This has helped in reducing a certain number of sentences, freeing a certain number of prisoners and mitigating a certain amount of torture."

**Professor Li Buyun** spoke of the relevance of human rights to China. "With the advance of civilization, economic development and growing interdependence between nations," human rights have become an increasing international concern not only for the industrialized nations, but for China and other developing nations. As a consequence, all nations have the responsibility to protect the ideals in human rights statements that reflect universal aspirations. Notwithstanding differences between cultures, the Universal Declaration and the two covenants do reflect "common

standards of human rights that are not wholly abstract, but in fact very specific. Almost all nations have announced that they will abide by the Universal Declaration and have also undertaken to incorporate human rights concerns more into their own laws and treaties."

The real challenge, continued Professor Li, is to figure out how to "coordinate or handle tensions that may develop between concern about the national interest and international human rights concerns." For example, American foreign policy toward South Africa and Israel has allowed the former concerns to predominate over the latter. We must recognize "that human rights cannot be separated from politics, even as we recognize that it is in some ways a non-political matter." Perhaps, he speculated, after the Cold War "the political factor will gradually diminish."

One area of difference concerns the importance assigned to economic and social rights. "My personal view is that there are two types of equally important rights and that we should pay equal attention to both of them. If somebody is hungry, one may ask what is the point of giving that person freedom of speech. On the other hand, if one cannot control one's destiny through freedoms such as speech, one may well wonder what is the point of living."

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The talks by the panelists prompted comments and questions from other workshop participants about the relationship between civil-political rights and economic-social rights. One participant challenged the notion that only matters that are judicially enforceable are worthy of being deemed a right. Such a view, he suggested, ignored the key role of politics in securing rights. In the United States as in most other countries, he argued, important rights have been "won by blood, by conviction, by political mobilization, and by a willingness to go to jail," rather than simply in court. In many other rights-oriented nations like the U.K., courts play a far less significant role relative to legislatures than they do in the U.S. The participant also suggested that basic human rights should be viewed as a totality, all parts of which would be diminished by subdivision. Allowing people to suffer from severe malnutrition or to be homeless or without access to some minimum level of medical care in a society as rich as the U.S., when their suffering may stem from the accidents of birth or macro economic cycles far beyond their power to influence, "is a deep violation of human rights. Far more people here suffer and die of such causes than of violations by our government of civil and political rights."

Another participant stressed the notion of interdependence. U.S. efforts to foster human rights internationally, in was suggested, have been impaired by "selectivity." The fact that the U.S. is not a party to the International Covenant on Economic, Social and Cultural Rights has "seriously affected U.S. credibility" abroad. Many countries of the South "wonder how the U.S. can promote human rights when it is very selective about the type of rights it wishes to promote." Although some states often make this argument in bad faith to shield their internal repression from scrutiny, others do so with conviction and resentment. The same point can be made about most of the nongovernmental organizations in the Third World that are pushing for greater attention to economic and social rights without any abandonment of their deep commitment to political and civil rights.

The arguments of a third participant took issue with the extent to which two of the panelists would consign matters of economic and social justice to normal majority voting in the political process. "The reliance on one-person, one-vote places tremendous faith on the democratic process and ignores the fact that the Bill of Rights itself is an anti-majoritarian document recognizing that democracy is not always able to protect rights." Labeling something a right is important, this commentator suggested, because it gives one a greater entitlement to it than the political process can achieve merely through enacting statutes.

A participant questioned the efficacy of American foreign policy's emphasis on civil and political rights. It is too easy, he suggested, for governments like the Chinese with bad records to buy time by releasing a small number of the more visible political prisoners. How, he wanted to know, do such concessions speak to the larger political or economic problems of the citizenry? A more considered policy, he concluded, would look less at the symbolic victories and more at structural changes that might yield more sustained improvements in a nation's human rights performance.

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