

MEMORANDUM

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NATIONAL SECURITY COUNCIL

~~CONFIDENTIAL ATTACHMENT~~

July 3, 1980

MEMORANDUM FOR: ROGER MOLANDER

FROM: LINCOLN P. BLOOMFIELD *LB*

SUBJECT: Briefing Paper on Human Rights
and the NSC

Attached hereto is the first of several briefing memos which I am preparing for you or Jerry, as part of my orderly departure program which, albeit a failure in Vietnam and Cuba, ought nevertheless to be a success in the NSC staff.

As you know, Mary is arranging a series of luncheons in the White House Mess this month where I would like to have you (Jerry in his areas of future concern) to have a chance to meet informally with key figures with whom I have been dealing in the bureaucracy.

(Attached hereto also is a cartoon about the Carter human rights policy which delicacy forbids me from attaching to other copies of this memorandum.)

cc: Zbigniew Brzezinski
David Aaron
Henry Owen
Tom Thornton
Christine Dodson
Jerry Oplinger
Madeleine Albright
Alfred Friendly

~~Department of State, A/GIS/IPS/SRP~~

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THE NSC AND HUMAN RIGHTS POLICY (U)

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You will also want to read a very thoughtful and provocative memo which Tom Thornton left for me a year ago on this subject. Philosophically it stands up well. Some of the specific policy issues, with their typically long halflife, linger instead of speedily decaying. (Perhaps the people do the decaying, while the problems remain?) (U)

Two facts dominate this policy scene:

1. Human rights policy has clearly represented one of the principal personal policy commitments of President Carter. Therefore it has been operationalized virtually across the board. As an outsider, I observed an explosive but somewhat unguided takeoff in early 1977. Cy Vance's Athens, Georgia speech of July 1977 provided the needful midcourse correction, explaining that of course the policy could not be applied without modulation everywhere, at all times, friend and foe alike. When security requirements crowd in, human rights take second place, being invoked pietistically rather than operationally. (C)

2. The other central fact is that bureaucratically, the human rights policy is somewhat of an orphan child, or maverick, perhaps because by contrast with the HAK approach it was new, and controversial. Applying the "human rights criterion" still tends to line up the bureaucracy on predictable sides. Its central agency -- HA in State -- is clearly not staffed by the most promising FSOs. On the contrary, under Patt Derian -- an activist if there ever was one -- the whole HA team soon acquired the opprobrium throughout the buttoned-down elements of the bureaucracy as "the Human Rights Mafia." (C)

Operationalizing and institutionalizing this new (restored?) component of policy includes codification into a variety of laws by the Congress (you will find all the legislative references on my shelves). (U)

The Congress in a sense outdid the President by writing into law the requirement that foreign economic assistance and, to a more limited degree, foreign military assistance, could not be given to countries whose governments were guilty of a gross and consistent pattern of human rights violations. The effect is that far from consisting of optional rhetoric, each specific aid decision has to be filtered through a human rights test, with the burden legally placed on those who would award grants, loans, aid, etc. to gross and consistent violators. The exceptions in the economic case are projects that would clearly benefit basic human needs in a given country, and in some other cases (e.g. OPIC investment insurance, FMS, etc.) a certification that national security considerations override. Needless to say, recent deterioration of the security situation has made the human rights criterion secondary in several recent FMS decisions. (C)

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The instrumentality for dealing with economic assistance choices is the interagency committee on human rights chaired by Warren Christopher, involving wide representation of the bureaucracy (including myself). I have usually circularized my regional NSC colleagues to get their views on controversial cases prior to going to a meeting, and they have sometimes accompanied me. (On the military side, I have not been involved. Perhaps for that reason the system tends to operate by raison d'état and force majeure, rather than droit de l'homme!) (C)

If Patt Derian leaves (Hodding already has), much will depend on her replacement. Her number one Deputy Mark Schneider was a very bright activist. After he went over the side he was replaced by Steve Palmer, who is much calmer and introduces a more conservative note stylistically, although he is quite committed to the cause. Chris himself is also a strong advocate of the President's human rights policy, but so judicious in temperament that he creates the illusion that a fairly jumpy policy is in fact purring along like a well-tuned Mercedes. (C)

Clearly the policy is not agony-free. The case of Argentina is a prime example of pulling and hauling between those pressing for letting up on the pressures on policy grounds of wheat sales, fencing off from the Soviets, hemispheric defense, et al, versus those who feel that Argentina is still an egregious human rights violator. The NGO community is much exercised about this, as is US Representative to the Human Rights Commission Jerome Shestack. (Tom Thornton and I recently recommended that State prepare a public clarification prior to Bill Bowdler's late July visit to Buenos Aires, in order to correct distorted news stories based on leak and rumor, and also to stiffen everyone's spine when Bill goes to Argentina so the human rights component of our policy doesn't get lost in the shuffle. ZB and DA vetoed the idea, and doubtless Bill will make it all plain to the Argentines when he visits.) (C)

The UN Human Rights Commission is backstopped by IO and HA in State, but Jerry Shestack has made a practice of staying in touch with me. He has a big ego, and also a long track record as an outside human rights activist. This makes his role slightly ambiguous, particularly since it has never been clear that the US Rep to the UN Human Rights Commission is an instructed representative. (C)

As for the NGO's, they can be an important source of support for the administration. I was astonished at their pleasure when I went over to State this spring to participate, albeit briefly, in a daylong conference of NGO leaders arranged by Patt and her staff. Any display of White House interest, however symbolic, is of value. (U)

When we still had some leverage with Moscow, there was a fairly steady flow of Soviet dissident or refusenik cases of special concern to the White House for which I would receive the

visitors on behalf of the White House (sometimes with Brement present). They were often sponsored by the Council on Soviet Jewry, although other organizations have asked to visit on behalf of notable Soviet dissidents, ranging from Lev Mendlevitz, who remains in prison, along with one Christian, for insisting on practicing their religion, after the other "Leningrad hijackers" have been let out; to the daughter of Sakharov (for whom we were able to do very little). In one case (Ida Nudel) a personal letter from Mrs. Begin to Mrs. Carter led to my taking Mrs. Nudel's sister to meet the First Lady. Unfortunately, we have been able to do less and less to influence or pressure Moscow with respect to tough cases. Nevertheless, I have been in occasional contact with Marina Neumeyer-Wallach, who represents the Council on Soviet Jewry, and numbers of Ukrainian, Evangelical and other national and church groupings which take an interest in those cases. (U)

One operational demand in which we are importantly involved concerns the annual country human rights reports mandated of the Secretary of State by the Congress. This last year, instead of just reporting on conditions in countries to which the United States furnishes aid, the Congress changed the requirement to reports on all countries -- 154 in all. The deadline for submission to the Hill was January 31st, and I worked out with Patt Derian a procedure (which we did not formally entitle clearance) in which every report was carried to my office as soon as it had been cleared in the Department and before being put into final form. I reviewed many of them myself, particularly the sensitive ones, and in every case circulated them with a form covering note to appropriate NSC colleagues for review and comment. My arrangement with Patt was that I would call her directly if we had any real agony. There were a number of points that we felt ought to be taken up, and I would say we batted about .500, all in all. However, the really hot ones this year (Pakistan, Afghanistan, China, Argentina, you can imagine the rest) I and relevant colleague really labored over. In the case of the Argentine report, with Tom Thornton's help we put in a fair amount of effort to ensure that it retained its integrity, on the ground that 153 other reports could be undermined if one were to too badly fudged. I think we came out alright, and I recommend that the same kind of "nonclearance" system be arranged by December of 1980 for a fairly intensive exercise during the first half of January. (C)

The Madrid meeting of the post-Helsinki CSCE due to take place in September was for a while a subject of considerable activity, in collaboration with Marshall Brement. The chief reason for wanting to go ahead with the meeting following the precipitate deterioration of relations after Afghanistan was, in my view and that of others, the opportunity to re-affirm our strong commitment to the human rights elements of Basket I and Basket III of the Helsinki Final Agreement. The chairman of the U.S. delegation will be former Attorney General Griffin Bell, with Washington Attorney Max Kampelman as his deputy. State has set up its operational preparations,

and you will want to get involved in collaboration with Brement and Blackwill in helping to monitor the human rights elements of U.S. policy as it develops over the next few months. (C)

One issue I would simply pass along is what strikes me as an imbalance in our tools for implementing the President's human rights policy. The fact is that we have, both in practice and in law, a number of sticks to wield against countries which do not live up to the standards that are embodied in the international declarations and covenants on human rights, as well as our own policies. But there is a singular dearth of carrots. In this connection, I would like to see a more active policy of calibrated rewards to the list of countries we frequently boast of as having moved away from despicable practices of torture, political prisoners of conscience, an unfree press, military rule, etc. These might have the form of a special visitation (in my opinion the visit of Navy Secretary Hidalgo to Argentina in early July, apart from its potential for sabotaging a carefully crafted revised U.S. policy toward that country, was the kind of demonstration that ought to be cranked up more often for countries that have really gone the distance to stop leaning on their own people). In this connection, I am concerned with the trend that I understand Tom Ehrlich, the Director of IDCA, is pressing for a small number of a relatively large aid projects rather than a scatteration. I can appreciate his logic, but this already almost forced us to deny a tiny bit of symbolic but needful economic assistance to Equatorial Guinea, which has gotten rid of one of the bloodiest and most repressive dictatorships in modern history. I personally think that kind of flexibility belongs in the aid program. (C)

In summing up the NSC role in this area, it is important to stress the difficult but necessary line that I think has to be walked between a kind of aseptic indifference to the way the human rights policy falls so long as the paper work is in order, as against an all out advocacy of the human rights criterion in all complex policy decisions, which I think would be unbalanced and unseemly in the role a Presidential policy coordinating staff should play. The NSC role is essentially a monitoring one. However, I have often been asked by HA to intervene where the system seems disposed to downgrade human rights concerns; in consultation with my colleagues, I have done so where the arguments were legitimate. Reciprocally, I have sometimes flagged human rights aspects of issues we are dealing with at the White House level -- even in the State Department -- where it is not apparent that HA and its legal and policy mandates are being given sufficient attention. Frankly, it would be disingenuous not to notice that there are forces in the United States government which would be glad for an excuse to dump the whole human rights policy and get back to what they conceive to be a "realistic, national interest based" approach. I guess I would have to say that their approach seems to me, both in prospect and in retrospect, to deprive us of one of the central distinctions between the

democratic system and the totalitarian system which is the foundation on which those critics think they argue. Conversely, I feel that the NGO community worries excessively that we really don't give a damn and our policy is thus a sham. They confuse the limits of policy based on the possible with bad faith regarding the desirable. I feel the greatest service one can do at this level is to keep in a balanced overall focus the positive commitment to the advancement of human rights and political democracy to which President Carter is committed, and from which the United States has already considerably benefited in Africa and in some other formerly hostile regions. (C)

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HUMAN RIGHTS POLICY

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Charles Crutcher

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