

INTRODUCTION

*Dean Rusk**

The celebration of the Bicentennial of the Declaration of Independence caused Americans across the land to gather in small and large groups to reflect upon the simple but revolutionary ideas so elegantly articulated by Thomas Jefferson and his colleagues of the Continental Congress. The Bicentennial came at the end of two decades of giant steps taken within our own society to give reality to the promises of our Declaration and Constitution in the field of human rights. It was in this atmosphere that Jimmy Carter assumed the presidency in January of 1977. His own personal commitments to human rights and his direct experience with a wide range of human rights issues as the Governor of Georgia made it almost inevitable that he would give major attention to such issues at home and abroad.

Human rights were a major preoccupation of those who drafted the Charter of the United Nations. Most of the members of the international community of nations had been deeply shocked by the full revelation of the atrocities of Adolph Hitler and were convinced that respect for human rights was closely linked to the maintenance of international peace. Thus, the Preamble of the Charter begins with "the scourge of war" and then turns immediately "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small." Articles 1, 55, and 56 pursued the matter further and bodies such as the Human Rights Commission came into being.

There have been major limitations upon the ability of the United Nations to promote human rights. One is that the problems and the remedies lie within member states; the United Nations can do only what its members are willing to do. A second is the reluctance of

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member states to permit a supranational body to exercise any real authority within their own territories on matters which members consider to be internal matters. With the passage of time it is tempting for Americans to indulge in a degree of sanctimony on this point. But in 1945 it seemed clear that if Charter provisions on human rights were given real teeth in terms of enforcement, the Charter would not have received the advice and consent of the Senate. It was these very issues which explain in large part the Connally Reservation to the compulsory jurisdiction of the International Court of Justice. Eleanor Roosevelt was given a relatively free hand in providing brilliant leadership to the drafting of the Universal Declaration of Human Rights because she and everyone else understood that the Declaration would not operate as law but as a standard toward which we might strive.

A third limitation upon international action in support of human rights is to be found in the wide gap between words and deeds. The phrase "People's Democratic Republic" is used to cover some of the most rigorously totalitarian regimes the world has seen. The Soviet Union has ratified the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights. In many an Inter-American Conference, representatives of western hemisphere dictators have solemnly raised their hands to vote for ringing declarations on human rights within the Inter-American system. Only in the limited fields of decolonialization and of discrimination by whites against non-whites has one seen anything approaching consensus among nations. Of the 148 members of the United Nations not more than 30 could be said to have constitutional systems within which human rights are established across the board.

When all is said and done, however, it may well be that the ideas of individual freedom articulated by Thomas Jefferson and Eleanor Roosevelt remain the most powerful and revolutionary ideas in the world today. Tyrants seem to live in terror of them because they go to extraordinary lengths to try to insulate their people against such notions. Recent events in India, Spain, and Portugal suggest that these ideas are not just withering away. The sharp reaction of the Soviet Union to President Carter's interest in human rights may be a sign that they consider such ideas to be a lethal threat to their own system.

In any event, the student editors of the *JOURNAL* decided that it would be timely and important to publish this special supplement on human rights; I commend them for their decision.

The supplement begins with the first systematic clarification by the Carter Administration of how it seems human rights issues in relation to foreign policy. Secretary of State Cyrus Vance undertook this task in his Law Day Address to our School of Law on April 30, 1977. His thoughtful analysis deserves the most careful attention of a wide audience. Professor David Weissbrodt of the School of Law of the University of Minnesota provides an excellent article on human rights legislation and its effect upon foreign policy, a more important factor in the conduct of our foreign relations than is generally recognized.

The European Convention on Human Rights and its accompanying institutions and procedures are perhaps the foremost example of constructive international effort we have seen. Of course, the European effort is solidly based upon a common commitment to fundamental principles and upon political systems in which respect for human rights is elementary. Professor Emeritus Sigmund Cohn, a highly respected and beloved colleague at the School of Law of the University of Georgia, has prepared a careful and comprehensive analysis of the work of the European Court of Human Rights, and we are pleased to present this as a major feature of this supplement.

Since governments tend to bristle at each other when controversies arise over human rights, some of the most effective work is being done by non-governmental organizations. Such activity does not create problems of face and prestige to the same degree as does pressure from governments but does, however, affect public opinion and propaganda values to which most governments are sensitive. The article by Professors Wiseberg and Scoble of the University of Illinois at Chicago Circle and the student note by Philip Ray and Sherrod Taylor provide interesting studies of what can be done by private organizations. A study by Richard Goolsby of United Nations efforts to protect prisoners completes the supplement.

As one who has been actively involved in these issues of human rights at home and abroad throughout my life, there remains an expression of profound appreciation to those who have contributed to and made this supplement possible.

