

HUMAN RIGHTS IN THE NEW EUROPE

PROBLEMS AND PROGRESS

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I

Human Rights in a New World Order: Implications for a New Europe

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In the wake of the orgy of national self-congratulation following Desert Storm and the collapse of the Soviet empire, many have asked if there is much substance to the often-proclaimed "new world order." The wave of Third World liberalizations and democratizations, the fall of rights-abusive regimes in Central and Eastern Europe and in the Soviet Union, and the end of cold war anti-humanitarian intervention! do suggest that reality at least approximates rhetoric in the area of international human rights. I will argue, however, that much of the recent human rights optimism is unjustified.

The demise of old rights-abusive regimes does not necessarily lead to the creation of new rights-protective regimes. Although some countries, such as Argentina and Czechoslovakia (or at least the Czech Republic), are likely to consolidate recent progress, many will fall back into dictatorship. Consider, for example, the coups in the fall and winter of 1991-92 in Haiti, Togo, and Algeria. Still other countries, such as Bulgaria, Guatemala, and the Philippines, seem to have settled into less oppressive yet still far from rights-protective routines. In addition, new threats to human rights are emerging, most notably ethnic violence and the suffering caused by market reforms.

Internationally, the end of the cold war has removed the principal U.S. rationale for supporting repressive regimes. The demise of the Soviet Union has eliminated the threat from the other major postwar

supporter of rights-abusive regimes. But a decline in certain foreign policy actions that harm human rights by no means ensures that these regimes will be replaced by consistently positive international human rights policies.

INTERNATIONAL HUMAN RIGHTS: THE COLD WAR BASELINE

The cold war was an international human rights paradox. An era of pervasive anti-humanitarian interventions by both superpowers, it was also the period in which human rights first became an established subject of international relations.

Before World War II, human rights were not considered a legitimate subject for international action.² How states treated their own nationals in their own territory was mostly their own business, a protected exercise of sovereign prerogatives. The human rights practices of states were rarely even officially discussed, and human rights were not even mentioned in the Covenant of the League of Nations. The exceptions to this rule, such as the International Labor Organization, the International Red Cross, and the League of Nations Minorities System, were few and very narrow.

Postwar reflection on the horrors of the holocaust, and the shameful lack of an international response, led to significant changes. The Nuremberg War Crimes Trials prosecuted individuals on the novel charge of crimes against humanity. The United Nations Charter explicitly listed human rights as a principal concern of the new organization. In 1946, the United Nations Commission on Human Rights was established. In 1948, the UN General Assembly adopted the Universal Declaration of Human Rights without dissenting votes. The International Human Rights Covenants, which further developed and sought to give binding legal force to the rights in the Universal Declaration, were opened for signature and ratification in 1966 and entered into force in 1976.

A broad, although shallow, international normative consensus thus developed on the full list of fundamental rights in the Universal Declaration, including civil and political as well as economic, social, and cultural rights. In the 1950s and 1960s, during the height of the cold war, this verbal consensus had little or no discernible policy impact. Altering the terms of debate, though, marked a first step toward altering practice. At the very least, it provided human rights activists with legitimizing norms for their concerns.

There was also some limited progress on international procedures to implement international human rights norms. In 1970, the United Nations Commission on Human Rights was authorized to conduct confidential investigations of systematic human rights violations. Nearly forty countries have been subjects of such reviews. In the 1980s, the commission regularly discussed human rights practices in selected countries (in addition to South Africa, Israel, and Chile, which had been extensively discussed in the 1960s and 1970s). It also developed largely depoliticized "thematic" monitoring programs on disappearances, torture, and arbitrary and summary executions.³ In addition, several human rights treaties required parties to submit periodic reports to independent monitoring committees.⁴

The strongest "protective" power available to any of these bodies, however, was (and remains) the adoption of a critical public resolution or report. These are monitoring and pressuring—not enforcement—procedures, which aim to bring informed international public opinion to bear. Human rights norms have been internationalized. Their implementation and enforcement, however, remain largely national.

The regional record is more varied. The regional enforcement regime covering the twenty-seven (primarily Western European) members of the Council of Europe stands at one end of the spectrum (this is discussed later in the chapter by David Forsythe). At the other end are Asia and the Middle East, which lack intergovernmental regional human rights organizations. The Americas and Africa lie between these extremes, with the inter-American system being significantly stronger, including substantial independent monitoring activities.⁵ Of special interest in the context of this volume is the quasi-regional human rights regime that operates among the now-fifty-three European and North American countries involved in the "Helsinki process" of the Conference on Security and Cooperation in Europe (CSCE). (See the chapter by Forsythe.)

The last two decades of the cold war era also saw human rights become a significant issue in some bilateral foreign policy. In 1973 the U.S. Congress called for, and in 1975 legislatively mandated, a link between human rights and foreign aid. In 1979 the Netherlands explicitly incorporated human rights into its foreign policy, and in the 1980s many other countries followed suit. Although one can point to few cases in which any state, large or small, was willing to bear a significant foreign policy cost in pursuit of human rights objectives, even talk, backed by an occasional halt or reduction in foreign aid, was a major change.

Another important development during the cold war was the rise to prominence of human rights nongovernmental organizations (NGOs). Amnesty International, which was founded in 1961 and received the Nobel Peace Prize in 1977, is the best-known such organization. In the United States, Human Rights Watch and the Lawyers Committee for International Human Rights have been especially active lobbyists for international human rights. These two organizations regularly issue reports that document and seek to publicize human rights violations, testify before congressional committees and lobby legislators and staff members working on human rights issues, work extensively with the media, and produce an annual critique of the State Department country reports on human rights. Other human rights NGOs engage in similar efforts to influence policy through acquiring and disseminating information and organizing public pressure. Again, though, such activities provide only international monitoring, not direct enforcement, of human rights.

In summary, we can say that during the cold war, states lost their traditional immunity from public international scrutiny of their human rights practices. A fairly extensive system of formal and informal international human rights monitoring—by international and regional organizations, NGOs, and other states—was established. International action, however, was modest in scope and impact. Except in Europe, no procedures were used systematically to provide real international enforcement of internationally recognized human rights.

CHANGES AFTER THE COLD WAR

Since 1985, both bipolarity and ideological struggle, defining features of the cold war international order, have (for very different reasons) largely disappeared. The reality of the progress that this implies for international human rights should not be underestimated, but neither should its limits.

The End of Ideological Rivalry

We need only say "Guatemala, 1954" or "Czechoslovakia, 1968" to recall the major role of the superpowers in reversing progress toward more rights-protective regimes in their cold war spheres of influence. Marcos in the Philippines, Duvalier in Haiti, Park in South Korea, the

Shah in Iran, Pinochet in Chile, Stroessner in Paraguay, and Mobutu in Zaire are only some of the more prominent dictators who benefited from U.S. support. The Soviet record was comparably appalling. In addition to forcibly imposing rights-abusive communist regimes in Central and Eastern Europe, the Soviets were the principal backers of the Mengistu regime in Ethiopia, one of the most barbaric Third World regimes of the past two decades, as well as Afghanistan's vicious Karmal and Najibullah governments.

Whatever the root causes of U.S. foreign policy, most U.S. anti-humanitarian interventions during the cold war had a substantial element of anti-communism, and few could have been sold to Congress or the public without it. During the cold war, most unsavory dictators could acquire, or at least maintain, American support by playing on anti-communism. This simply is no longer the case. The post-cold war international environment for human rights should thus be significantly improved.

U.S. involvement in the Third World, of course, existed before, and will continue after, the cold war. Strategic and economic interests will not disappear from U.S. foreign policy. For example, the low level of official U.S. concern with human rights violations in Indonesia (including, but by no means limited to, East Timor) probably owes much to Indonesia's strategic location and oil. This self-interest is typical.⁶ Nonetheless, without the overarching appeal to anticommunism, American administrations will find it much more difficult to muster domestic support for repressive foreign regimes. The Bush administration's significant reduction of aid to Kenya, perhaps the most favored African country during the Reagan years, suggests real progress.⁷

Thus, the United States no longer systematically ignores human rights in favor of ideological objectives. But neither the Bush administration nor Congress was willing to expend substantial political or financial capital on behalf of international human rights. Note, for example, Bush's courting of China, one of the world's few remaining Stalinist-style totalitarian dictatorships.

Interdependence: Material and Moral

No less important than the end of ideological rivalry is the demise of bipolarity and the rise of international interdependence. "Power" is no longer a simple, undifferentiated capacity, even as a first-order approximation. Military power today is one thing, but economic power is

something else. It is thus difficult to characterize the current distribution of international power. The "great powers" of the emerging world order are powers in very different senses of the term. And some states, such as Saudi Arabia, are significant powers in some international issues, but negligible actors in most others.⁸

As a result, international political processes and outcomes vary dramatically from issue to issue. While the end of U.S. (and Soviet) hegemonic leadership may create new opportunities for progressive international action, it also means that we cannot automatically generalize from one issue area to another. In particular, we must not jump from changes in international economic relations to a prediction of comparable changes in international human rights policies.

Some developed states are increasingly willing to relinquish significant elements of economic sovereignty. We see this not only in the increasing globalization of production, but also in formal multilateral organizations (most notably in the European Community) as well as in less formal modes of international cooperation, such as the annual economic summits. The states of Central and Eastern Europe and of the Third World are increasingly relinquishing economic sovereignty through IMF-imposed structural adjustment packages—although often out of dire necessity rather than genuine desire.

More complex and less state-centric patterns of order and cooperation, based on deeper conceptions of international interdependence, are also emerging in some non-economic issue areas. Consider, for example, the surprisingly rapid success in regulating ozone depleting emissions through the 1985 Vienna Convention and its 1987 (Montreal) Protocol. In security relations, however, conceptions of interdependence have not penetrated very far, especially in U.S. policy. In fact, sovereignty was at the core of President Bush's vision of the new world order, which, he was at pains to note, "does not mean surrendering our national sovereignty."⁹

A state-centric, sovereignty-based conception of international order also remains the norm for international human rights. Most states still jealously guard their sovereign prerogatives with respect to human rights. Even in Europe, the relatively strong regional human rights system pales in comparison to the restrictions on state sovereignty achieved through regional economic institutions.

At the UN, consequently, modest expectations should prevail. For example, in 1990 the UN Commission on Human Rights failed to adopt an embarrassingly mild draft resolution on human rights in

China that did not even explicitly condemn the Tienanmen massacre. Japan was the only Asian country, Swaziland the only African country, and Panama the only Latin American country to vote for the resolution. A draft resolution on Iraq met a similar fate. Furthermore, the Group of 77, the caucusing group for the Third World, tried to replace the independent rapporteurs and working groups on disappearances, torture, and arbitrary executions with "geographically balanced" working groups made up of professional diplomats—that is, to politicize the commission's human rights monitoring. They also tried to impose restrictions on the activities of human rights NGOs, because of their independence from political control. Although these efforts ultimately failed, they suggest that new regimes in the post-cold war world can be as reluctant to allow strong international monitoring of national human rights practices as their authoritarian predecessors.

International human rights policies rest largely on a perceived moral interdependence, in contrast to the material interdependence that underlies most (noncoercive) economic, environmental, or even security cooperation. A country that values the protection of human rights in other countries can enjoy that "good" only with the cooperation of the governments of those other countries. There is genuine interdependence in such situations. Nonetheless, political processes based on moral interdependence are likely to operate very differently from those based on material interdependence.

Moral interdependence is largely intangible. The harm caused by a foreign state violating the human rights of its own nationals is a moral harm, a sense of disgust or discomfort, rather than a loss of income, a deterioration in one's quality of life, or a reduction in perceived security. For better or worse, most states, like many individuals, are unwilling to pay very much to act on or assuage their moral sensibilities. This unwillingness does not mean that they do not see themselves as morally interdependent, any more than the refusal of many individuals to incur significant economic costs in order to act morally toward strangers means that private morality does not exist. It does, however, suggest that we should not expect human rights to have a high place on foreign policy agendas of all states.

But even if many states did choose to give higher priority to international human rights, there are unusually steep structural barriers to moral interdependence that do not exist with material interdependence. In a typical instance of economic interdependence, each side controls relatively comparable (i.e., monetary) values and thus each

has fairly direct (if not necessarily equal) unilateral power to prevent the enjoyment of the benefits of cooperation. Therefore, in case of non-compliance, self-help retaliation is likely to be both readily available and relatively effective. This reduces the likelihood of escaping punishment for violations of international norms, which in turn reduces the risks and increases the likelihood of agreement to relatively strong forms of international cooperation.

In the case of human rights, however, retaliatory enforcement is inherently problematic. Moral suasion, which responds directly to the nature of the international offense, is notoriously weak. Any other type of retaliation, however, must be imported from another issue-area, increasing both the cost of responding and the risk of escalating the dispute. Furthermore, because the means of retaliation are not clearly and directly tied to the violation, their legitimacy may appear questionable.

A fundamental asymmetry in the ability of outside actors to help and to harm human rights increases the difficulty of international action. The human rights impact of foreign forces has often been primarily negative. Although Vietnam, Afghanistan, and Eastern Europe suggest that even massive outside military force may ultimately fail to maintain repressive rule, they also provide striking examples of the capacities of foreign powers, in the short and medium run, to tip the political balance in favor of forces of repression. Foreign intervention, however, has rarely been central in establishing a strong and stable rights-protective regime. Even Japan and West Germany, in some ways exceptions, confirm the rule: change came only after total defeat in a devastating war that completely discredited the prior regime. Rights-protective regimes are almost always established by domestic, not international, political forces.

Furthermore, the work of establishing rights-protective regimes is much more difficult than that of maintaining or reestablishing repression. Repressive regimes need only mobilize relatively small numbers of well-placed supporters, and assure only a passive, not a mobilized, population. In addition, foreign financial and political assistance is more easily put to effective use by repressive forces that already have considerable control over or access to politics, the economy, or the military.

Taken together, these observations on the character of power and interdependence in the post-cold war world suggest that progress in international human rights remains substantially constrained by deep

structural forces. As opposed to the end of cold war ideological rivalry, the end of bipolarity is likely to have few significant short- or medium-term implications for international human rights. The impediments to effective international human rights policies rooted in an international system of sovereign states remain essentially unchanged.

The fate of human rights in the post-cold war world therefore is primarily a matter of national, not international, politics. Foreign policy initiatives must focus on responding constructively to national political processes. Our attention needs to shift now to a consideration of some of the more prominent trends in national human rights practices.

LIBERALIZATION, DEMOCRATIZATION, AND RIGHTS-PROTECTIVE REGIMES

Political change has been extensive and relatively deep in Latin America and in Central and Eastern Europe, and somewhat more uneven in Asia. Even long-entrenched authoritarian regimes in Africa have collapsed or been forced to liberalize in the 1990s. Most dramatic, perhaps, was the decisive November 1991 defeat of Kenneth Kaunda, Zambia's president for the first quarter-century of its independence.

Such changes, in addition to their immediate local impact, have helped to deepen the relatively shallow cold war normative consensus on the interdependence and indivisibility of all human rights. In Central and Eastern Europe, the so-called socialist conception of human rights stands in shambles, revealed to be largely a cover for the systematic violation of human rights. In many Third World countries, we see a similar rejection of old arguments that equated human rights with the struggle for self-determination and development. And in most countries, human rights advocates have become relatively immune to the charge that they are proponents of inappropriate foreign ideologies.

We must be careful, however, not to overestimate the extent to which international human rights ideas have penetrated national human rights practices. In particular, we must not confuse decreased tolerance for old forms of repressive rule with support for, let alone institutionalization of, rights-protective regimes.

Very roughly, we can distinguish three levels of political progress toward respect for internationally recognized human rights. "Liberalization" is the process by which human rights violations decrease and political space opens for at least some previously excluded groups.

"Democratization" is the process of establishing a regime characterized by universal suffrage, constitutional government, and relatively free and open political participation.¹⁰ As we shall see, though, democratic regimes thus understood need not protect all internationally recognized human rights. That requires what I will call a "rights-protective regime," a political system that makes the protection of internationally recognized human rights a central element of its mission and justification, and which, through extensive, intense, and sustained effort, has had considerable success in realizing this aspiration.

Many recent liberalizations have led to only modest human rights progress. For example, in Bulgaria and Romania in 1990, the most notorious of the old guard were purged, and a few new faces appeared in the leadership. For the most part, though, last year's communists were elected as this year's new and improved non-communists. As John Hibbing notes in his chapter in this volume, about a fifth of the new Bulgarian legislature, including the leader of the opposition, had been informers in the old regime.

In other countries, not merely new individuals but new social groups and interests have been brought to power. For example, the Czech Republic and Argentina probably deserve the much-overused label "new democracy." But even in new democracies there may be significant limits on the nature and extent of political transition.

Democracy assures only popular control over the makeup and direction of government. Even genuinely democratic governments may use their power in ways that systematically violate, threaten, or fail to defend internationally recognized human rights. In the post-cold war world two important types of democratic human rights violations seem especially important: refusal to accept the limits on state power implied by human rights, and insufficient attention to economic and social rights.

OLD HABITS IN NEW DEMOCRACIES: ACCEPTING LIMITS ON STATE POWER

Machiavelli, among many others, recognized "how difficult it is for a people accustomed to live under a prince to preserve their liberty, should they by some accident acquire it."¹¹ They act, he argues, like a wild beast that has been domesticated and then abruptly released. The confused and helpless creature quickly, and willingly, falls victim to

the first person who will restore it to captivity. Although Machiavelli's formulation is characteristically extreme, the problem is real. A people that has known only arbitrary rule or elite domination faces an immense problem of resocialization. (Vaclav Trojan addresses this subject in a later chapter.) The persistence of old rights-abusive ways of thinking and acting poses serious problems in establishing rights-protective regimes.

Consider Czechoslovakia, where substantial progress was made during 1989-92 toward establishing a rights-protective regime. As part of the process of coming to grips with the legacy of the communist past, a parliamentary commission was charged with exposing as many as 150,000 informers for the old secret police. The commission, however, operated without even the appearance of due process. The accused were often not even allowed to see the "evidence" against them. It was the old system of denunciations and presumption of guilt in an updated (and somewhat less devastating) form. Furthermore, an October 1991 law excluded not only informers, but anyone who has been a member of the national security forces, a party official at the district level or higher, a member of the People's Militia, or an activist in certain other bodies, from employment or participation in the state administration, army, police and security forces, the media, or state-owned enterprises (including banks, railroads, and foreign trade corporations). As in the communist persecution of "class enemies," people were being punished by an ex post facto law for immoral associations.

There may be a certain "poetic justice" in treating informers to a bit of their own medicine, or denying people public opportunities on the basis of political associations that previously brought them special advantage. The desire for vengeance and the fear of communist resurgence are understandable. Nonetheless, these are still serious and troubling violations of human rights. Rights are being denied to people on the basis of past immoral—but not illegal—acts, or even merely for having worked in or for core institutions of the old repressive regime. (Compare Czechoslovakia in this regard with Argentina, where people were prosecuted and punished not for their political views, associations, or offices, but for particular acts—kidnapping, torture, and murder—that were well-established crimes in Argentina and in virtually all other states.)

Even opportunists and morally repugnant individuals are citizens, and should have the same public opportunities as other citizens. Even if not a single innocent person had been wrongly "exposed" as an in-

former, the Czechoslovak investigatory procedure would have been profoundly unjust. All human beings, including the guilty, have the same human rights, which they are entitled to enjoy equally.¹² In fact, the way that the guilty and despised are treated provides one of the best indications of the extent to which human rights ideas and practices have penetrated society and the political system.

Establishing a rights-protective regime requires the development of an appreciation for the profound limits on government posed by individual human rights. Human rights can, and often do, impede the realization of other legitimate governmental aims. For example, investigatory procedures with procedural safeguards are slow and cumbersome. Their purpose, however, is to protect the rights of all individuals against abuses of state power, not to maximize the number of guilty that are caught. Human rights are often "inefficient." But in a democratic society they are of greatest importance precisely when considerations of efficiency would supersede individual rights and dignity in the state's pursuit of some other social good. Until rights-based limits are appreciated and accepted, human rights are likely to remain insecure. In some countries, disregard of these limits is likely to become the first step toward a re-entrenchment of rights-abusive practices. Consider, for example, Croatia's denial of full citizenship rights to those who do not have three generations of Croatian parents on both sides. Particularly as ethnic animosity intensifies, it would be easy to imagine increasingly severe denials of rights to non-Croats.

The enjoyment of human rights is precarious until the rights of even the "guilty" and despised are secure, and the state intervenes to protect, rather than restrict or infringe upon, the rights of the unpopular and the immoral. Few new democracies have come to appreciate, let alone institutionalize, this idea. Without it, however, the road to establishing a true rights-protective regime is precarious.

In communist and noncommunist regimes alike, the assignment of differential rights to different social groups has typically been associated with the concentration of arbitrary power in the hands of one individual or a relatively small corporate body. This association suggests that another important measure of progress toward a rights-protective regime is the willingness of new governments to relinquish extraordinary powers of arbitrary rule.

Consider Boris Yeltsin, whose role in the final collapse of Soviet communism brought him immense popularity both at home and abroad. Has Yeltsin made the full transition from party boss to demo-

crat? His tendency to rule by decree and through personal appointees makes this an appropriate question. If he has, does his conception of democracy recognize, even emphasize, the protection of minority rights? "Democracy" may simply mean tyranny of the majority—or, even worse, a minority that claims to speak for the majority, as in Soviet-bloc proletarian dictatorships.

Even where populist leaders do in fact speak for the people, human rights remain threatened. Free popular participation in politics can easily lead to violations of human rights. Many people, both individually and in groups, want to use their political power to harm their enemies or to unfairly advantage themselves. Proto-fascist demagoguery is one natural outgrowth of populist politics in times of crisis. Consider, for example, Croatia's revival of the symbols of the wartime Nazi regime, which massacred half a million Serbs.

Human rights are fundamentally non-majoritarian, which is why mere democratization is not enough. They are concerned with each, rather than all. Human rights aim to protect every person, not just most, against majorities no less than minorities. In fact, in democratic societies, where the majority is relatively well positioned to care for its own rights and interests, one of the most important functions of human rights is precisely to constrain the majority.

In addition, establishing a rights-protective regime requires moving beyond reliance on individuals, no matter how astute or well-intentioned, to institutionalizing new laws, practices, and attitudes. Even rights-protective democrats face the temptations and corruptions of power. Unless the guarantee of human rights fairly quickly comes to rest on institutions rather than individuals, these rights remain at very serious risk.

The dangers of relying on charismatic leaders are especially great in conditions of crisis, and in a political climate in which past divergences of opinion have typically been attributed to bad faith or evil intent. The way in which criticism is treated should provide insight into which of two paths Russia, and other recently liberalized or newly democratic countries, are following: the path of personal rule or of institutionalized rights-based practices. Unless political diversity is accepted as the norm—including a commitment to defend the rights to free expression and political participation of dissidents of all persuasions—recent progress is unlikely to be consolidated and extended into the establishment of rights-protective regimes.

NATIONALISM AND HUMAN RIGHTS

A new—or rather, renewed—threat to human rights that has been unleashed in many countries by the collapse of the old order is nationalism. Internationally recognized human rights rest on the idea that all individuals, simply because they are human beings, have certain basic rights, and that all human beings have (and ought to enjoy) these rights equally. Aggressive, exclusive nationalism often challenges this central premise of radical political equality.

Again we confront the fundamental difference between ending old forms of abuse and establishing respect for human rights. Although asserting national identity has often been an important element in struggles against outside domination, self-determination hardly guarantees the implementation or protection of internationally recognized human rights. The dreary decades following decolonization in sub-Saharan Africa remind us that self-determination may simply substitute local despots for foreign ones. A more recent example was in Georgia, where the nationalist hero, Zvia Gamsakhurdia, was freely and overwhelmingly elected in May 1991. By August he was dealing with political opponents through arbitrary arrest, censorship, and other familiar dictatorial techniques, and in September he imposed a state of emergency. In late December the opposition violently besieged Gamsakhurdia in the Parliament building, and in early January forced him from the country. A week later, those who removed him from power were firing on peaceful demonstrators seeking Gamsakhurdia's reinstatement.

Even more ominous than the change in the nationality of dictators is the risk that a sense of national difference may evolve into a rights-threatening sense of national superiority or ethnic privilege. In Central and Eastern Europe, Communist rule typically suppressed ethnic rivalry. Usually this was done by establishing the political hegemony of one ethnic group—most dramatically, of ethnic Russians in the Soviet Union. As a result, nationalism has often been seen not only as a force with which to oppose oppressive ethnic domination, but as a guarantee of liberty and respect for human rights. Furthermore, the rapid removal of repression has led to a resurgence of long pent up animosities, most dramatically in the former Yugoslavia.

Some previously dominant groups, such as Serbs in current Yugoslavia, have become even more aggressively overbearing. Others, such as Russians in the other former Soviet republics, now fear nation-

alist retribution. Some previously subordinate groups, such as the Slovaks, seem as concerned with addressing old ethnic grievances as with establishing a new democratic order. Many others remain subordinated, with their interests still ignored (e.g., ethnic Hungarians in Slovakia) or actively under attack (e.g., ethnic Turks in Bulgaria). And still other minorities, such as Ossetians in Moldova and Georgia, have simply seen new ethnic oppressors replace the old.

Especially in conditions of economic scarcity, where an expanding supply of goods and services cannot be used to help defuse intergroup rivalries, there is a relatively high probability that communal competition will lead to ethnic conflict, and in some cases, violence. Rapid economic growth allows grievances to be addressed by directing a greater share of new resources to disadvantaged groups. In times of scarcity, however, especially in poor countries, politics tends to turn into a zero-sum contest for a share in an inadequate pie. Given Africa's decline in per capita income over the past decade, we should expect particularly severe continent-wide problems in the coming years.

Separatism has been a solution of sorts in parts of the former Soviet Union and former Yugoslavia. Balkanization, however, is a real economic, political, and human rights problem. There were good (although perhaps not sufficient) reasons for trying to create a multi-ethnic Yugoslavia. Much the same is true of Czechoslovakia, which fell to significant pressure from Slovak nationalists. And the likely costs of fragmentation are even greater in much of Africa, where the problems of political transition and economic development are severe enough without opening up the possibility of years, even decades, of tumults that may lead to nothing more than nationalist repression or the creation of new, and even more feeble, states.

Nonetheless, separatist demands for self-determination do seem well worth taking seriously even where dominant nationalities are not oppressive, let alone when they are. Both internally and internationally, there is a genuine dilemma. The next several years are likely to see a succession of crises, many of which will be resolved, after great financial, political, and human cost, to the satisfaction of no one.

All international human rights issues are inherently problematic in a world structured around sovereign states. Questions of self-determination are perhaps the most problematic of all, because they are about defining the very units that are entitled to participate in international relations. Morally as well, claims to self-determination raise the question of defining the community within which human rights

are to be pursued and protected. It is unclear whether foreign actors have a right to do anything at all beyond encouraging the peaceful resolution of disputes and attempting to moderate the severity of conflicts that lead to violence. Once more we face the fact that foreign actors are in a particularly weak position to deal with a major threat to human rights.

MARKET REFORMS, ECONOMIC CRISIS, AND HUMAN RIGHTS

Market-oriented economic reforms present a further set of old human rights problems that are reemerging in the post-cold war world. The failure of command economies obviously played a major part in the fall of the Soviet empire. In much of the Third World as well, developmental dictatorships have been delegitimized through a similar process of economic failure (in addition to the pressures from Western lenders and Western-dominated international financial institutions). The faults of command economies, however, should not blind us to the human rights problems of markets.

Markets may be economically efficient: with a given quantity of resources, market systems of allocation and distribution usually will produce a higher total quantity of goods and services. But a market system also distributes that production on the basis of efficiency. Markets are structured to respond to the interests and demands of those with "market power" (income, wealth, and information), not to human needs. Although markets may produce more overall, they do not necessarily produce more for all. In fact, free markets typically produce gross inequalities in income, wealth, and living conditions.

We have here a different version of the conflict between perspectives that focus on each and on all. Arguments of economic efficiency deal with aggregate production and focus on average incomes (per capita gross national product). Economic and social human rights, by contrast, are concerned with distributing certain basic goods, services, and opportunities to each and every person. Even if we grant the claim of efficiency—and many markets in the Second and Third Worlds are not, and in the short run cannot be, efficient—the resulting system may systematically violate the economic and social rights of many, or even most, individuals.

In Central and Eastern Europe, we are already beginning to see some of the negative human rights consequences of markets. Consider un-

employment. The communist alternative of systematic underemployment may not have been very attractive. To many, however, it is beginning to seem preferable, even in eastern Germany, where an excellent social security system is in place. Or consider health care. Soviet bloc consumers have for many years had to provide gifts, gratuities, and simple bribes to doctors and other health care workers. Market-based health care systems, however, will lead to price rationing that will exclude many who previously had at least minimal access.

Even if the costs of structural adjustment are primarily short run, as their defenders usually assert, these costs are heavy, and weigh most heavily on women, the poor, the elderly, and the disadvantaged. Even when the transition to a market-oriented economy has been successfully completed, there is no guarantee that large numbers of people will not be left behind. And, of course, there is no guarantee that reforms will be successful, that there will be any real social payoff for the massive sacrifices being forced on the poor and disadvantaged in the name of efficiency.

All of this is particularly troubling because we have considerable, and disquieting, previous experience with development schemes that have relied on growth (efficiency) alone. The new market orthodoxy of the 1990s is disconcertingly similar to the old orthodoxy of modernization theory. Unfortunately, those praising markets today almost completely ignore the fact that a significant proportion of the state economic intervention now under attack was provoked by the dismal failure of traditional growth-oriented, "trickle down" modernization strategies.

In conditions of absolute scarcity, the efficiency of markets may be essential to creating enough to go around in a reasonably short period of time. There may be no realistic choice other than radical privatization of the economy and of social services. But not all privatizations are created equal, from a human rights perspective. For example, if state-controlled resources are simply sold off at bargain basement prices to the already rich and powerful, privatization may prove to be a net detractor from the enjoyment of human rights. Even if markets open new paths of social mobility, they are, from a human rights perspective, the lesser evil, not an intrinsic good.

Market reforms are also likely to foster social discontent that strengthens the appeal of demagogues, would-be dictators, and supporters of the old regime. Consider the rise of neo-Nazi violence in Germany, which ominously links ethnic conflict and economic disloca-

tion. And when market reforms take place in an environment of economic crisis and failure, the threat to human rights is likely to be especially severe.

Economic failure tends to weaken whatever government is in power. In the 1980s this worked in favor of human rights, for it helped to undermine numerous repressive regimes. Today, however, it threatens many newly liberalized and democratic regimes, and the human rights progress that they represent. Consider, for example, the nostalgia for the good old days that some Russians have expressed publicly.

These dangers are particularly great because in numerous countries the underlying economic problems that contributed to the collapse of the old regime persist. It is no coincidence that the past decade of democratizations began in the wake of the global recession of the early 1980s. Most observers in the late 1970s felt that South America's bureaucratic authoritarian regimes were very secure and stable. Torture, disappearances, and the systematic denial of virtually all civil and political rights did not seem to threaten their rule—until the economic crises of the early 1980s. (In fact, in Brazil in 1964 and Argentina in 1976, economic crisis was crucial to the collapse of the preceding civilian regimes as well.) Economic failure was also essential to the collapse of the Soviet empire, and has been no less central to the current wave of liberalizations and multiparty elections in Africa.

But even needed market-oriented reforms have their human rights costs and political risks. Consider, for example, the return of Romania's miners to the streets of Bucharest in September 1991. Economic reforms, which virtually all observers agree were essential (and if anything did not go far enough), had transformed government goons of the preceding year into anti-government rioters. Likewise, within days of Russia's January 1992 price increases, Yeltsin's popularity began to erode. Such popular reactions can only increase the temptation to resort to extraordinary powers or arbitrary rule.

The picture is even more discouraging when we consider that some of the economic problems that new governments face are outside their control. In Central and Eastern Europe, it may be decades before new economic systems are in place. Even when established, these national economic systems will face on-going domestic problems. In addition, there will continue to be considerable economic dependency on foreign resources and foreign decisions. Of course this problem of domestic hurdles compounded by foreign dependency is true for many states outside Central and Eastern Europe as well. The situation in Africa will remain particularly acute.

Restoring—or in some countries, initially instituting—civil and political rights may yield sufficient legitimacy to help a new government ride out even severe economic problems. For example, despite Argentina's deteriorating economy, Raul Alfonsín gave the new government of Carlos Menem credibility when he turned over power to Menem in July 1989, thus becoming the first president in Argentine history to complete his term of office and pass the presidency to an elected successor from an opposing party. A similar process may be occurring in the Czech Republic, where the commitment to democracy seems relatively strong. Acting decisively and with some prospect of success may increase the new government's perceived legitimacy. If a human rights-oriented political culture develops and becomes institutionalized, prospects are even more promising. Nonetheless, with virtually all new democracies and recently liberalized regimes facing severe economic problems today, it would be dangerous to underestimate their vulnerability.

These new democratic regimes would seem to be one area in which external assistance could have a significant positive impact. Although foreign actors can usually play only a supporting role in establishing rights-protective regimes, at crucial turning points, and in the stage of democratic consolidation, the right kind of external support can indeed make a difference. For example, foreign technical and financial assistance can in many cases make a real contribution not only through its direct impact on economic and social rights but also by generally strengthening new governments, whose legitimacy is likely to be enhanced by demonstrated economic efficacy. Such assistance is also attractive because it is likely to deflect charges of intervention.

Real support, however, will require more than words of encouragement and a reprogramming of already appropriated aid. It will require a willingness to pay for further international human rights achievements. No state, and certainly not the United States, seems willing to make the sizable financial investment required.¹³ Even forgiving past debt, let alone providing substantial new resources, seems more than most countries are willing to do.

Opposing systematic human rights violations is no longer enough. As we have already seen in a number of different ways, ending old forms of abuse is only a first step. Without additional steps, human rights remain at risk. Unfortunately, there is no evidence that these new needs and opportunities are being seriously explored, let alone exploited.

INTERNATIONAL HUMAN RIGHTS IN A POST COLD—WAR WORLD

What could be done, if there was the political will? On what basis should we fashion an international human rights policy for the post-cold war world? A later section of this book delves into foreign policy in detail. Here, I will stress the importance of limiting expectations, continuing commitment, clarifying moral fundamentals, and integrating human rights with other foreign policy concerns. Although my comments will focus on U.S. foreign policy, most are also more generally applicable.

We must begin by recognizing the considerable national and international constraints on even well-intentioned and well-designed international human rights policies. Such recognition deserves special emphasis today because in most countries we have already reaped the positive, sometimes even dramatic, results of withdrawing support from repressive regimes. The heady days of the fall of entrenched dictators is largely past (although a few, such as Castro and Mobutu, still cling to power). The struggle has shifted to the often slow and laborious, and certainly far less exhilarating, work of building new institutions and expectations that will provide entrenched, long-term protections for internationally recognized human rights. In some countries, simply holding the line at current levels of respect for, or abuse of, human rights will count as great success.

The prospects for a sustained American effort, however, are not bright. Both public attention and U.S. foreign policy have typically lurched from crisis to crisis, separated by long stretches of neglect. Consider, for example, the dramatic swings in U.S. policy toward Central America over the past four decades, or the tendency for sub-Saharan Africa to be in the news only when there is a coup, famine, or civil war. In the absence of dramatic short-term successes, the risks of losing interest are great. Hard economic times at home are likely to deflect attention even further.

Human rights NGOs may be able to make an important contribution in counteracting these tendencies. Over the past fifteen years, groups such as Amnesty International and Human Rights Watch have become accepted as authoritative sources of information, both in the media and in important congressional committees. They have also developed networks of relationships with important legislators and staff members. There is now a significant (if severely underfunded) human rights lobby in Washington. And their attention, like that of other spe-

cial interest groups, will not be deflected by other issues, nor are their efforts likely to be sapped by past partial successes.

In addition to this private sector human rights "infrastructure," the public sector infrastructure has also been significantly enhanced over the last fifteen years. Although human rights remain a secondary concern in the corridors of Foggy Bottom, the Bureau of Human Rights and Humanitarian Affairs in the State Department has grown in size and become increasingly professional. In addition, human rights monitoring has become a well-institutionalized part of the regular activities of most U.S. embassies. Such bureaucratic entrenchment may help to mitigate the tendency toward reduced attention. In countries other than the U.S. that participate in regional and international human rights monitoring systems, an even broader infrastructure is present, providing further reminders of the necessity for continued efforts.

Sustained commitment will be easier if we can clarify and highlight the moral fundamentals underlying international human rights policy. American policy must recapture—or, perhaps, capture for the first time—a clear sense of the meaning and importance of the international struggle for human rights.¹⁴ It is not (and never has been) equivalent to the struggle against communism, which is but one model of systematic human rights violations. Human rights are about guaranteeing, through the institution of equal and inalienable rights for all persons, the conditions necessary for a life of dignity in the contemporary world. They are fundamentally universal rights, even if the particular implementation of those rights may legitimately vary with time and place. Systematic violations therefore demand our concern and condemnation wherever they occur. (Here, too, human rights NGOs may be able to help, because of their single-minded focus on this issue.)

Human rights, of course, are only one part of foreign policy. In some circumstances, other policy objectives appropriately take priority. Political "necessity" may require or justify cooperating with a repressive regime. Even in such a case, though, we must continue to condemn—not excuse—the human rights violations that are taking place. And we must remain painfully aware of the evil with which we are consorting, or to which we are perhaps even contributing.

Foreign policy is in part a moral undertaking. It is not, however, an entirely moral enterprise. The task we face is to integrate human rights (and other moral concerns) into foreign policy rather than to occasionally tack them on, as has been the American norm. Although the task is difficult and complex, some orienting guidelines can be suggested.

We must go beyond general rhetorical flourishes and give human rights a clear and explicit priority in U.S. foreign policy. The best way to do this is to treat gross and systematic violations of human rights as establishing a *prima facie* case for ending direct U.S. support of the regime in question and for reducing cultural exchanges, trade, and other voluntary cooperative ties beyond limited diplomatic contacts. This approach would shift the burden of proof to advocates of maintaining (or improving) relations with rights-abusive regimes.

Rather than ask, in effect, "Is the human rights situation bad enough that we can no longer allow business as usual?" we should ask, "Are there other, precisely defined interests that are sufficiently important to excuse cooperating with a rights-abusive regime?" The United States has already adopted a similar approach with respect to states that support international terrorism or contribute to the proliferation of nuclear weapons. There is no good reason not to do the same for international human rights.

Establishing a (rebuttable) presumption against close relations with repressive regimes, however, is only the first step toward integrating human rights concerns into foreign policy. Because of the realities of limited funds, time, interest, and attention, international human rights policy must selectively focus on some countries. Four criteria should be central in choosing the cases that will receive special attention and action: severity, trends, responsibility, and efficacy.

Although the severity of human rights violations in a country must be a central concern, it should not be the sole consideration. We should also consider trends in patterns of respect for and abuse of human rights. Consider, for example, the problem of responding to two dozen death-squad killings in a year. In Guatemala in the mid-1980s, this figure would have represented a reduction of over 99 percent from the level of the early 1980s. This pattern in Guatemala would have merited a different expression of concern and a different type of response had it occurred in Costa Rica, which had almost entirely avoided the phenomenon of death squads.

Few systematic violations of even a single right, let alone all violations, can be stopped all at once in a country with a long record of repression. The criterion of severity responds to the universality of human rights. The criterion of trends recognizes the political particularities of establishing rights-protective practices and attitudes.

A focus on trends may also encourage an international response before the situation gets entirely out of hand. Rather than wait until a

particularly brutal regime is wreaking mass havoc, international human rights policies should aim at halting the descent into repression before it reaches crisis levels. Such preventive human rights diplomacy is likely to be especially important in the post-cold war world because of the various temptations and risks of regression discussed above.

In choosing countries for special attention, we should also consider the likely effects of our efforts. Foreign policy is not only about setting ends, but also about matching means to those ends. The symbolic act of criticizing violations, even in a country where one has little or no economic or political influence, remains important (because it is morally demanded, because avoiding even the appearance of complicity is an important minimum objective, and because even words and symbolic acts may not be entirely without long-term impact). Nonetheless, we should also give consideration to achieving a discernible short- or medium-term impact on human rights practices.

This last consideration may sometimes suggest the seemingly paradoxical strategy of focusing attention on countries where the underlying human rights problems are less severe, since the task of improving human rights practices in those countries is often less difficult. It may also suggest focusing on "friends" more than either "enemies" or countries with which we do not have close relations, because we have greater influence with our friends. The Reagan administration's preference for a near-exclusive focus on human rights violations in Soviet-bloc countries, where U.S. influence was at a minimum, was perhaps the clearest sign of its largely rhetorical approach to international human rights; a sign, that is, of the absence of a real international human rights policy.

In choosing countries for priority attention, one's own responsibility for creating or fostering rights-repressive policies or regimes also ought to be an important consideration. This too may suggest a focus on "friends," or even special efforts on behalf of recent enemies. Past support for recently removed repressive regimes may also require a less forceful public diplomacy than might otherwise be demanded.

Looking at trends, efficacy, and responsibility will lead to treating comparably severe violations differently in different countries. Rather than a sign of debilitating inconsistency, however, this approach is necessary and desirable. True consistency means treating like cases in like manner. "Like cases," however, cannot be specified simply by looking at the particulars of human rights violations. We must also

look at other elements of the overall political situation, both national and international. Consider a legal analogy. Not every thief deserves the same punishment, even if the particulars of the crime are the same. We also look, for example, at past behavior.

Although considerations of severity, trends, influence, and responsibility suggest only rough guidelines, which may point in different directions, they do provide the basis for constructing a coherent and defensible policy. The danger, though, is that "balancing" various and at times competing considerations may degenerate into incoherent, ad hoc decisions, or even partisan inconsistency. Unfortunately, balancing concerns has been, and remains, the rule in U.S. international human rights policy.

The Bush administration, like its predecessors, failed to translate an abstract verbal commitment to human rights into a coherent human rights policy. For example, even if we allow that there were good grounds for Bush's kindness to Syria—which has not even liberalized in recent years—the administration did not present its policies as part of a carefully conceived human rights policy. Beneath the fine-sounding rhetoric, Bush, like his predecessors, had in practice combined extravagant vilification of the latest American enemy—Sadaam having replaced the Ayatollah, Qaddafi, Castro and the Soviets—with often embarrassing docility toward strategically significant countries, and an ad hoc approach elsewhere. America's noble human rights rhetoric has been supported by only fitful and inconsistent practice.

The real international human rights challenge for the United States in the post-cold war world is to develop a realistic, committed, morally sound international human rights policy and to truly integrate it into the rest of U.S. foreign policy. The end of the cold war removed one major impediment. The presence of numerous new liberalized or democratized countries creates a variety of (limited) opportunities. The work of crafting an international human rights policy to meet these new conditions, however, was not a major concern of the Bush administration or of Congress.

Rather than join in the difficult work of consolidating and deepening progress, the United States has seemed content to gloat over "winning the cold war," bombing Iraq into temporary submission, and praising the virtues of elections and markets. This pattern of policy is a significant improvement from that of the cold war era, when the United States was a major contributor to human rights violations. Nonetheless, the policy reflects a culpable moral failure and a shameful betrayal of the idea of international human rights.

Notes

1. By anti-humanitarian intervention I mean intervention that supports or establishes governments engaging in gross and systematic violations of internationally recognized human rights. In other words, it is the opposite of the familiar notion of "humanitarian intervention"; that is, intervention—typically including the use of military force—to rescue people from imminent danger, usually as a result of gross and systematic violations of human rights.
2. Human rights are ordinarily understood as the rights that one has simply because one is a human being. In contemporary international relations, human rights are usually taken to have a special reference to the ways in which states treat their own citizens in their own territory. It is therefore conventional to distinguish, for example, international terrorism, war crimes, muggings, gang-land violence, and drought-caused deaths from "human rights" issues, even though all lead to denials of life and security. I will adopt this relatively narrow focus here, both because it corresponds to standard international usage and because it focuses our attention on a central problem of national and international politics.
3. For an excellent review of the activities of the Commission on Human Rights over its first forty years, see Howard Tolley, Jr., *The UN Commission on Human Rights* (Boulder, CO: Westview Press, 1987).
4. For an overview of this global human rights regime, see Jack Donnelly, *Universal Human Rights in Theory and Practice* (Ithaca, NY: Cornell University Press, 1989) chap. 11 or David P. Forsythe, *The Internationalization of Human Rights* (Lexington, MA: Lexington Books, 1991) chap. 3.

5. For comparative overviews of regional human rights regimes, see Donnelly, *Universal Human Rights*, and Burns H. Weston, Robin Ann Lukes, and Kelly M. Hnatt, "Regional Human Rights Regimes: A Comparison and Appraisal," in Richard Pierre Claude and Burns H. Weston, eds., *Human Rights in the World Community*, 2nd ed. (Philadelphia: University of Pennsylvania Press, 1992). See also David P. Forsythe, "Human Rights, The United States and The Organization of American States," *Human Rights Quarterly* 13.1 (February 1991) 66-98. On the African regional regime, concerning which very little information has been published, see the article by Claude Welch, "The African Commission on Human and Peoples' Rights," *Human Rights Quarterly* 14.1 (February 1992) 43-61.

6. Sanctions against South Africa may come close to being an exception (although only for Britain and the frontline states of Africa have they involved significant costs). Even in this isolated instance, however, more than a quarter of a century of intense national and international political action was required before the sanctions campaign showed any real success.

7. Even here, though, one should note the intrusion of other foreign policy concerns, for the pressure largely subsided during the gulf war.

8. These changes in the character of power, however, long predate the end of the cold war. See, for example, Robert O. Keohane and Joseph S. Nye, *Power and Interdependence: World Politics in Transition* (Boston: Little Brown, 1977).

9. *Vital Speeches of the Day* 57.15 (May 15, 1991): 450-52.

10. This is a fairly common definition of formal or institutional democracy. It should not be confused with what might be called substantive democracy (which has been variously characterized as involving an egalitarian distribution of power, opportunities, or goods), and is much closer to what I call a rights-protective regime.

11. Niccolo Machiavelli, *The Discourses*, Book I, Discourse 16. Compare Jean-Jacques Rousseau, *On the Social Contract*, Book III, chap. 8.

12. My point is that the guilty have the same rights to due process, and these rights must be respected even if it means that some guilty people evade legal punishment for their crimes.

13. Only in the former GDR has there been a massive influx of (West) German money, an "exception" that in fact strongly confirms the rule of no major increase in *foreign* assistance.

14. For an extended discussion of the problem of reconciling the moral universality of human rights with their undeniable historical particularity and differences of circumstances facing different countries in the contemporary world, see Donnelly, *Universal Human Rights* chaps. 3, 6-8. This issue is also touched on below in the discussion of "consistency" in international human rights policy.

II. RIGHTS DEVELOPMENT IN EASTERN EUROPE

HUMAN RIGHTS IN THE NEW EUROPE

PROBLEMS AND PROGRESS

EDITED BY DAVID P. FORSYTHE



5

After the Velvet Revolution

Pavel Holländer

In the new Czechoslovakia, between 1989 and 1992, great attention was paid to the traditional or first generation civil and political rights. This was, no doubt, primarily because they were so extensively denied under the previous regime. Both in the interwar years of the 1920s and 1930s, and during the brief Prague spring of the 1960s, Czechoslovakia had shown a renewed interest in these rights. The Velvet Revolution allowed a return to this emphasis.

By contrast, there was only slight interest in the second generation rights of an economic and social nature. Despite the obvious importance of such subjects as adequate food, clothing, shelter, and health care, the Federal Parliament was reluctant to address such subjects in terms of fundamental human rights. Public opinion in the federal republic, however, revealed that there was considerable interest in a large welfare state. Federal authorities may have been reluctant to emphasize social and economic human rights because they thought extensive social and economic regulation were at variance with the economic needs of the country. Or it might have been that Marxist socialism gave socioeconomic rights a bad name.

There was almost no interest in the so-called third generation of solidarity, or collective, human rights, entailing claims to the rights of peace, development, a healthful environment, the common heritage, and the like. The only collective right of any importance in Czechoslo-

vakia was the human right to the self-determination of peoples. This right was, it is now obvious, the most important one facing Czechoslovakia after communism, for on its fate depended the continuation of a federal state encompassing two peoples, as opposed to the creation of two independent republics. (There was considerable interest in a healthful environment, but authorities did not approach this issue in terms of human rights, but rather as a matter of normal public policy.)

Finally, we should keep in mind that politics drives law; political attitudes shape the definition and implementation of human rights law. In this regard there were some disturbing political attitudes at work in Czechoslovakia between 1989 and 1992, and some of these do not bode well for the future of effective protection of human rights in the Czech Republic and in Slovakia.

BASIC LEGAL CHANGES

The so-called Velvet Revolution of November 17, 1989, by which the old communist political system was peacefully swept away, led to basic legal changes. At first there were legislative acts directed to ensuring political and civil rights, long denied by the Czechoslovak Socialist Republic. One of the first acts of the new Czechoslovak Federal Parliament was to revoke Article 4 of the 1960 Constitution, which guaranteed a leading role, indeed a monopoly over political party activity, to the Communist party. The new act, 135/89, guaranteed instead political pluralism via multiple political parties. And there was considerable attention to guaranteeing democratic elections at the federal (Act 47/1990), Czech (Act 54/1990) and Slovak (Act 90/1990) levels. It was thus clear immediately after the Velvet Revolution that rights of political participation would receive special emphasis. (Details about elections and parliaments can be found in the chapter by John Hibbing.)

But political rights are really inseparable from many civil rights. In what was no surprise, therefore, that the new parliament also focused on basic civil rights pertaining to petitions (Act 85/1990) and assembly (Act 84/1991), in addition to several acts supplemental to party activity (Acts 15/1990 and 83/1990). In fact, the dividing line between political and civil rights can be quite fuzzy at times.

Other civil rights received early attention as well, especially those pertaining to property. Act 100/1990 did away with the superiority of

state-owned property over other forms. Private property was given new legal protection, and complicated laws were passed concerning the transfer of state-owned property to private natural (individual) and juridical (corporate) persons, as in Acts 427/1990 and 541/1991. While these acts raised questions about the equity of the transfer systems adopted, questions that were inherent in the complexity of the subject matter, the point to be stressed here is that the post-communist law of Czechoslovakia clearly respected private property. [For present purposes, it is not necessary to debate whether property rights constitute civil rights or economic rights. The present analysis accepts the traditional notion that property rights are civil; at the same time, they can be considered economic by those who wish to do so.]

There were other civil rights adopted pertaining to criminal procedure (Acts 178/1990 and 303/1990), the press (86/1990), collective bargaining (2/1991), and so forth.

Of special concern to many persons was the legal rehabilitation for citizens who had been convicted of some violation of law by former courts that were not independently impartial but were merely appendages of the ruling party-state apparatus. Many of these convictions fell more in the realm of political persecution than legitimate prosecution. A number of laws were therefore adopted for the rehabilitation and restitution of the aggrieved (e.g., Acts 119/1990, 47/1991, 403/1990, 458/1990, 237/1991, and 229/1991). These laws distinguished between what is normal prosecution for committing common crimes and what is political persecution, recognizing that many "crimes" committed under communist rule were treated as the former when they were, in fact, the latter.

On the other side of the coin, in the fall of 1991 the Federal Assembly adopted a law prohibiting employment in the public sector of those who had served in high positions in the Communist party prior to the revolution, and who had therefore been responsible for the deprivation of many human rights. Jack Donnelly has already addressed this matter in his chapter. As many as 10,000 persons might fall under this law, in both the Czech and Slovak lands. On the one hand, some saw this federal law as an unjustified deprivation of the civil right to work (or was that an economic right?) similar to the *Berufsverbote* law in Germany prohibiting certain employment to former Nazi officials. A majority in the Federal Parliament, on the other hand, thought it justifiable to hold accountable or responsible those who had fashioned policies leading to violation of fundamental human rights.

Other countries, such as Greece, Argentina, Uruguay, El Salvador, and Guatemala had faced similar questions pertaining to sanctions against former repressive officials. The view in favor of sanctions stressed the future deterrent effect of providing sanctions for past rights violators. While in other countries punishment had been sought through the courts, in Czechoslovakia sanctions were provided through the legislature. It was interesting that the solution adopted by the Czechoslovak Federal Parliament did not bar former high Communists from elective office, but rather from other public employment. At the time of writing, much debate was taking place about the wisdom and fairness of this approach.

Early attention to human rights after the Velvet Revolution reached at least a temporary denouement with the adoption in 1991 of the Charter of Fundamental Rights and Freedoms (Acts 23 and 91). The charter was divided into six thematic sections encompassing first-, second-, and, to some extent, third-generation rights. The language of the charter closely mirrored the language in the Universal Declaration of Human Rights as well as in both international covenants on civil-political and social-economic rights.

The first section—Fundamental Provisions—defined concepts and principles fundamental to human dignity, including human freedom, equality, and legality. Article 5 established the binding legal force of the international law of human rights on the territory of the CSFR.

Sections 2 and 4, respectively, spelled out civil and political and economic and social rights as these rights appear in international covenants. Somewhat ironically in the context of Czechoslovakia, and unlike both the civil-political and social-economic covenants, the charter did not explicitly recognize the right to self-determination.

The third section focused on cultural rights defining the equality of national minorities and ethnic groups, and granting these individuals the right to develop their own culture and language.

The fifth section concerned guarantees of legal protection and judicial procedure.

The final section stipulated that in the CSFR, this constitutional act guaranteed equal rights to aliens as well as Czechoslovak citizens. In addition, this section defined the right of sanctuary and the terms and conditions for granting political asylum to aliens persecuted for the exercise of their political rights and freedoms.

From one point of view, the charter became a "superconstitution" because no legislation, either federal or regional, could legally be con-

tradictory to it. Thus, in principle, neither the Federal Parliament, nor the Czech or Slovak Parliaments, could pass a law contrary to the charter. The state legal system, however, manifested no clear mechanism for implementing the details of this principle. The federal Constitutional Court had the authority to rule whether a law contradicts the federal Constitution, but apparently no authority to rule when two federal laws conflict or whether a federal law contradicts not the Constitution but the charter. This is the type of legal problem that can be solved through further legal drafting, but the federal system broke up and made the point moot.

Another technical problem, a historical lesson for future lawmakers, was that the charter, and, for that matter, the federal constitution, did not appear to prevent the two regional legal systems from going beyond the charter. Thus, it appeared to be the case that the Czech and Slovak regional parliaments, although they did not do so, could have established rights that went further than the federal charter. The federal Charter of Rights and Freedoms might have become a controversial minimum standard rather than the last word on rights accepted by consensus.

This situation, from 1989 to 1992, while primarily of interest to legal historians, also shows the drafting pitfalls when one seeks to codify legal human rights provisions into national constitutions and statutory law. Policy makers in the Czech Republic and in Slovakia, beginning in 1993, will demonstrate whether they have learned anything from the legal developments tried in federal Czechoslovakia.

THE RIGHT OF SELF-DETERMINATION OF PEOPLES

The United Nations covenants on civil-political rights and economic-social-cultural rights proclaim the collective self-determination of peoples to be a human right. Since this proclamation occurs in Article One of each covenant, it can be argued that the collective right to self-determination is fundamental in the human rights field. While the notion of the self-determination of peoples has long been problematical in many states in the past, it is certainly problematical in contemporary areas encompassing Czech, Slovak, and Hungarian peoples (as it is in former states like the Soviet Union and the former Yugoslavia).

The Czech and Slovak Federal Republic was one state with two peoples—or two nations. It became evident by 1991–92 that a part of the

Slovak people desired a more complete form of self-determination, beyond autonomy within a federal system. The movement for *de facto* Slovak independence was led by certain politicians who thought they would personally advance in authority and power by such a change. (Public opinion polls showed consistently in the early 1990s that most Slovaks did not want full legal independence.) By 1992 it was clear that a sizable number of citizens from the Czech lands had tired of the difficulties arising in the federal system after 1989 and were prepared to let the Slovaks go their separate way. Economic growth, foreign investment, and unemployment were all more favorable in Bohemia and Moravia than in Slovakia.

While some outsiders fail to see a pattern of major exploitation or persecution of the Slovaks at the hands of the Czechs, some Slovaks felt that their lives were negatively affected by Czech domination of the federal state. These persons recalled with nostalgia the nominally independent Slovakia that existed during World War II, as Bruce Garver noted in the preceding chapter. These same people were encouraged in their separatist tendencies because of successful claims to state sovereignty by the former internal republics of the Soviet Union and the former Yugoslavia.

All of Czechoslovakia after the Velvet Revolution manifested a declining standard of living because the command economy had to be adjusted to the rigors of a market economy. But Slovakia was even more negatively impacted than the Czech lands because much of the heavy industry, located in Slovakia, was oriented toward military production and only convertible to consumer production with the greatest of difficulty. Given the economic decline of the former republics in the old Soviet Union, which were the leading trading partners of Czechoslovakia, there was a much-reduced market for traditional exports like heavy weaponry (e.g., tanks). This intense economic dislocation and hardship in Slovakia fed the feeling, perhaps unjustly, that Slovakia was being victimized by the Czech lands, since the economic burdens were not equitably shared. (Given this brief economic overview, it is more understandable that the Communist party continued to do reasonably well in free elections after 1989 in the Slovak region, since the regional economy had been severely depressed following the revolution.)

To many outsiders, and even to many Slovaks, the movement toward an independent Slovak state represented the triumph of emotion over reason. It was difficult to see how legal independence would help

turn around high unemployment stemming from outdated and non-competitive economic plants. It was also likely that foreign investment would be further drawn to the more prosperous Czech lands than to a lagging Slovakia. Western doubts about Slovakia's commitment to both capitalism and democracy could only retard Western foreign investment and interest. Forecasts about friction between Slovakia and its ethnic Hungarian minority only added to a pessimistic sense about the nature of an independent Slovakia. Many, if not most, of Slovakia's intellectuals were against full independence, but this fact did not deter nationalistic politicians.

In order to provide for the implementation of the collective human right to self-determination of peoples, the federal Parliament, through Act 327/1991, provided for the possibility of a referendum on the continuation of the federal state of two peoples, or conversely for the creation of two independent states. During the summer of 1992, President Václav Havel, the best-known dissident under communist Czechoslovakia, spoke out strongly against the maneuvers of certain Slovak politicians. Shortly thereafter his reelection to the federal presidency was blocked by Slovak deputies in the federal parliament. And shortly after that, Havel resigned, not wanting to preside over the breakup of the federal state.

By January, 1993, federal Czechoslovakia gave way to the Czech Republic and Slovakia. Would implementing the collective right of the self-determination of peoples lead to problems in implementing other human rights? Would the sovereign state of Slovakia exercise its sovereignty to suppress various civil and political rights? Would the ethnic Hungarian minority in Slovakia require special international protection? How would the new Czech republic handle the question of full civil rights for former high communist officials and their informers?

POLITICAL ATTITUDES

The political attitudes of the general population of the federal state after the Velvet Revolution merits close scrutiny, for these attitudes could indicate some probabilities about the fate of human rights in the two new states. A public opinion poll held in the Slovak Republic in May of 1991 showed some disturbing figures. While 38 percent indicated support for the federal democratic system, 32 percent indicated that the previous regime had been advantageous to them, despite its

consistent violation of civil and political rights. Another 30 percent viewed the federal democratic system and the previous communist system as equally advantageous.

These interesting results suggest that economic hardship and uncertainty about the future cut heavily into a people's support for democracy—at least in Slovakia. After all, life under communism in Czechoslovakia was fairly easy. There was not much pressure to work hard; there were plenty of consumer goods, even if not of world class standards. And those who did not openly challenge the system were mostly left alone. It seemed that at least Slovakia, although part of Czechoslovakia, with its history of social democracy since 1919, did not wildly welcome a free political system combined with a competitive economy. Indeed, one of the major points of difference between the Czech lands and Slovakia was the rate and form of transition from a command economy. The Czechs were, in principle, in favor of a relatively rapid push to a relatively capitalist economy. At least some Slovak leaders, by comparison, wanted a slower transition to a more mixed economy.

There were other troubling statistics. Xenophobia, or perhaps just intense nationalism, was present; 56 percent of respondents feared that the federal system was heading for extensive dependence on the United States, while 34 percent feared Slovakia might eventually fall under a Russian sphere of influence. Perhaps these fears were understandable, given Czechoslovakia's control in the past by the Soviet Union. It should also be noted that while fear of dependence on others might have been found in the general population, the country's leaders might have had a different attitude. During 1991 President Václav Havel made a number of trips to the West, including the United States, seeking some type of foreign help in the solution of numerous and pressing economic problems. At one and the same time, political leaders may have resented Western, especially German, influence over the economy, yet believed that such influence via investment was necessary.

Anti-Semitism, unfortunately, was alive and well, as it was in places like the eastern portion of Germany and parts of the former Soviet Union. Sixty-one percent expressed concern about the great impact of the Jews on national life. There would seem to be few facts to support such a fear of (a) extensive Jewish influence on public policy, and (b) negative impact from any such influence.

There was apparently strong support for social and economic rights,

or at least an extensive paternalistic or welfare role for the state, since over 67 percent of the population expressed a desire for the government to provide extensive social and economic support for individuals. The polls thus indicated more support for Scandinavian-style democratic capitalism than for the American style. For some observers, the poll figures raised great concern about whether Slovakia, especially, could make a rapid start on the transformation to rigorous capitalism of the sort that Poland has attempted next door. These observers feared that demands for socioeconomic rights would be premature, outstripping the capacity of the economic system. But even Poland has slowed its rush to a rather pure form of capitalism. Also, by 1993 Yeltsin had been compelled by his Parliament to back off from some market-oriented reforms.

There was, unfortunately, considerable evidence that public understanding of civil and political rights was not what one would like to see if these rights are to lead to stable and efficient governing arrangements. Over 71 percent of those polled thought the government ought to resign immediately if it was not supported by public opinion at any point in time. This was a democratic view, but not a practical one; no democratic government functions according to such rigorous standards. A disturbing 66 percent indicated support for direct government through referenda, rather than support for indirect democracy through political parties and legislatures. Again, while the view expressed was theoretically democratic, it was not very practical, given the daily requirements of governing a country of some fifteen million persons (ten million Czechs and five million Slovaks). While there is a place in democratic government for referenda, no democratic government uses them as a full substitute for legislatures and other elected officials.

Most fundamental is the question of Slovak nationalism, manipulated by Slovak politicians anxious to increase their power, authority, and status. It would seem that to some extent in Slovakia a national collectivism has replaced the communist collectivism theoretically linked to the proletariat. In one poll in 1992, however, only 17 percent of Slovaks wanted full independence.

CONCLUSIONS

Federal Czechoslovakia after the Velvet Revolution was characterized, in general, as manifesting progress combined with problems of major

dimensions. This general description pertains to human rights developments as well as to other issue areas.

There were major constitutional reforms that led to many basic legal changes, especially those in favor of civil and political rights. Many of the repressive features of the old political system were swept away. Despite a number of improvements in the human rights situation, however, the federal state was finally swept away because of the issue of self-determination of peoples. Progress on individual rights did not substitute for a new solution to the question of group rights.

The creation of two new states, however, was accompanied by very dangerous problems. Continuing economic difficulties, both strictly domestic and international, could threaten continued progress on rights matters. Citizens made insecure by the end of many expensive state subsidies, in the context of a sizable decline in real standards of living and growing unemployment, might cause a popular shift to authoritarian government promising more economic security. This seems more likely in Slovakia than in the Czech Republic.

The demand for "cultural rights" has added one more problem to the public-policy agenda. In 1990 some political movements in the Slovak region supported the idea of a law requiring "all the state, administrative, public, political and commercial agencies, organizations, institutions, corporations and parts thereof" to use the "state language." It was understood that the state language of the Slovak region would be Slovak. This proposal did not advance very far in the old federal policy-making process, for it would have required that a multinational corporation use Slovak, which its employees might not have been familiar with. The idea did show, however, the extent of a nationalistic impulse at variance with the economic and political needs of a country—namely, economic growth within a stable political framework. These cultural, ethnic, or nationalistic forces have increased their influence since 1990 and raise troubling questions about the future of sovereign Slovakia.

In summary, Czechoslovakia after the Velvet Revolution faced the ancient paradox between the desire to be free and the fear of living a free life. Dostoyevsky has the great inquisitor remark in *The Brothers Karamazov*, "A man suffers from no other more agonizing pain than finding another human to whom he is urged to pass the gift of freedom with which the poor creature comes into the world. . . . [He finds] peace, or even death, more agreeable than choosing to distinguish good and evil."

Elected officials in federal Czechoslovakia wrestled with the complicated choices involved in creating a "good" society to replace the "evil" one they had overthrown. A strong commitment, at least by the Czech elite, to many human rights characterized this process. Yet there were voices sympathetic both to chauvinistic nationalism and to authoritarianism. Perhaps it is only through a broad informal learning process throughout society, involving a commitment to individual human rights within a stable state, that human rights can be made secure over time.

These same rights issues will continue to arise in the Czech Republic and in Slovakia. It is probable that the Czech Republic will try to emulate Austria, which is roughly the same size. There will be great attention to civil and political rights and a quest for integration with democratic Western Europe. But Slovakia's future, in terms of rights, is much more indefinite. It has a stronger authoritarian and communal history, greater economic problems, and serious problems concerning its ethnic Hungarians. Implementing the collective human right of a people to self-determination through creation of a "sovereign" state does not always, or even frequently, lead to respect for various individual rights or for the various rights of a minority people. And it is paradoxical that a minority people like the Slovaks in federal Czechoslovakia could, in general, show so little understanding about the fears of the ethnic Hungarians in the new Slovakia.

III. WESTERN FOREIGN POLICIES AND HUMAN RIGHTS

HUMAN RIGHTS IN THE NEW EUROPE

PROBLEMS AND PROGRESS

EDITED BY DAVID P. FORSYTHE



12

Human Rights in the New Europe: A Balance Sheet

Helen R. Lanham and David P. Forsythe

Genocidal armies. Fascist gangs. Concentration camps.
Dithering statesmen. Refugee throngs. Closed borders. Be-
sieged cities. . . .

New Europe: What new Europe?
Same old Europe, I'd say.

—Robert Hunter,
Washington Post, September 1992.

Students of internationally recognized human rights are compelled to acknowledge the complexity of their subject. The brief history of analytical studies dealing with the practice of international human rights on a global scale only accentuates the problem. There is a paucity of grand theory, perhaps any theory, purporting to explain why Czechoslovakia manifested considerable rights-oriented policies between 1920 and 1938, as shown by Bruce Garver in this volume, whereas Russia did not during the same or any other era. Why did Czechoslovakia undergo a "velvet revolution" leading to the election of the distinguished intellectual and dissident Vaclav Havel as Federal President, 1989-92, whereas Romania had a more violent and incomplete revolution leading to the near-summary execution of former dictator Nicolae Ceausescu and his wife? Many students of human rights would settle for satisfactory explanations as to why attention to a

range of human rights rose and fell within one state over time, much less why attention to rights varies by state. When taking European states as a whole, it is so difficult to summarize factors and trends that reasonable persons can disagree on whether there is a new Europe or not. It is true that there were so many human rights problems that the so-called new Europe sometimes looked very similar to the old Europe prior to 1989—or even prior to 1945.

Nevertheless, we are faced with the legitimate question of the fate of universal human rights in that part of Europe dominated by communists for forty to seventy years. To paraphrase Jack Donnelly in this volume, one can move from one type of brutal authoritarianism to another. Or one can move from authoritarianism to a more liberal regime in which at least the extent of human rights violations is reduced. Or one can move to a democracy, characterized minimally by reasonably free and fair elections, although that does not guarantee that any specified portion of universal human rights will be respected. Any number of genuinely elected governments have violated any number of universal human rights; they continue to do so. Or, finally, one can move to a rights-protective regime. When we look at the old Soviet bloc, where do we see progress towards a rights protective regime, and where do we see major problems? And, what accounts for these problems and areas of progress?

NATIONAL FACTORS

There is little reason to doubt the conventional wisdom that the key to rights behavior is found mostly within a state. The political attitudes of a people or peoples associated with a state is the primary key, most of the time, to the practice of rights. But this conventional wisdom unfortunately leads us into a murky area.

Neither political scientists dealing with the concept "political culture," nor historians dealing with the concept "national character" have been able to provide either convincing explanations of the past or sound predictions about the future. Part of the problem is that within one nation, much less within a binational or multinational state, there can be more than one political culture—meaning a set of attitudes toward government and public policy. One such set of attitudes may be dominant for a time but that can change.¹ Some comparativists in political science have given up on using "political culture" as an explana-

tory variable, believing that studies to date have not yielded sufficiently clear results. And no wonder.

Historians and political scientists told us for some time that especially Russia but also the Soviet Union had an authoritarian and deferential political culture not sympathetic to democracy or a broader range of human rights. But in August 1991, tens of thousands in Moscow and Leningrad took to the streets in support of democracy, human rights, and Boris Yeltsin, and in opposition to authoritarian communism. We are, of course, speaking of a few thousand persons out of a Soviet population of over 250 million. Nevertheless, there was a crucial degree of assertive public support for at least more civil and political rights in a supposedly deferential political culture. (It is impossible to know exactly what the street demonstrators wanted: more civil and political freedoms, more consumer goods, and end to formal ideology, all of the above.) As the well-known Soviet scholar and former diplomat, George Kennan, said on television shortly thereafter, there had never been anything like that show of public support for human rights in all of Russia's history. So, in supposedly authoritarian and deferential Russia, by 1991 we found the Soviet Congress adopting a declaration on human rights that said in its first article: "Every person possesses natural, inalienable and inviolable rights and freedoms. They are sealed in laws that must correspond to the universal declaration of human rights, the international covenants on human rights and other international norms. . . ."

While not doubting the key factor of a people's attitude toward government and public policy for the stable practice of human rights, one trying to derive systematic propositions on this subject on a global basis finds more perplexity than clarity. For example, with regard to civil and political rights, some nations have shown an affinity for the practice of democratic rights over a fair amount of time, only to find themselves in an authoritarian system. The relatively recent examples of Uruguay and Chile come immediately to mind.

In the other direction, we think we know that democratic occupation, education, and legal engineering helped transform authoritarian Germany and Japan into rights-protective regimes. In both cases, however, the previous authoritarian regime had been completely discredited. What do we know about more peaceful, less abrupt transformations not entailing foreign occupation and imposed restructuring?

Looking at Taiwan, for example, one might conclude that authoritarianism can give birth to a rights-protective regime, or something

close to it, via economic growth combined with equitable distribution of benefits, a relatively large middle class, broad education, experience with perhaps local elections, and a nonviolent transfer of leadership.² South Korea may be on a similar path. James Turner Johnson, however, would add, especially, the factor of civic organizations that mediate between the atomized individual and the domineering state.³ Other scholars stress still other factors as being necessary for a rights-protective regime to emerge.⁴

There are not many areas of the old European communist world that combine encouraging factors. Moreover, in the examples of Taiwan and South Korea, rights practices emerged over half a century, not immediately after creation of the governing system. This East Asian analogy, if applicable to Eastern Europe and the former Soviet Union (which may be debated) would suggest that stable rights-protective national regimes will be arriving in many areas of the old communist Europe only after considerable time has elapsed, if ever.

In this volume, Donnelly and the editor stress national factors as primary in the practice of rights, but they do not offer us European specifics regarding this point. John Hibbing, Josef Blahož, Pavel Holländer, and Bruce Carver get into the specifics of political attitudes of peoples, but without indicating what does or does not produce a political culture supportive of democracy or extensive rights practice. Hibbing and Holländer note that many political attitudes extant in Eastern Europe give cause for alarm about, for Hibbing, legislative competence and stability, and for Holländer, attitudes in general in Slovakia.

Many observers believe that one of the greatest dangers in this part of the world is chauvinistic nationalism, in which the aggrandizement of a people supersedes all else. The Serbian example in the former greater Yugoslavia is perhaps the clearest case of this old problem, but another is the more peaceful form of the same phenomenon in Slovakia, also given attention by several authors here. Violence in several parts of the former Soviet Union has its origin in the same tendency to violate the rights of others, including the right to life, in the name of the higher good, and especially of the power and independence, of a people. Sri Lanka, for a time one of the better examples among developing countries of commitment to a broad range of rights despite poverty, has come unglued primarily because of Sinhalese assertions of majority power and prosperity, which provoked a violent reaction by many Sri Lankan Tamils.

A very relevant question is whether a combination of human rights

education and legal engineering can ameliorate the destructive appeal of chauvinistic ethnicity and nationalism, as well as other attitudes incompatible with the practice of human rights. Can legal engineering and human rights education produce the type of political culture supportive of a rights-protective regime? Hibbing, in particular, wants to see an end to constant legal tinkering on the part of East European states, so that one democratic constitution and one set of electoral and other provisions for public authority can have some impact on a state over time. Richard Claude shows clearly that East European states might well profit from looking at what the Philippines has done to institutionalize human rights education in a formal and non-formal way. Likewise, Vaclav Trojan shows what was tried by way of formal human rights education in Czechoslovakia between 1989 and 1992.

Of course, both legal engineering and education, whether formal, non-formal, or informal (as those terms are used by Claude), take time to have effect. In some cases it would seem that legal engineering produced some effects beneficial for the practice of human rights. One can think of Charles DeGaulle's Fifth French Republic and its different electoral laws and new double executive; democratic France under the rules of the Fifth has been more stable than under those of the Third or Fourth Republics. It seems something of a stroke of genius to have created two rounds of voting in France. The French can engage in their apparent passion for protest voting on the first round, then be forced into a political consensus when the protest parties and candidates do not receive enough votes to be retained on the ballot in the second round. Political stability in democratic France has been enhanced by the electoral laws since 1958. A movement in Israel is growing to rewrite that country's electoral laws in quest of majority rule and decisive policies instead of coalition government and policy immobilism.

Moreover, it may be true that in many Western democracies there has been so much education for human rights in various forms that a radical departure from extensive civil and political rights has become "subrationally unthinkable."⁵ One would like to think that in most states in the North Atlantic area, for example, the probability of authoritarian government is nearly zero. Yet legal engineering and human rights education, when they occur in a socio-economic context unfriendly to rights practice, can only with difficulty lead to progress.

Moreover, we know from many empirical studies in states like the United States that even after over two hundred years of rights practice, many Americans do not hold attitudes compatible with international

standards on civil and political rights, much less on economic and social rights. While some Americans despair that in contemporary times certain West European democratic provinces manifest a resurgence of racist and xenophobic sentiments reaching up to about 15% of the voters in local elections, some West Europeans despair that a former fascist and Klansman like David Duke in Louisiana could poll almost 45 percent of the vote for governor. Thus, it may be more crucial for a political elite to hold values supportive of human rights than for the masses to do so. Paradoxically, rights have been practiced in the democratic West despite intolerant and authoritarian views on the part of many citizens.

It is unfortunately true that while many hope for a beneficial effect on human rights from post-communist laws and education, in the short term, many problems confront post-communist European leaders in the 1990s. We simply do not yet know whether the effort to construct governing and educational systems sympathetic to human rights can endure the problems of demagogic politicians, poor economic conditions, rampant nationalisms of various sorts, and the other pitfalls inherent in an attempted transformation from communist totalitarianism to rights-protective regimes.

It is impressive that states like Czechoslovakia (or at least the Czech lands), Hungary, Poland, and to a much lesser extent Bulgaria and Russia, have been led by persons committed to entrenching internationally recognized human rights in new national constitutions and statutes. One cannot read the sections by Blahož, Holländer, and Hibbing without being impressed with the attempt in East Central Europe, at least, to move toward democratic state capitalism. One does not have to believe that such a move constitutes an end to history⁶ to say that the values found in the International Bill of Rights (IBR), covering civil-political and socioeconomic rights, are similar to the early state-building efforts in these post-communist states. Note that we are not saying that the influence of the IBR *per se* has generated broad influence, but rather that the values found in these new state constitutions are fully compatible with, and explicitly linked to, the IBR. To put it a bit crudely for reasons of emphasis, that complex of human rights instruments calls for Sweden writ large,⁷ and that is what these eastern states are trying to construct.

Moreover, many of the former communist states in Europe have explicitly accepted international human rights treaties, as indicated in Annex H of this book. It was of more than passing interest that the

Commonwealth of Independent States, in Article 2 of its basic document, affirmed that "each of the agreeing parties guarantees citizens of other parties and also people without citizenship who reside on its territory, regardless of nationality or other difference, civil, political, social, economic and cultural rights and freedoms in accordance with common international norms on human rights." In the national constitutions in Eastern Europe, there is no one model of governance and rights that emerges across the region. Blahož shows that with regard to the judiciary, some West European experiences affected constitutional developments in the CSFR, Hungary, and Poland. Yet overall, one cannot say that the U.S. model, or the British model, or any continental model has dominated eastern state building after 1989. This suggests that differing national factors will lead to a variety of schemes to implement the principles of democratic state-capitalism.

At the other end of the scale, it is also quite clear not only in the former Yugoslavia but also in Romania and Albania that progress in stable rights practice has been meagre. When one broadens the picture to include Georgia, Moldavia, Albania, and Azerbaijan, among other new eastern states, it is clear that the obstacles to a rights-protective regime are major.

There are different categories of states in terms of the prospects for adherence to international standards of human rights. In some cases it is clear enough that history was indeed frozen by communist leaders in the sense that historical animosities were not solved or even ameliorated during repressive control. And it is clear enough that there was precious little education for human rights, whether in areas dominated by Moscow or by other forms of authoritarianism, as in Romania and Yugoslavia. This paucity was so despite the fact that most of the European communist states were technically parties to many human rights treaties. But the evident lack of serious or good faith attention to human rights values, especially via education, should remind us not to overemphasize the importance of technical adherence to those treaties. When communist totalitarianism fell, old feuds from before World War II, or even World War I, resurfaced. That is why, for example, the Balkans in 1992 looked very much like it did in 1912 or 1914. And that is why certain peoples incorporated into the Russian and Soviet empires by force were violently seeking to redress grievances from a long time ago.

These areas, with layers of problems accumulated over the years, will find it extremely difficult to do more than liberalize—that is, to

do more than curtail some of the most repressive and exploitative features of Marxism-Leninism. Some of these states may not progress much beyond the situation found in the old Soviet Union under Gorbachev: the absolute terror of the Stalin period was curtailed, but the practice of internationally recognized human rights was far from institutionalized. And where one finds civil war and/or a situation close to genocide, there may be even more fundamental rights violations than under the later stages of communism.

Even for states like the former binational state of Czechoslovakia, as well as Hungary and Poland, all of which were trying to move rapidly toward democratic state-capitalism, the problems of transition from communism to a hoped-for rights-protective regime were considerable. Perhaps the chief problem is the sad state of their economies after years of command from the party-state apparatus. Even in the long-standing stable democracies of the West, many citizens seem more interested in the pursuit of prosperity than in civil and political rights—witness low turnout for voting and a willingness to suppress the rights of those on the opposite side of an issue. Many are the democracies like Weimar Germany, not to mention those in Latin America, that have fallen in large part because of the perceived mismanagement of the economy by the government.

Mark Gibney recalls that even in the mild economic slump in the capitalist West during the late 1980s and early 1990s, there was an increased search for scapegoats and a tendency to take out frustrations on "foreigners." The right-wing fringe groups have been especially violent in the unified Germany, although public opinion polls showed that about 85 percent of all Germans opposed the violent attacks on asylum seekers. Especially in France there has been a right-wing backlash against immigrants from North Africa. More broadly speaking, we know that economic hard times lead to an increased willingness to tolerate radical authoritarian "solutions" to those problems, witness much middle-class support, at least initially, for the dictator Pinochet in Chile and the military junta in Argentina (and in Brazil previously).

Vaclav Trojan has wittily remarked that communism represents the longest way from crude capitalism back to crude capitalism, before one might arrive at progressive state capitalism with a moderating welfare system. If so, states like the Czech Republic, Hungary, and Poland may have to try to endure the problems produced by a quest for pure economic growth, in the hope that eventually one could moderate the rougher edges of capitalism—such as job insecurity—in the

long run. We should recall that the International Bill of Rights entails the socio-economic rights to education, holidays with pay, social security, adequate nutrition, clothing, shelter, and health care. Even some champions of the Reagan administrations, known for their quasi-religious belief in the miracles of unregulated private markets, acknowledged that the dynamism of capitalism was accompanied by considerable harshness for those who did not benefit from laissez-faire capitalism.⁸

Whether various peoples like the Poles would endure a relatively harsh transitional phase, during which the economy would hopefully become more globally competitive, without rejecting the democratic part of the equation, remains to be seen. One of the splits in federal Czechoslovakia was over whether one should move ahead with difficult economic privatization as quickly as possible, as favored in the Czech lands, or continue with relatively large governmental subsidies and other cushions, as favored in Slovakia. In other countries, such as Japan, many citizens had agreed to go without many consumer comforts for several decades for the sake of the national economy as a whole. Whether such sentiments would prevail in Eastern Europe could not be known for sure. After forty to seventy years of communism in the Soviet bloc, there was considerable reluctance to engage in entrepreneurship and competition. Indeed, some historians have reminded us that even before 1917, capitalism did not have the same favorable image in parts of the Russian empire that it did in most parts of the West. Gorbachev found out, as a Czech intellectual later remarked, that when the doors of the communist "zoo" were opened, many of the "animals" feared the freedom of the capitalist "jungle."⁹

It is at least somewhat encouraging that Hungary, in particular, had considerable experience with private markets during its version of "goulash communism," and that other states, like Poland, were trying to make economic efficiency one of their primary goals. (Although there was considerable debate in Poland, accompanied by strikes slowing economic growth, over the pace of economic change.)

It should also be recalled, however, that difficult economic times do not always undermine internationally recognized civil and political rights. Both Botswana and Zimbabwe managed to protect a broad range of rights despite considerable economic difficulties. Sri Lanka likewise did well for a decade or so after independence, until the conflict between the Sri Lankan Tamils and the Sinhalese Buddhists, crosscut by other conflicts, destabilized the country. Democratic Ar-

gentina has endured not just hyper-inflation but also a series of coups and even some resurgence of terrorism, without yet sliding back into military rule.¹⁰ Costa Rica and a number of states in the Caribbean have been able to implement many human rights despite lack of national affluence.

If the political attitudes of a people determine the status of human rights practice, we are still not sure what really produces the elite tolerance and other values that underline a stable rights-protective regime. We can venture explanations as to why the situation is different in Romania from that in the Czech lands, for example, but we must admit that we still cannot predict precisely the evolution of human rights considerations. We are not alone in this limitation.¹¹

INTERNATIONAL FACTORS

By and large the international factors at work on the situation in the former Soviet bloc have been secondary rather than primary for the fate of human rights. Nevertheless, in various situations some of the international efforts have generated a moderate degree of influence. In his introductory chapter, Donnelly suggested certain steps that the U.S.—and others—could take to advance the practice of rights in foreign states, without unduly raising expectations about what can be achieved. Donnelly, comparing the optimism immediately after the collapse of Stalinism with the slow building of a rights-protective regime, stressed the benchmarks of severity of rights violations, trends over time in rights protection, the responsibility of outside states for the situation, and concentrating on what can be achieved.

Congressman Doug Bereuter showed that the United States had indeed done something about human rights in the new Europe, although he acknowledged that budgetary concerns made, and will continue to make, the U.S. commitment modest as it concentrates on the practical modalities of implementing civil and political rights. Moreover, consistent with developments in Eastern Europe already noted in the previous section, Congressman Bereuter does not expect a simple export of the U.S. model of democracy, but rather believes the U.S. should defer to whatever democratic structures and leaders emerge from local politics. Bereuter's views fit well with a body of academic thought suggesting that particular models of democracy are not exportable, even though democracy in general might be promoted by foreign actors.¹²

Raphael Zariski showed quite clearly that some of the West European states, such as Britain, have not had an activist policy toward the East, whether concerning human rights or other subject matter. Some others, such as Germany or Italy, which is concerned with states close to it, are playing a much greater role. Zariski's theme is well taken: all outside states are pursuing a variety of interests and concerns in the East, and human rights considerations make up only part of each state's foreign policy agenda. Donnelly agrees on this point. And the editor notes that some West European states have tended to either shift or dump human rights issues into multilateral institutions.

Nevertheless, both Zariski and Gibney emphasize that the fate of human rights in the East has a direct bearing on West European states. Both make clear that economic failure, repression, and political instability will generate large migratory flows with concomitant pressures on, and problems for, the West. This situation is most clear concerning Germany, which has had a relatively generous asylum policy toward foreigners fleeing not just individual persecution but also instability and war. We have already noted a violent backlash by 1992 against this generous German asylum policy.

Gibney is quite correct in arguing that if Western states took a greater interest in correcting the human rights abuses giving rise to various types of refugees, they would not be faced with so many asylum seekers. Yet, like the United States in its relations with Haiti, many western states, in dealing with the East, pursued reactive policies regarding immigration rather than anticipatory problems dealing with human rights, which were frequently at the heart of migration flows.

While no individual Western state was eager to tackle Eastern problems on its own (although Germany made the clearest attempt), no multilateral institution was able to make a major impact on the Eastern situation either—at least not by early 1993. (See the Appendixes for detailed references to various multilateral institutions.)

The United Nations Security Council, as propelled by its major Western member states, was certainly deeply involved in both attempted peacemaking and traditional peacekeeping activities. As the editor showed in his chapter, UN peacekeeping in the former greater Yugoslavia had helped fighting parties disengage along the Serbian-Croatia borders and around the airport in Sarajevo. Yet the council had not manifested the political will to decisively deal with the underlying causes of violence in the Balkans, much less in several parts of

the former Soviet Union that manifested armed conflict of various sorts. Peacemaking had been attempted especially through using former U.S. Secretary of State Cyrus Vance as a special envoy, but without decisive results in the short run. The UN Human Rights Commission had appointed a special envoy to address human rights issues in the Balkans, but again without decisive results.

Even more so had other multilateral institutions failed to ameliorate to any great extent the social, economic, and political problems plaguing the East. It was somewhat ironic that the CSCE process had found a greater niche for itself in dealing with human rights during the cold war than in helping protect rights thereafter. But the CSCE lacked both the military and economic muscle that was apparently needed to reign in, particularly, the ethnic passions of the Balkans and southern sections of the former Soviet Union. There were a variety of CSCE demarches concerning human rights during 1989-92, but without decisive results.

Likewise, the presumed magnet and moderating influence of the EC seemed irrelevant to those who elevated the settling of old passionate grievances over rational calculation of future economic benefits. Extremists in Serbia, Azerbaijan, Armenia, Georgia, and elsewhere seemed not to care about the possibility of economic support from the West in the future. Unlike in other polities, the pursuit of economic prosperity took second place—or even lower—to emotional and symbolic politics.

Given the demise of the Soviet Union, if NATO and/or the West European Union (WEU) could not devise a role for themselves in counteracting violence in the Balkans in particular, one had to wonder what was their role after the cold war. Since they were no longer needed for either deterrence or fighting vis-à-vis the Soviet bloc, what was their *raison d'être* if not for peacekeeping, enforcement, or humanitarian police action? Yet neither organization had been brought into decisive action by early 1993.

Underlying the weakness of multilateral institutions was the apathy by, and disagreement among, their member states. As Zairiski noted, multilateral arrangements mostly reflect the policies of member states. Even at the United Nations, with a secretary general in the person of Boutros Boutros Ghali of Egypt, who was prone to activism, even of an abrasive kind, his would-be leadership was constrained by member states' policies—particularly those of the permanent members of the Security Council.

There was a certain West European traditional pessimism and cynicism at work, a belief that the situation in the East would only improve when the various major players had exhausted themselves or come to dominate their neighbors. In the meantime, in this view, there was no major interest on the part of the West Europeans propelling decisive intervention, particularly of the forcible kind. For Germany in particular, this was a highly debatable notion. Had Germany been able to provide greater leadership on eastern questions (although its involvement was greater than that of its neighbors), Germany would not have been racked by such violence against foreigners. It is a fair question whether the internal peace of Germany was an "interest" sufficient to justify more pressure for an end to human rights violations in much of the East.

The U.S. commitment to correcting major human rights abuses in the new Europe was slight, despite the more mundane programs mentioned by Doug Bereuter. The United States made periodic public relations gestures, such as having the UN Security Council adopt a resolution (S/Res/770) authorizing all necessary means to ensure humanitarian assistance in Bosnia. But when it came to Serbian policies like ethnic cleansing and military attacks on civilian targets, the United States by early 1993 had done little more than endorse diplomacy backed by economic sanctions. Donnelly was all too correct when he noted that moral interdependence was still weak, and that even when it was present, most states were unwilling to pay high material and other costs to correct even gross violations of rights in other states.

If we broaden the picture, we can note that the United States did not gear up to do anything about massive starvation in Somalia, a former cold-war ally, until late August 1992. The International Committee of the Red Cross, with extensive operations in that country, had been warning of the human disaster, in reality a gross violation of both civil and socio-economic rights, from February 1992. The United Nations had endorsed that warning.

Even in the spring of 1991, when the United States undertook military action presumably on behalf of the rights of Iraqi citizens, especially the Kurds, it was not until media coverage in Western Europe, and resulting action by the British and French governments, that the U.S. government moved on that issue. And when the United States reversed policy and projected its military into the south of Iraq in August 1992, many observers speculated that the reasons seemed to have more to do with putting pressure on Saddam Hussein (if not with the

U.S. presidential election that fall) than with any genuine concern for the rights of the Shi'ites in the south of Iraq—especially since their rights had been ignored by the United States previously.

Against this broadened backdrop, U.S. policy on rights questions in the new Europe was part of a broader orientation. That U.S. orientation was a denigration of the semantics of a new world order. U.S. policies only showed that there was no substance to the rhetoric. If anything, they showed that the old world disorder prevailed. Washington, like its counterparts in Western Europe, in reality deferred to "facts on the ground." The fate of human rights was being left to internal or local or regional forces, many of them negative for the practice of rights, while the United States and other outsiders engaged in cynical diplomatic pretense. Aside from a fixation with Iraq, the United States only acted for rights, as in Somalia, when the public pressure became intolerable. Otherwise, U.S. officials spoke of the need to avoid another Vietnam-like quagmire, while being ready, of course, to take partial military measures in Iraq.

It may turn out to be the case that international economic sanctions on Serbia, made mandatory by the UN Security Council, will either be moderately influential or even decisive in curtailing Serbian policies violative of rights in the Balkans. It is at least possible that Western foreign assistance, either bilaterally or through the World Bank, not to mention the European Bank for Reconstruction and Development, will turn out to be moderately influential on the practice of rights in Russia. Thus we should not say that foreign or international factors are irrelevant for the practice of rights. In the broader perspective, we should note that international humanitarian assistance has made a difference in several situations in which social and economic rights were being grossly violated—situations like Ethiopia in the mid-1980s and Somalia, finally, in the fall of 1992.

Nevertheless, we still must conclude that the practice of rights in the new Europe will usually be only moderately affected by international factors. It is paradoxical that while there has been a great increase in diplomatic attention to human rights in international relations particularly over the past quarter of a century,¹³ the actual practice of rights is still largely determined by factors within the territorial state. Spasmodic international action to guarantee the protection of human rights, as for the Iraqi Kurds or starving Somali, will be institutionalized only with difficulty and over time.

TURBULENT TENSIONS

James N. Rosenau has argued that we live in a turbulent world characterized by a large number of interdependent actors, a great deal of political volatility, and competing norms and values. If that is true, and certainly Rosenau's version is close to the truth, it is no wonder that explanation and prediction is so difficult in international relations—whether pertaining to human rights or to any other issue area.¹⁴

In addition to the great variety and mix of factors involved in the successful practice of human rights in the 1990s, there are two additional methodological problems worthy of note. First, as often remarked, we should recall that few, if any, scholars or public officials predicted with any precision the remarkable transformations in European communism during the period 1985–91. In part this is because of the unpredictable role of individuals in world affairs. Mikhail Gorbachev had risen through the communist ranks in his native Soviet Union as a loyal devotee of the party-state system. So had Boris Yeltsin. So had Eduard Shevardnadze. From the point of view of 1984, there was little if any evidence that any of these three, or many others, were in favor of radical change within the Union of Soviet Socialist Republics or would be in favor of new states to replace the Union of Soviet Socialist Republics. The pattern of behavior constituting the basis for prediction did not allow a projection of what was to transpire.

The same was true for Anwar Sadat in Egypt. He had acted as a loyal and unthreatening second in command to Gamal Nasser for years. He had not sought, nor had he exercised, independence and creativity. Yet upon replacing Nasser, Sadat became one of the more creative leaders of his time, taking risks for peace with Israel that in no way could have been projected from his public life before the events unfolded.

The same could be said of John Kennedy in the Cuban missile crisis of 1962. Given his past indecisive and lackluster decisions pertaining to the Bay of Pigs invasion, the building of the Berlin wall, and the debate with Khrushchev, there was simply no basis for prediction that he would be firm, daring, and creative in his determination to see the Soviet attack missiles removed from Castro's Cuba.

And so it is with the future of human rights in the new Europe. In 1989 it was impossible to predict that Meciar in Slovakia would emerge as a political leader, using the issue of Slovak independence to propel himself to high office. In 1989 it was impossible to predict that Gamsakhurdia in Georgia would show such traits of inflexibility and

lack of tolerance that Georgia was plunged into civil war. Would former communist leaders in Bulgaria or the Ukraine turn out to be committed to rights principles? Would a Boris Yeltsin emerge in Moldavia or Romania?

To be sure, as we have tried to suggest in this concluding chapter, there are certain historical trends and global patterns that give us some basis for *general* prediction about internationally recognized human rights. For example, as we said, where there is economic growth with equitable distribution of benefits, a growing middle class, widespread education, experience with democracy in local politics, and stable leadership transfers, there is a reasonable basis to predict greater success in the practice of many universal human rights. But beneath that general level of predicting probabilities, the variability of human perspectives and decision making makes precise prediction a very risky business.

But, and this brings us to our second methodological problem in prediction beyond turbulence and human variability, a number of situations are characterized by conflicting factors rather than one clear trend. The result is a tension between factors, or perhaps an overall paradoxical situation. Where such tensions obtain, evolution of the situation can develop in one of several directions, again defying prediction.

Consider the following tensions or paradoxes in the new Europe:

—As Donnelly noted, we have optimism over the collapse of Leninist systems of rule, but pessimism over the dictatorial and chauvinistic systems that sometimes replaced them.

—As the editor observed, we have confusion in the number of actors, including multilateral institutions, trying to influence the practice of rights in the new Europe, but this confusion allows for many possible diplomatic demarches, some of which may turn out to be at least moderately successful.

—As Holländer pointed out, quoting Dostoyevsky, "People long to be free but at the same time are afraid of what that freedom might bring."

—As Donnelly and Trojan noted, in several states there was a consensus in favor of rejecting communism, but there was disagreement over exactly how to treat past communist officials and party members—and those who had cooperated with, and been secret informers for, the ancien régime.

—As Zariski and Donnelly emphasized, there may be more talk

about human rights across borders, but states still tend to elevate economic and security interests to positions of priority on foreign policy agendas.

—As Hibbing explained, politics may make impressive starts in implementing the right of political participation, but then economic difficulties may cause citizens to bypass legislatures and other established policy-making organs in quest of extra-constitutional solutions to their problems.

Such tensions, conflicts, and paradoxes bedevil the social sciences and their attempts to precisely chart the future. What we can say for sure, and what this volume has clearly shown is the following:

1. Most of the new states in the new Europe accept the principles of democratic state capitalism in a form consistent with internationally recognized human rights, yet only some of them, particularly in East Central Europe, are making rapid progress in institutionalizing the stable practice of those rights;

2. Historical, cultural, social, and economic factors particular to the new states of the new Europe will primarily determine the future of the practice of human rights; only a few states, again those in East Central Europe and perhaps a few other selected areas, show the combination of factors that has increased serious attention to human rights in polities like Taiwan and South Korea;

3. While most states are increasingly under some international pressure to comply with internationally recognized human rights, this pressure varies from state to state, situation to situation, and era to era; a growth in international diplomacy for human rights is not always backed by a determined and sometimes costly international effort to go beyond lip service to human rights norms;

4. Finally, while there has been considerable progress in advancing the practice of human rights in many parts of the new Europe, the problems impeding that practice are sufficient to cause us to be extremely cautious about the future of rights in this part of the world; to close our circle, we repeat Donnelly's early point that the collapse of one form of repression and exploitation is not the same as the construction of a rights-protective governing system in its place.

capitalism and needed various types of assistance from public and private agencies.

9. Milos Forman, "One Czechoslovakia: The dilemma of democracy in a liberated land," *Washington Post* June 29, 1992, A19.

10. Alison Brysk, *The Politics of Human Rights: Symbolic Protest, Social Change and Democratization in Argentina* (Stanford, CA: Stanford University Press, forthcoming). Compare William C. Smith, *Authoritarianism and the Crisis of the Argentine Political Economy* (Stanford, CA: Stanford University Press, 1992).

11. Jack Donnelly, *Human Rights and International Relations* (Boulder, CO: Westview Press, 1993); and David P. Forsythe, *The Internationalization of Human Rights* (Lexington, MA: Lexington Books, for the Free Press of Macmillan, Inc., 1991).

12. James N. Rosenau, *Turbulence in World Politics* (Princeton, NJ: Princeton University Press, 1990). Compare, regarding the future of Europe, Gregory F. Treverton, ed., *The Shape of the New Europe* (New York: Council on Foreign Relations, 1992). See also Michael G. Roskin, *The Rebirth of East Europe* (Englewood Cliffs, NJ: Prentice Hall, 1991). None of these scholars is able to offer precise and persuasive predictions about the European future.

13. Thomas G. Weiss, David P. Forsythe, and Roger Cooke, *The United Nations and Changing World Politics* (Boulder, CO: Westview Press, 1994) chap. 5, forthcoming.

14. James N. Rosenau, *Turbulence in World Politics*, (Princeton, NJ: Princeton University Press, 1990).

Notes

1. Michael Thompson et al., *Cultural Theory* (Boulder, CO: Westview Press, 1990).

2. Ramon H. Myers, "Taiwan: Building Toward a Prosperous Democracy," *International Herald Tribune* (May 30-31, 1992): 4.

3. James Turner Johnson, "Does Democracy Travel," *Ethics and International Affairs* 6 (1992): 41-55.

4. From a very large literature see especially Phillippe Schmitter and Guillermo O'Donnell, eds., *Transitions From Authoritarian Rule* (Baltimore and London: Johns Hopkins Press, 1986). By the same authors, see *Tentative Conclusions About Uncertain Democracies* (Baltimore and London: Johns Hopkins Press, 1986). See also Brad Roberts, ed., *The New Democracies* (Cambridge, MA: MIT Press, 1990).

5. The phrase is borrowed, in a different context, from John Mueller, *Retreat From Doomsday: The Obsolescence of Major War* (New York: Basic Books, 1988).

6. Francis Fukuyama, *The End of History and The Last Man* (New York: The Free Press, 1992).

7. See further David P. Forsythe, *Human Rights and World Politics* 2nd ed. rev., (Lincoln, NE: University of Nebraska Press, 1989).

8. Michael Novak, who headed U.S. delegations to the UN Commission on Human Rights frequently during the Reagan years, wrote several times about the need to recall that a number of persons did not prosper under democratic