

for more job safety, unionized workers will not get better safety conditions.

Greater worker involvement in safety and health, moreover, provides benefits that go beyond efficiency. Since health is such a fundamental interest, workers need more than the exit vote of leaving a job with intolerable risks. They need to be involved in the process by which these risks are controlled. Health and safety committees provide a way of structuring work life that would increase workers' ability to direct their lives and would reduce the feelings of anger, powerlessness, and resentment they often experience under the current system.

The opposition between this social ideal and management's emphasis on property rights is stark: some people's rights to pursue private economic goals

conflict with other people's rights to participate in decisions that affect their fundamental interests. Further development of a collective bargaining framework for handling health and safety, with its emphasis on accommodation of opposing interests, may produce a workable compromise despite this underlying opposition.

—Mark MacCarthy

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Playing Hardball with Human Rights

The bizarre notion has been promulgated by the Reagan administration that each government should be allowed to pick and choose among established human rights its own favorites and attend exclusively to those favored rights. This attempt at selective enforcement of human rights is authorized by a formal policy memorandum adopted by the Department of State on October 27, 1981, which states: "'Human rights'—meaning political rights and civil liberties—conveys what is ultimately at issue in a contest with the Soviet bloc. The fundamental distinction is our respective attitudes toward freedom. . . . We should move away from 'human rights' as a term, and begin to speak of 'individual rights,' 'political rights,' and 'civil liberties.'"

Such a narrowing of human rights to political rights and civil liberties would omit rights to physical security like the rights against torture and "disappearance" that are explicitly listed in the laws controlling U.S. foreign assistance. It also dismisses the third general category of internationally recognized human rights, the right to fulfillment of vital needs such as food, shelter, health care, and education. The supposition seems to be that a nation can simply focus upon the rights that are "at issue in a contest" with its principal adversary and relegate all the other rights to the periphery.

Human rights, in the administration's view, seem primarily to be used as a means toward other ends of foreign policy, specifically, as a weapon against the USSR. This manipulative attitude reveals a deep incomprehension of human rights and of how human rights actually function.

Human rights are inconveniences—grit in the gears. Due process is a pain in the neck, torture gets quicker answers. Dissidents disrupt the war effort, the disappeared cause no further problems. Human rights are supposed to be nuisances and obstacles, especially for governments. They are not designed to allow the smooth execution of policy but to force policy to take twists and turns around individuals whose insistence upon their own claims is a most unwelcome complication for people with bigger fish to fry.

Rights have a different logic from almost all other considerations that go into policy. To fail to see this is to fail to understand how rights work. Most of the time reasoning about policy appropriately takes a means/ends form. We decide what consequences we want to produce—we choose our ends—and then we select our means accordingly. Or we look at the means at our command—we examine our resources—and then select our goals accordingly. Sometimes we let our means dictate our ends, sometimes we let our ends dictate our means, and, of course, we usually do quite a bit of both.

There is nothing wrong with the mutual adjustment of means and ends. But *rights do not fit*. Rights cannot be accommodated within this pattern, because *rights are neither means nor ends*. Instead, rights are constraints upon both.

Since rights are not means, it is unacceptable to pick and choose among them as best serves your ends. To notice that within the Soviet Union there are no free elections but relatively few people are "disappeared," while within allied states people are "disappeared" right and left but partly free elections are held, and

Department of State photo



The Reagans welcome President and Mrs. Marcos of the Philippines to the White House.

then to decide *for this reason* to keep talking about the absence of elections but to say as little as possible about disappearances is to fail to respect the integrity of authentic rights. It is to respect only the limits that are no obstacle to the pursuit of one's goals and to ignore the limits that are in the way. Yet the purpose of rights is to get in the way of politics as usual.

I take it that the administration's reply might be that their selective enforcement of human rights is not undertaken in pursuit of just any old goal. The goal of such policies is to stop the spread of communism. Since communist regimes to a unique extent irretrievably, systematically, and severely violate human rights, any manipulation of rights along the way by the United States is for the sake of the ultimate triumph of human rights. Or so the argument goes.

The administration's policy seems to be Machiavellism in the pursuit of human rights—ruthlessness now for the sake of rights later. But it doesn't wash, even in theory. *Rights are not ends either.* To defend against the charge that rights are being treated as means by replying that they are instead being pursued as ends would still fail to respect rights for what they actually are. Ends or goals may be deferred, especially if the deferred fulfillment will be greater than the immediate fulfillment would be. But rights—even those that must be pursued gradually and progressively—may not be optionally deferred until other projects are completed.

Lenin is supposed to have said: "A revolution is not a dinner party." The Reagan administration seems to want to say: "Neither is the defense of democracy."

UPI Photo



Iranian students burn an American flag over the captured U.S. embassy in Tehran.

But this spirit of you-can't-make-an-omelette-without-breaking-eggs is precisely what human rights are intended to thwart. Even in war there are things civilized people don't do in order to win.

Surely, it will be suggested, the preceding is a bit harsh toward the administration, especially if it assumes that human rights may never be violated or that it is never necessary to violate one right in order to fulfill another. We need to stake out a plausible position that lies between Machiavellism and moralism in the realm of rights, to discuss the ethics of second best: "dirty hands," messy compromises, tragic choices. Will the administration fare any better in this light?

First, a wet blanket. It is very dramatic to believe that one faces tragic choices, thrilling to think that one must do evil to achieve good. But ruthlessness is not always so wonderfully effective—the Nazis, for example, did lose in the end. Since necessary evils can be so bracing to perform, we should be quite certain they are actually necessary. Fighting fire with fire can be very satisfying, especially if you really hate your enemies. We should always first be sure that water would not work equally well—or, sad thought, even better.

Still, sometimes rights must be violated—or, at the very best, violations of rights must be overlooked. Can we formulate any "Guidelines for Hardball"? I think so.

First, if you are playing dirty because you are determined to win, be sure the dirty playing is actually helping you win. I am, of course, not suggesting the principle: do it *if* it helps you win. The principle is: do it *only* if it helps you win. If the justification for indulg-

ing—or subsidizing with aid or supplying with weapons, technology, advice, and political endorsement—violations of fundamental rights is that the violations are contributing over the long run to U.S. national security, at least be sure that the U.S. position is in fact being strengthened.

Much of our allegedly “realistic” swashbuckling seems not merely ineffectual but extremely counter-productive. After Ferdinand Marcos eliminated traditional democracy from the Philippines in 1972, we doubled security assistance in the name of making Clark and Subic more secure. But our main accomplishment seems to have been to attract the hatred of the corrupt opulence and brutal repression of the dictator onto ourselves as his foreign sponsor, just as we concurrently did in Iran. Twenty years ago it would have been difficult to have found two more passionately pro-American societies than the Iranian and the Filipino. U.S. diplomacy has succeeded in alienating the one and is well on the way to alienating the other. To trade the long-term goodwill of a whole society for the short-term cooperation of an individual dictator seems a poor trade.

The second “Guideline for Hardball” is *proportionality*. The marginal contribution to, for example, U.S. national security of our indulgence of rights violations must be significantly greater than the harm done by the violations. Try to imagine that it was somehow to the advantage of U.S. interests in Guatemala to have a murderous fanatic like Rios Montt on our team. Did it contribute *enough* to U.S. interests to have been worth the slaughter of so many Indians?

The practical difficulty about playing hardball with human rights is that people do not appreciate being subjected to malnutrition, torture, arbitrary imprisonment, and other severe violations of human rights. It is not easy to cultivate the favor of the violators without incurring the hatred of the violated. . . .

Part of the difficulty of sensing any approximation of proportionality in such cases is that the supposed benefits to U.S. society tend to be speculative and hypothetical, while the violations of rights are concrete and actual. Consider the gentleness of U.S. criticisms of South Africa, one of the most totalitarian dictatorships in the world today, which is justified in terms of South Africa’s supposed contribution to U.S. national security by such means as potential ready access to strategic minerals. If the U.S. Air Force quickly needed a large number of planes of a certain sort, and if those planes could only be built using certain strategic minerals, and if we had forgotten to stockpile the minerals even though the USSR remembered to, and if Zimbabwe did not also have the minerals in

question (or wouldn’t sell them because of the U.S. alliance with South Africa), and if South Africa was still under the control of the current rulers, and if they would not sell the minerals simply for the money involved but only out of goodwill, then we might need their goodwill. Would you invest in the stock of a company whose success depended upon the conjunction of so many different factors? Meanwhile, millions of South Africans are being herded into the poorest regions of their country, where it is very difficult to earn enough money to feed their children, and deprived of self-government. Are these stunted and shortened lives worth less than the *increment* in U.S. national security that might depend upon the goodwill of the South African regime?

The third “Guideline for Hardball” is closely related: the violations of rights must be the *least evil alternative*. To continue with our example of South Africa, why couldn’t we have gone ahead and stockpiled the strategic minerals and then aggressively supported an end to apartheid? Well, it would be expensive, it would add to the deficit. But now we are talking about indulging apartheid in order to save money, not in order to defend our national security. We can obtain the strategic minerals either way—it is simply cheaper to do it by deferring our purchases of strategic minerals until we actually need them and meanwhile staying on the good side of the regime.

In sum, I am willing to concede that in foreign policy the tolerance of rights violations by allied governments can be morally justified—but *only if* these three conditions are met. Undoubtedly other conditions in addition to those I have specified must also be met. But how many cases satisfy even these three, leaving aside others that I have failed to specify?

For example, I have used U.S. indulgence of South Africa’s systematic racism to illustrate the difficulty of satisfying the condition of proportionality. In fact, I don’t think U.S. indulgence of apartheid even satisfies our first condition. I think we are creating conditions in which we will be hated and despised by the regime that overthrows the regime we now support.

The practical difficulty about playing hardball with human rights is that people do not appreciate being subjected to malnutrition, torture, arbitrary imprisonment, and other severe violations of basic rights. It is not easy to cultivate the favor of the violators without incurring the hatred of the violated, who in many cases are likely to form the next government whenever it comes. This is not a moral argument—it is an appeal to national interest—but it is highly relevant for those self-styled realists who want us to deal with the world as it really is.

—Henry Shue

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