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"The Human Spirit Cannot be Locked Up Forever:" An Analysis of the New Agenda on Human Rights From the Bush Administration

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**"The Human Spirit Cannot Be Locked Up Forever:"
An Analysis of the New Agenda on Human Rights
from the Bush Administration**

*Dwayne O. Leslie**

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I. INTRODUCTION

On January 20, 1989, George Bush was sworn in as the forty-first President of the United States. As Bush stepped into this role, he did so with the expectation of maintaining America's preeminent role in international affairs. In doing so, Bush recognized that a vast majority of the world often looks towards the United States for leadership in many areas, especially in the sphere of human rights. Eight years of the Reagan Administration left many members of the world community in a state of uncertainty with respect to the future of human rights policy, largely because of the blind eye often given to ongoing abuses in other countries.¹

Still, today in the 1990s, many problem areas remain. The 29 million blacks of South Africa, while encouraged by the release of Nelson Mandela, still yearn for the day when they will be treated as equals and have unlimited access to all public facilities in their homeland.² The poor and malnourished in countries like India and Ethiopia are in need of food, fertilizer and medicine.³ Political prisoners in dozens of countries around the globe still hope for freedom someday.⁴

What can the United States do about problems such as these? What *should* it do and what are the important policy considerations in any such decision?

On October 1, 1990, President Bush took a giant step in the right direction towards answering these issues during an address to the United Nations General Assembly.⁵ Part II of this article will analyze potential solutions to some of the human rights problems, especially in light of the new position set forth in Bush's speech. Part III expands the analysis by examining what lessons, if any, history has taught us in attempts to deal with human rights problems. This section will give special attention to the developments during the Carter and Reagan

1. See discussion *infra* notes 34-36 and accompanying texts.

2. See, e.g., *Mandela's Men: Disavowing an Impending Victory; TransAfrica Continues Anti-Apartheid Fight*, NEW REPUBLIC, July 9, 1990, at 14.

3. See, e.g., *Some Inroads Made in War on Poverty, But the Progress Eluded Part of Africa, and 1.1 Billion People Still Live on Less Than \$370 a Year*, L.A. TIMES, July 16, 1990, at D7; *Few Spoils From the Economic Boom for Thailand's Poor*, REUTERS, July 16, 1990 (reporting that 25% of the country's population is currently living below the poverty line).

4. See *Amnesty Says Human Rights Progress in Africa But Abuses Remain*, REUTERS, July 11, 1990 (Article reports that hundreds of political prisoners were freed in Africa in 1989, but major human rights still existed. It went on to list several countries still maintaining large numbers of political detainees: Cameroon, Chad, Congo, Ghana, Malawi, and Uganda.).

5. *Transcript of President's Address to U.N. General Assembly*, N.Y. TIMES, Oct. 2, 1990, at A12, col. 4 [hereinafter *President's Address*].

Administrations. Part IV concludes the analysis by examining some of the previous policy suggestions made by noted human rights commentators. Part V of this article summarizes the prior analyses and sets forth the key elements for a successful policy approach for the Bush administration in its efforts to develop a better human rights agenda.

II. ANALYSIS OF THE NEW AGENDA

As previously mentioned, President Bush recognized the opportunity to make advances in human rights on a global scale in his address to the United Nations General Assembly. The fundamental theme which seemed to underlie Bush's speech and also described the reasons for change in various countries was that "the human spirit cannot be locked up forever."⁶ Related to this basic premise is the idea that people everywhere desire certain basic things in life, "the chance to live a life of purpose, the chance to choose a life in which they and their children can learn and grow healthy, worship freely and prosper through the work of their hands and their hearts and their minds."⁷

In acting towards fulfilling this goal, President Bush outlined the vision of a new international partnership of nations that would be based on consultation, cooperation and collective action, especially through the use of international and regional organizations. This partnership would hopefully be united by principle and the rule of law, supported by an equitable sharing of both cost and commitment.⁸

This brave new vision includes a world in which "democracy continues to win new friends,"⁹ while together building on the new model of European unity, with the entire world being whole and free.¹⁰ With this in mind, it is easy to see why this new partnership cannot tolerate the aggression like that which occurred in the Persian Gulf. Bush sees this type of activity as not only a threat to regional security, but a threat to international peace and security. "It threatens to turn the dream of a new international order into a grim nightmare of anarchy in which the law of the jungle supplants the law of nations."¹¹

Recognizing that one nation alone cannot solve all the existing problems, Bush called for serious international cooperation to effect

6. *Id.*

7. *Id.*

8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.* at col. 5.

global change and, thus, remained hopeful. "Calls for democracy and human rights are being reborn everywhere, and these calls are an expression of support for the values enshrined in the United Nations Charter."¹² In support of this ideal, Bush concluded his address by encouraging the United Nations to achieve greater effectiveness and efficiency. Bush emphasized that his administration was "fully committed to supporting the United Nations and to paying what we're obliged to pay by our commitment to the Charter. International peace and security and international freedom and prosperity require no less."¹³

Developing a successful human rights agenda is not an easy task due to the competing political interests often involved, including the problem of diminishing resources and varying degrees of international cooperation. The goals of President Bush should be evaluated in terms of a realistic likelihood of success and degree of substantive change proposed. Thus, there are certain basic guidelines which should be considered in any attempt to implement a human rights policy.

A. *The President Should Avoid Making Any Grandiose Promises About Human Rights*

While it may be admirable to set lofty goals regarding human rights policy, it is a disservice to the victims of human rights abuses to create expectations that often cannot be fulfilled or, worse, that seem to exploit their unfortunate situation for self-interested political purposes.¹⁴ Bush made a point of not making unreasonable promises in his address to the United Nations. Rather, Bush implored the United Nations to act and offered a general United States commitment. Bush emphasized that "now is the time to set aside old counter-productive debates and procedures and controversies and resolutions. It's time to replace polemic attacks with pragmatic action."¹⁵

B. *Recognize that Human Rights Problems Cannot be Solved Simply by Providing Additional Resources*

The act of providing food or money might seem to be the easy solution to human rights problems.¹⁶ But beyond handouts is the re-

12. *Id.*

13. *Id.*

14. See Richard B. Bilder, *Realistic Suggestions for the New Administration*, 28 VA. J. INT'L L. 835, 839 (1988).

15. *President's Address*, *supra* note 5, at col. 5.

16. See, e.g., *Strings on \$12 Billion for Eastern Europe*, CHRISTIAN SCI. MONITOR, June 14, 1990, at 8 (discussing whether the usual remedy of money will be effective in its attempt to buy "democracy, disarmament, and human rights" for Eastern Europe).

quirement of maintaining a serious commitment — a commitment to see to it that pain and suffering are brought to a rapid end and to show a willingness to give support by any means necessary to reach this objective. For example, when Sudan and Ethiopia reportedly blocked shipments of food to areas affected by famine and insurgency,¹⁷ the world community should have been outraged and moved in to help end the suffering. Additionally, in this new era of budget restrictions, cutbacks and slowed economic growth,¹⁸ it becomes all the more important to choose out targets and apportion resources more carefully.¹⁹

C. Remember, However, that Before the United States Can Attempt to Solve the World's Problems, It Must Satisfy Its Own Domestic Obligation Regarding Individual Rights

While seeking an end to international human rights abuses is a vital objective, it seems somewhat hypocritical for the United States to overlook abuses and oppressions currently going on in its own country. Two of the many problems in the United States which immediately come to mind are 1) the apparent lack of national interest in caring and providing for the homeless and underprivileged,²⁰ and 2) the systematic discrimination against women in society.²¹ What is needed is a general effort to address the problems of individual and group dignity, in addition to any issues of fundamental fairness. By doing so, the President of the United States could demonstrate to the world that a free and democratic society which is based on a respect for human rights and acceptance of human diversity, *can* work.²²

17. *Sudan Hides Its Famine*, N.Y. TIMES, June 23, 1988, at A24, col. 1.

18. The United States is currently in the midst of a recession and many economists do not anticipate a quick recovery. See, e.g., *Pit Bull of a Recession Hangs On*, L.A. TIMES, Jan. 29, 1992, at D1, col. 5; *From Fast Living to Slow Growth: U.S. Economy Faces Array of Problems as It Struggles to Overcome the Costs of a Decade of Debt*, Wash. Post, Jan. 12, 1992, at H1.

19. See also W. Michael Reisman, *American Human Rights Diplomacy: The Next Phase*, 28 VA. J. INT'L L. 899 (1988) (notes that since there are limited resources available for human rights, wrong choices may simply expend the limited pool of money and potential indignation that might have been effective elsewhere).

20. See, e.g., *Two Surveys Find Majority Sympathetic to Homeless: Many Believe the Federal Government Should Handle the Problem*, L.A. TIMES, Aug. 13, 1990, at A19, col. 1; *The Census Begins: Counting the Homeless*, L.A. TIMES, Mar. 21, 1990, at A15, col. 3 (estimates that the number of homeless in this country may be as high as 3 million and still growing).

21. See, e.g., *Women's Pay Still Far Behind Men's in U.S.*, XINHUA GEN. OVERSEAS NEWS SVC., Apr. 26, 1990 (cited a report from the Women's Research and Education Institute which said that "a key obstacle to economic security for many women is persistent race and sex discrimination in America's workplaces").

22. Bilder, *supra* note 14, at 836.

D. *Integrate Human Rights Policies into the Bureaucratic Structures of Other Federal Agencies*

One way of institutionalizing serious consideration of human rights concerns would be to set up human rights offices in the various agencies of the Executive Branch. In theory, this would help ensure that human rights problems are given the proper consideration and analysis during the decisionmaking process. Currently, the State Department operates the Human Rights Bureau which does not have the jurisdiction to become involved in every related aspect of foreign policy. By having liaison representatives in the various agencies, there could be substantive input in economic aid proposals (Commerce Department), restrictions on food imports or exports (Agriculture Department), and White House foreign policy decisionmaking (National Security Council), just to name a few of the possibilities.

It also has been suggested that the United States re-institute the Interagency Group on Human Rights and Foreign Assistance.²³ During the Carter Administration, this task force, known as the Christopher Group,²⁴ met to discuss the manner in which the Executive Branch balanced human rights and other competing considerations in the formulation of trade and foreign policy. However, one of the perceived shortcomings of the Group was that its focus was only on specific aid proposals and never considered any long-term ideas to promote the improvements of human rights in any one particular country.²⁵ The reemergence of the Group would be a major step in the right direction for the United States and would also help ensure that the United States does not lose its focus on important issues over time.

E. *Organize a Consortium Group to Evaluate United States' Human Rights Performance (to Supplant the Country Reports)*

The *Country Reports on Human Rights Practices*, a yearly publication produced by the State Department, have traditionally been a helpful guide in determining where abuses are taking place and, thus, hopefully spurring Executive action.²⁶ However, the only major coun-

23. Michael Posner & Cathy Zavis, *Human Rights Priorities for a New Administration and Congress*, 28 VA. J. INT'L L. 893, 896-97 (1988).

24. The Christopher Group was made up of representatives from the State, Defense, Agriculture, Commerce, Labor and Treasury Departments, the National Security Council, and the Export-Import Bank. *Id.*

25. Caleb Rossiter, *Human Rights: The Carter Record, The Reagan Reaction*, INT'L POLICY REPT., Sept. 1984, at 19.

26. For a greater analysis of the State Department's Country Reports, including a discussion of their history and examination of their impact, see Judith Innes de Neufville, *Human Rights*

try *not* analyzed in the Reports is the United States. As a check on its power, and also as a good-faith symbol to the rest of the world, the United States needs to have some group or coalition produce a substantive Country Report on the United States.²⁷

III. ANALYSIS OF PAST PRESIDENTIAL ADMINISTRATIONS

In continuing to make a legitimate analysis of the human rights problem, and intelligently plan for its future development, lessons learned from the past must be considered. Thus, the historical development with respect to United States foreign policy, especially within the Carter and Reagan Administrations, must be examined.

The United States is often thought to be the progenitor of the contemporary idea of individual rights. It is said that individual rights dominate the constitutional jurisprudence of the United States and are the pride of its citizens, their banner to the world.²⁸ However, there are inconsistencies in the actions of the United States.

Early history led many to believe that human rights would be central to current and future administrations. President Franklin Roosevelt declared human rights to be an aim of World War II.²⁹ And then, led by Eleanor Roosevelt, the United States played a central role in the development of the Universal Declaration of Human Rights and also in the formulation of human rights standards for various international human rights covenants. In addition, the United States is a party to the Helsinki Accord and passed laws in 1974 and 1975 which outlawed sales and foreign aid to nations guilty of gross violations of internationally recognized human rights.³⁰

However, the United States is one of the few countries that has not adopted a significant number of the major international human rights conventions. In addition, the United States has opposed many attempts to impose international sanctions against human rights violators. The United States counts as its national allies or friends many highly repressive foreign regimes.³¹

Reporting as a Policy Tool: An Examination of the State Department Country Reports, 8 HUM. RTS. Q. 681 (1986).

27. This group could be a sort of international alliance with members from relatively neutral countries, or it could even be comprised of domestic organizations, like the Americas Watch, Lawyers Committee for Human Rights, or Amnesty International, to name a few possibilities.

28. LOUIS HENKIN, *THE AGE OF RIGHTS* 65 (1990). Although it should be noted that there is also a segment of our society who would argue that individual rights do not have such a sacred place in our country.

29. *Id.*

30. 22 U.S.C. §§ 2151(a), 2304 (1988).

31. For additional discussion, see HENKIN, *supra* note 28, at 66.

A. *Developments During the Carter Administration*

When Jimmy Carter campaigned for President, he made human rights a major part of his electoral platform. Once in office, Carter called human rights the "soul" of his foreign policy.³² This declaration encouraged not only human rights activists, but also those around the world hoping for a better living environment. Some called this period of time the "golden era" of human rights.³³ Carter managed to reduce United States affiliation with oppressive regimes and advanced human rights objectives bilaterally and multinationally. But, on the negative side, Carter inconsistently applied human rights policies, which resulted in disappointment after expectations were raised to an unreachable level.

B. *Developments During the Reagan Administration*

Interestingly, in 1977, private citizen Ronald Reagan lambasted President Carter's criticisms of non-Communist regimes with repressive human rights policies. Reagan argued that Carter maintained a "double standard" with respect to human freedoms. For example, the Carter Administration spoke out against violations in Argentina, Brazil and Chile, but seemingly overlooked similar violations in Panama. Moreover, by focusing on human rights infringements in South Africa, Carter allegedly clouded "our ability to see this international danger to the western world."³⁴

Upon taking office in 1981, President Reagan moved to shift the emphasis from human rights to terrorism. His ultimate goal was to counter communism at any cost. Jeane Kirkpatrick, Reagan's ambassador to the United Nations, developed a theory which distinguished between authoritarian and totalitarian regimes.³⁵ Although the Reagan Administration hoped repressive non-Communist governments ("authoritarian") would improve their behavior, they felt justified in allowing friendly repressive governments to keep receiving United States support to keep them from aligning themselves with Communist nations. With this so-called justification in hand, the Reagan Administra-

32. *Remarks by Pres. Carter, 30th Anniversary of the Universal Declaration of Human Rights*, DEP'T ST. BULL., Jan. 1979, at 1.

33. See Thomas Buergenthal, *Human Rights Policy: A Modest Agenda for the Future*, 28 VA. J. INT'L L. 845, 846 (1988).

34. *Reagan is Critical of Carter on Rights*, N.Y. TIMES, June 10, 1977, at A5.

35. Jeane Kirkpatrick, *Dictatorships and Double Standards*, COMMENTARY, Nov. 1979, at 34, 44. In this article she equates "radical totalitarian" regimes with "communist" and "traditional autocratic" with "non-communist" regimes.

tion quickly befriended oppressive regimes in Latin America, Asia and Africa.

The open hostility towards human rights concerns by the Reagan Administration eased considerably by 1982, but it still opposed human rights violations in leftist countries. On the positive side, United States pressure contributed to the return of civilian rule in Guatemala in 1985, and also to the removal of the dictator Duvalier from Haiti in 1986.³⁶

IV. SUGGESTIONS FOR UNITED STATES' POLICY

This section of the article examines previous suggestions put forth by human rights commentators on bettering the United States' human rights agenda. It should be noted that most of this "helpful advice" was given prior to President Bush actually taking office,³⁷ while little has been done in terms of creating a current analysis of his human rights record. In this case, it would be helpful to analyze the goals of President Bush, as set forth in his United Nation address, in light of several of these previous suggestions.

A. *Coordinate Human Rights Policies with Allies of the United States*

It has been suggested by David Martin³⁸ that there be a high priority in all administrations to coordinate human rights policies with allies of the United States. This is primarily because the allies of the United States are best suited to undermine and destroy the most forceful initiatives of the United States — trade cuts in response to findings of significant human rights violations in the target country. Such behavior in the past has severely hampered United States' efforts for change. Trade substitution by many of the allies of the United States not only prevents the target country from feeling the intended effect but also engenders opposition from United States businesses for any future initiatives. Thus, it can be understood why American businesses are often reluctant to go along with human rights initiatives

36. HENKIN, *supra* note 28, at 72.

37. See, e.g., *Symposium on Human Rights: An Agenda for the New Administration*, 28 VA. J. INT'L L. 827-917 (1988).

38. *A Human Rights Agenda: The Routine and the Special*, 28 VA. J. INT'L L. 885 (1988). Mr. Martin is a Professor of Law at the University of Virginia. He has also served as Special Assistant to the Assistant Secretary for Human Rights and Humanitarian Affairs, U.S. Department of State, 1978-80.

when it merely allows competitors from allied countries to gain an advantage.³⁹

Coordination on human rights could also include assisting newly established democracies without weakening the United States' commitment to protecting human rights.⁴⁰ The allies of the United States could be instrumental in helping reach this goal.

In his address to the United Nations, President Bush spoke of coordinating human rights initiatives. Bush emphasized that "serious international cooperative efforts" were needed to make headway on, among other things, human rights concerns.⁴¹ Hopefully, a workable system of coordinating human rights initiatives could be developed, first among our allies, and then with the remainder of the world community. Bush spoke on this theme once again at the end of his address. "We stand together, prepared to swim upstream, to march uphill, to tackle the tough challenges as they come, not only as the United Nations, but as the nations of the world united."⁴²

With regard to assisting new democracies, Bush promised guidance and the providence of a positive example. "And I see a world where democracy continues to win new friends and covert old foes and where the Americas — North, Central and South — can provide a model for the future of all humankind, the world's first democratic hemisphere."⁴³

B. *Work to Ensure Free Elections in Other Countries, While Being Careful to Avoid Becoming a "World Policeman"*

This suggestion is one President Bush appears to have taken to heart. He has declared that "free elections are the foundation of democratic government and can produce dramatic successes, as we've seen in Namibia and Nicaragua."⁴⁴ As a means of reaching this goal, Bush proposed that the United Nations establish a "special coordinator for electoral assistance."⁴⁵ This position would be assisted by a United Nations Electoral Commission comprised of distinguished experts from around the world. It is hoped that in time, all individuals throughout

39. *Id.* at 888-89.

40. Larry Garber, *United States Human Rights Policy: A Holistic Approach*, 28 VA. J. INT'L L. 863, 866 (1988).

41. *President's Address*, *supra* note 5, at col. 5.

42. *Id.*

43. *Id.* at col. 4.

44. *Id.* at col. 5.

45. *Id.*

the globe can have meaningful participation in determining their political leadership.

However, the United States, along with other United Nation members, should be careful in looking at electoral activity in other countries. The idea that free and seemingly competitive elections in a country *necessarily* confirm the presence of democracy in any meaningful sense, or the existence of a general respect for human rights, should be challenged.⁴⁶ Adhering to this principle would require speaking frankly about countries like El Salvador, where winning an election does not necessarily grant the victor power to decide certain basic issues. Power continues to be maintained by the country's armed forces.

In looking at these potential problems, the United States should not become the "world policeman." The United States, as an individual country, cannot ensure free elections *everywhere*.⁴⁷ The better objective, as announced by Bush, is to develop a partnership of nations, all working towards the same goal.⁴⁸

C. *Make United States' Human Rights Policy Less Political and More Bipartisan*

In order to increase its effectiveness, it would seem logical that the United States' human rights foreign policy be ideologically neutral.⁴⁹ Human rights should not be considered as either a "liberal" or "conservative" issue. Removing the politicalization will aid the efforts of the United States in organizing global cooperation and reduce the perceptions of hypocrisy in United States' policies.

Therefore, policies of the United States should be applied evenhandedly to both friend and foe alike. The United States should not be perceived in the international community as tolerating human rights abuses by its allies. If anything, governments friendly to the United States should be held to a somewhat higher standard of conduct. Failure on this point could lead to the long-term unraveling of any advances already made.⁵⁰

46. See Tom J. Farer, *Defending Human Rights in the Post-Reagan Era: Candor and Competence*, 28 VA. J. INT'L L. 855 (1988).

47. This principle could equally be applied in other areas of human rights concerns.

48. See *supra* note 41-42 and accompanying texts.

49. See Thomas Buergenthal, *Human Rights and the U.S. National Interest*, 47 VITAL SPEECHES 414 (1981).

50. For additional discussion on this point, see Jerome J. Shestack, *Human Rights in U.S. Foreign Policy: Retrospect and Prospect*, 28 VA. J. INT'L L. 907, 910 (1988).

In addition, it might also be helpful if the United States maintained a generally positive tone to its human rights policy. This is important because tone creates perceptions and engenders responses. Remember that the cold war tone of the Reagan era of human rights made it appear as if the United States pursued human rights policies not so much for the benefit of the abused or to achieve a more livable society, but rather as a device to counter communism and to bring other countries into United States' political camp. Many nations consider themselves either neutral or non-aligned and do not want to be drawn into ideological confrontations. Hopefully, developments in the post-Cold War era will reduce this as a global issue. Thus, a new system of international compliance with human rights can be built through shared aspirations and not through a geopolitical approach.⁵¹

I believe that this is exactly the goal that President Bush appears to have set forth in his United Nations address. However, as we have seen before, fancy rhetoric does not a human rights policy make. Now we must look for positive *activity*.

D. *Ratify Various Human Rights Agreements*

Often when the general public looks for visible signs of progress in the human rights area, they look towards the legislative arena. Thus, it is often suggested that the United States should finally become a party to many of the international agreements or treaties.⁵² While the United States currently is a party to a number of treaties protecting human rights, there are presently ten treaties which the United States signed but has not yet become a party to.⁵³ Presumably, these

51. *Id.* at 911.

52. For a good overview on the process involved for becoming a party to international agreements, see FRANK NEWMAN & DAVID S. WEISSBRODT, *INTERNATIONAL HUMAN RIGHTS* 400 (1990).

53. These ten treaties are:

1) *International Covenant on Economic, Social and Cultural Rights*, G.A. Res. 2200A (XXI), 21 U.N. GAOR, Supp. No. 16, at 49, U.N. Doc. A/6316 (1966), entered into force Jan. 3, 1976 (93 states parties);

2) *International Covenant on Civil and Political Rights*, G.A. Res. 2200A (XXI), 21 U.N. GAOR, Supp. No. 16, at 52, U.N. Doc. A/6316 (1966), entered into force Mar. 23, 1976 (88 states parties);

3) *International Convention on the Elimination of All Forms of Racial Discrimination*, 660 U.N.T.S. 195, entered into force Jan. 4, 1969 (133 states parties);

4) *Convention on the Elimination of All Forms of Discrimination Against Women*, G.A. Res. 34/180, 34 U.N. GAOR, Supp. No. 46, at 193, U.N. Doc. A/RES/34/180, entered into force Sept. 3, 1981 (100 states parties);

would be the easiest to implement.⁵⁴ However, there have been many arguments, both in favor and against, United States ratification of international treaties.⁵⁵ Unfortunately, ratification does not appear to be the answer because recent human rights proposals were effectively gutted to the point of making them useless.

A classic example of this process can be seen in the handling of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ("Treaty Against Torture" or "Convention"). This Convention was adopted by the United Nations General Assembly on December 10, 1984.⁵⁶ Nearly four years later, the United States signed the Convention, and on May 20, 1988, President Reagan submitted it to the Senate for its "advice and consent," which is required prior to ratification. At that time, Reagan attached a letter to the Convention from the Secretary of State which suggested a number

5) *Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment*, G.A. Res. 39/46, 39 U.N. GAOR, Supp. No. 51, at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987 (51 states parties);

6) *Convention on the Consent to Marriage, Minimum Age for Marriage and Registration of Marriages*, 521 U.N.T.S. 231, entered into force Dec. 9, 1964 (35 states parties);

7) *Convention on the Abolition of Forced Labour (ILO No. 105)*, 320 U.N.T.S. 291, entered into force Jan. 17, 1959 (111 states parties);

8) *American Convention on Human Rights*, O.A.S. Off. Rec. OEA/Ser.L/V/II.23, Doc. 21, Rev. 6 (1979), entered into force July 18, 1978 (21 states parties);

9 & 10) *Additional Protocols I and II to the Geneva Conventions of 1949*, 16 I.L.M. 1391, 1442 (1977), entered into force Dec. 7, 1978 (Protocol I — 92 states parties, Protocol II — 82 states parties).

54. Some commentators, however, believe that efforts in this area would be better spent by giving support to the continuing efforts to develop non-binding codes, rules, and standards relating to the promotion and protection of human rights. The argument is that many people would comply with human rights if they knew what the standards were, what was expected of them, and how to do what was required. Non-binding codes or model laws such as the Standard Minimum Rules for the Treatment of Prisoners, Code of Conduct for Law Enforcement Officials, or Basic Principles for the Independence of the Judiciary may be a good way to influence people responsible for actually implementing government policies. See Bilder, *supra* note 14, at 840.

55. For arguments in favor and against United States ratification, see Philip Alston, *U.S. Ratification of the Covenant on Economic, Social and Cultural Rights: The Need for an Entirely New Strategy*, 84 AM. J. INT'L L. 365 (1990); Natalie Herener Kaufmann & David Whiteman, *Opposition to Human Rights Treaties in the United States Senate: The Legacy of the Bricker Amendment*, 10 HUM. RTS. Q. 309, 321-37 (1988); David Weissbrodt, *United States Ratification of the Human Rights Covenants*, 63 MINN. L. REV. 35 (1978).

56. By December 10, 1990, the governments of 51 countries had become parties to the Treaty Against Torture. *Status of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, U.N. Doc. CAT/C/2/Add.1 (1989).

of reservations, understandings and declarations that might be included with the Convention at the time of ratification.⁵⁷

The overall aim of the letter from the Secretary of State was to assure that the Convention would have little or no impact in the United States since United States law is regularly asserted as the source of reservations. For example, it was proposed that the Convention not be self-executing, or that there be a limit placed upon its impact on state governments, as distinguished from the federal government. Additionally, the letter accompanying the Convention included various understandings that limited the meaning of torture and permitted the use of common law defenses such as sovereign immunity against a charge of torture.

In 1989, the Bush Administration emphasized that the Treaty Against Torture had the highest priority for ratification of any human rights treaty. Towards this goal, the Bush Administration withdrew several of the Reagan/Shultz proposals but ultimately replaced them with a separate package of reservations and understandings. While some of the most intrusive restrictions were removed, other restrictive understandings were maintained.⁵⁸

Political activity such as this makes it obvious that ratification may not be a successful vehicle to effect meaningful change in the area of human rights. Many of the proposed reservations merely frustrate international dealings of the United States and inhibit advances in the field of international human rights. The President of the United States needs to "get tough" in his dealings with the Senate and encourage passage of treaties free from additional attachments.

V. CONCLUSION

It seems that President Bush laid a solid framework of ideas to build upon in the realm of international human rights. Bush did not make grand promises in his recent speech that he knows he cannot keep. In addition, Bush recognized that a successful solution to this problem must involve international cooperation. What is required now is positive action. It is time for the President's actions to speak louder than his words. The United States, as a country, needs to make concrete plans to address the various problems of individual dignity

57. *Message from the President of the United States Transmitting the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 100th Cong., 2nd Sess. (1988).

58. For a more comprehensive description of the political process behind the attempts at ratification of the Treaty Against Torture, see NEWMAN & WEISSBRODT, *supra* note 52, at 403-05.

and fundamental fairness towards all members of its own society. The United States cannot afford to look hypocritically at the world community if it expects them to adhere to its human rights initiatives.

Towards this goal, the United States needs to have some outside body perform an independent analysis of its human rights activity, both at home and abroad, to serve as a constant reminder of the path it should follow. Finally, President Bush must exhibit the same strong leadership displayed at the United Nations to the Congress of the United States. As a part of this effort, the President should try to get solid human rights legislation enacted, both in statutory form and within bureaucratic structures. While these may be somewhat lofty goals, they are at least pointed in the right direction. And, just maybe, the United States can begin to see the human spirit of the world become unleashed before too long.

