THE DEPUTY SECRETARY OF STATE
WASHINGTON

P760137-1296

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January 16, 1975

TO: The Secretary

FROM: Robert S. Ingersoll RSI

SUBJECT: Human Rights Policies

I understand that in general you reacted favorably to the S/P paper of October 22 on US Policies on Human Rights but that you preferred not to issue guidance on the subject to the Department and to the field (copy attached). It is not clear to me whether you had any substantive objections to the material in the guidance or whether you merely had problems with the idea of officially promulgating a paper on the subject and distributing it widely in the building and to our embassies abroad.

I met yesterday with the officers principally concerned with human rights matters in the Department to acquaint them with recent developments in this area and to provide them with a clearer idea of the Department's current posture on these issues. I am particularly concerned with the need to give the five officers now designated as "human rights officers" in the regional bureaus some indication of what their functions should be and what policy line they should follow.

If you have no objection to the substance of the attached draft, I would propose to make it available informally and as background to these few officers as guidance on the Department's general approach but not to issue it as a formal guidance memorandum to the Department and the field.

Approve_____ Disapprove_____

Attachment:

Draft Guidance on the Department's General Approach to Human Rights Issues.

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Draft Policy Guidance

US POLICIES ON HUMAN RIGHTS

1. Recent developments in a number of foreign countries, legislative action by the U.S. Congress and an intensification of public debate on the issues involved make it timely for the Department to restate and to clarify U.S. policy on dealing with violations of human rights abroad. Reports of increased repression in certain countries have resulted in Congressional action to reduce appropriations for military and economic aid to those nations and to seek assurances regarding the status of human rights in all countries that are recipients of U.S. aid.

2. U.S. policy on human rights has been expressed in a number of public statements on the subject during the past year. One was the statement in the address by the Secretary to the Pacem in Terris Conference in October 1973:

> "We shall never condone the suppression of fundamental liberties. We shall urge humane principles and use our influence to promote justice. But the issue comes down to the limits of such efforts."

Another was the statement in the letter of June 27, 1974 from Deputy Secretary Ingersoll to Chairman Morgan of the House Foreign Affairs Committee:

> "...we take seriously our obligation under the United Nations Charter to promote respect for and observance

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of human rights and fundamental freedoms for all. No matter where in the world violations of human rights occur, they trouble and concern us and we make our best efforts to ascertain the facts and promote respect for human rights and fundamental freedoms. At the same time, it must be recognized that the United Nations Charter does not prescribe how to fulfill that obligation in respect to particular violations by others. Thus there are usually complex questions of policy and tactics to be considered in deciding whether and how the United States can best seek to discharge its obligations in a particular case consistent with its commitment to other goals, including that of maintaining international peace and security. Such questions include the seriousness of the violation, the various options for United States action, and the consequences of inaction."

3. As these statements clearly indicate, in developing its policies toward foreign countries, the U.S. Government takes human rights factors into account along with all the other factors affecting its major objectives of peace and security and its relationships with the countries in question. Since these relationships and the manner in which our larger objectives are pursued differ from one country to another, what the U.S. Government is able to do in carrying out its general policy of support for human rights is bound to be different in each situation. Implementation of this policy has to be handled, therefore, on a case-by-case basis.

4. Such a [illegible] approach, however, does not obviate the need for a reasonable degree of consistency

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and coherence in this area of policy-making. Criteria are needed to determine which of the many human rights violations that occur around the world deserve priority attention. The factors that must be considered in deciding what U.S. policy should be in a particular case need to be identified. These criteria and factors were set out in a recent Department Study as follows:

a. The seriousness of the violations involved. (Genocide and other unlawful killing, torture, widespread and lengthy imprisonment without fair trial, and massive racial or ethnic discrimination are examples of some of the more serious violations.)

b. The nature and significance of total U.S. interests in the country concerned.

c. The degree to which the U.S. Government is popularly identified with the regime in question and the influence or leverage which the U.S. Government may or may not have with that regime.

d. The political context in which the violation occurs and the direction in which the treatment of human rights is moving in the country involved.

e. The short-term and long-term consequences of U.S. Government action or inaction.

f. The degree of U.S. public and Congressional [illegible]

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g. Special regional sensitivities and attitudes which may apply, e.g. in Africa and Latin America.

5. Although the Department's Legal Advisor has determined that, at the very least, a basis exists in international law for expressions of official U.S. concern over human rights violations in another country, the fact remains that most countries continue to regard external approach on such matters as interference in their domestic affairs.

6. In the framework of our general policy of support for human rights, the extent to which we are able to take effective action in respect to a particular human right issue depends to a large degree on the nature of the relationship between the United States and the government concerned--whether it is an adversary, an ally, or a neutral, whether it is an aid recipient, is heavily dependent on American aid or receives no aid at all. Although the case-by-case approach resists rigid rule making by categories, some broad generalizations may be useful:

a. In the case of states, such as those in the USSR and China, where the overriding concern is to [illegible] detente and reduce the risks of nuclear confrontation exchanges on human rights violations affecting their citizens must be handled with the utmost care and [illegible] beyond informal [illegible] [illegible] [illegible] occur in the

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of normal diplomatic contacts should not be undertaken without clearance from the Department.

b. Another type of case is the authoritarian regime which is heavily dependent on American military or economic aid and which is often a main target of American public and Congressional criticism over its human rights practices. In such a situation, Department and Mission officers in touch with leading representatives of the regime should make them aware of U.S. Executive, Congressional and public concerns. This is usually best done by pointing out the concerns that exist and their objective consequences rather than by attempting to prescribe for foreign officials the changes they should make in their governmental systems. If it is thought desirable to make formal approaches or to deliver diplomatic notes to emphasize the importance that we feel would be attached to the matter, appropriate Departmental clearance should be obtained.

c. Recent amendments to foreign aid appropriations measures in the Congress have tended to relate the provision or level of aid to the behavior of recipient nations in respect to the human rights of their own citizens. The Department will seek to communicate the "sense of the Congress" to the governments affected. Regional Bureaus, through their own contacts in Washington and through our

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Missions abroad, may use their discretion in selecting the most appropriate way to convey this sense of the Congress to the governments involved. It should be possible to make clear that, in compliance with the legislation, all affected countries are approached and none is singled out. In cases of special nationalistic or regional sensitivities which raise questions of the timing or even desirability of such approaches, any decisions regarding delay or withholding of such approaches should be made in consultation with the Department.

7. All Missions should keep the human rights situations in their countries under review and provide objective reports on important developments in this field to enable the Department to appraise conditions relevant to the U.S. interest in supporting human rights, to respond as needed to Congressional or other US domestic inquiries, and to develop the U.S. position if and when the issues involved come before UN or other multilateral bodies. Such reports should, of course, include any recommendations the posts may have to offer for the Department's consideration. Posts should continue to report all significant approaches to, or exchanges with, officials of foreign governments regarding human rights issues as well as any indications of the effectiveness of the expression of US

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official interest in human rights violations.

8. Consideration of human rights questions in multilateral forums (the United Nations and its related agencies, regional organizations such as the OAS) is based on a common recognition by member nations that these bodies are competent to consider such questions. Because of our own commitments as a member to cooperate in good faith for the achievement of human rights goals of the organ concerned, we will as a general rule determine our positions in these forums on the basis of the merits of the cases under consideration. In cases involving friendly governments we will take care to consult with them to assure for ourselves a full understanding of the facts and of the position of the government concerned. The U.S. record in the United Nations and other multilateral human rights organs has been highlighted by the leadership we have shown on a large number of issues. The United States played a leading part in the formulation of the landmark Universal Declaration of Human Rights. The U.S. delegation led the move which was successful in 1970 to establish new procedures in the United Nations for dealing with complaints of serious human rights violations within countries. The United States has consistently pressed for the establishment of a new post of High Commissioner for Human Rights: At the present General Assembly we have

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joined in urging strengthened UN measures against torture.

9. Additional aspects of U.S. policy on human rights are currently under review in the Department. These include other types of action that may be taken to underscore the U.S. Government's support for human rights, interdepartmental aspects of the problem, and our own practices in areas which have human rights implications such as visa operations, asylum procedures, and policies regarding provision of police training and equipment for authoritarian regimes. Further guidance on this subject will be issued as required.

Drafted by:S/P-ASirkin:bdt

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