

'Whose rights are human rights?' The ambiguous emergence of human rights and the demise of Kissingerism

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During the Seventies, human rights moved from the periphery to the center of American foreign policy. This action – I argue in the paper – reflected a double-headed and contradictory interest in human rights. From a liberal perspective, human rights concerns were a criticism about the mistakes of the global containment. By reinforcing morality in foreign policy – liberals argued – the United States could both develop a new foreign policy for a more interdependent and global international system and rediscover the best American tradition. For conservatives, human rights came to both exemplify the problem of dissidents in the Communist countries and to represent a useful weapon to fight both the Soviets and the American supporters of bipolar détente. These two approaches overlapped, intertwined, and reinforced each other, contributing to the erosion of Kissinger's realistic détente and to the permanence of human rights concern in American politics but, because of this intrinsic ambiguity, they never evolved into a unifying new consensus.

After Jimmy Carter's electoral defeat in 1980, many officials in the administration were satisfied with their accomplishments in human rights policy. According to Lincoln Bloomfield, who dealt with the issue at the National Security Council (NSC), Carter's policy in the area of human rights 'represented the clearest change from policies pursued by the previous two Administrations. It produced some of the most notable moral and political successes'. Bloomfield had to admit, however, that this policy had

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also 'generated the sharpest criticism'.¹ Indeed, since 1978, Carter's human rights campaign was charged with inconsistency, ineffectiveness, and selectiveness.² Several elements contributed to these different perceptions of Carter's human rights campaign. Among them was the peculiar way in which the issue of human rights emerged in the US in the 1970s.

Scholars tend to consider the 1970s as the period when human rights took on greater importance in American foreign policy. According to Kathryn Sikkink and Kenneth Cmiel, the increasing prominence of human rights was a consequence of the rise of NGOs, which collected 'accurate accounts of some of the vilest behaviour on earth that no one had bothered to document before'.³ D.P. Forsythe attributes the emergence of human rights to congressional assertiveness in foreign affairs.⁴ Other scholars tend to explain the prominence of human rights with reference to the erosion of Cold War structures. In this sense, the human rights diplomacy of the 1970s is perceived as a sort of post-Cold War foreign policy, or, as Samuel Moyn has argued, as a 'last utopia', which survived the failure of previous utopian ideals.⁵ Despite these differences, scholars agree on two main points: first, the new emphasis on human rights was a reaction to the Vietnam War and to the rising militarism in America's Cold War foreign policy and second, it was driven mainly by Congress, which had become dissatisfied with Kissinger's 'realism without morality', and demonstrated an unwillingness to support a foreign policy based on the maximisation of power rather than on the promotion of principles.⁶ Recently, Barbara Keys argued that despite Kissinger's attempts 'to circumvent or ignore' human rights, congressional activism permitted human rights to enter the bureaucratic machine of the State Department and consequently, 'by

¹ Bloomfield to Brzezinski, 'The Carter Human Rights Policy: A Provisional Appraisal', January 1981, Box 34 Brzezinski Materials, Jimmy Carter Presidential Library (JCPL).

² 'Civil Liberties Group Says the President Has "Erratic" Record', *New York Times*, 29 January 1978; 'Rights, and Wrongs', *New York Times*, 29 January 1978; 'US Officials Worry Over Inconsistencies in Human Rights Plan', *Wall Street Journal*, 11 May 1978; Bingham, *Congressional Record*, 95th Congress, 2nd Session, 22 March 1978, 3152; Lagomarsino, *Congressional Record*, 95th Congress, 2nd Session, 13 April 1978, 10183–10184; Kirkpatrick 'Dictatorship and Double Standards', *Commentary* (November 1979): 34–45.

³ Cmiel, 'The Emergence of Human Rights Policy in the United States'. *The Journal of American History* 86, no. 3 (December 1999): 1231–250; Cmiel, 'The Recent History of Human Rights', *American Historical Review* 109, no. 1 (February 2004): 117–35; Claire Apodaca, *Understanding US Human Rights Policy: a Paradoxical Legacy* (New York: Routledge, 2006); Kathryn Sikkink and Margaret Keck. *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca and London: Cornell University Press, 1998); Sikkink, *Mixed Signals. US Human Rights Policy toward Latin America* (Ithaca and London: Cornell University Press, 2004); Michael C. Morgan, 'The Seventies and the Rebirth of Human Rights', in *The Shock of the Global: the 1970s in Perspective*, ed. Niall Ferguson et al. (Cambridge: Harvard University Press, 2010), 237–49.

⁴ David P. Forsythe, *Human Rights and US Foreign Policy: Congress Reconsidered* (Gainseville: University Press of Florida, 1988).

⁵ David Schmitz, *The United States and Right-Wing Dictatorships, 1965–1989* (Cambridge: Cambridge University Press, 2006); Moyn, *The Last Utopia. Human Rights in History* (Cambridge: Harvard University Press, 2010).

⁶ Walter Isaacson, *Kissinger: A Biography* (New York: Simon & Schuster, 1992).

failing to develop a positive, proactive approach to human rights, Kissinger left it to Congress to implement a reactive punitive and unilateral approach'. Nevertheless, argues Keys, the Bureau of Human Rights performed an important role, establishing some new diplomatic procedures and ensuring that greater emphasis was placed on human rights issues in the formulation of policy in the State Department. Keys devotes much of her article to the behind-the-scenes manoeuvrings, underlining the bureaucratic infighting both within the State Department and between the department and Congress, but she does not analyse the political rationale of congressional actions on human rights.⁷

Although this essay generally subscribes to these reconstructions, it differs from them on a crucial point: American human rights policy was the consequence of two conflicting but intertwined and mutually reinforcing ideas of human rights which emerged in the 1970s. From a liberal perspective, human rights concerns stemmed from a criticism of the shortcomings of global containment, exemplified by the Vietnam War, and an attempt to modify foreign policy priorities. By reinforcing morality in foreign policy, liberals argued that the United States could free itself of the Cold War perspective, rediscover the best American tradition, and develop a new foreign policy. On the contrary, for conservatives, the human rights crisis was bound up with the Cold War, because the problem was exemplified by the treatment of dissidents in the USSR and Eastern Europe. To conservatives, human rights became a useful weapon to fight both the Soviets and the American supporters of bipolar détente. The congressional actions on human rights were both inside and outside the Cold War horizon. This double-headed interest was crucial in the erosion of Kissinger's approach to world affairs, and in the permanence of human rights concerns in American politics, but because of its intrinsic ambiguity it never evolved into a unifying consensus.

'A sentimental nonsense': Kissinger downplays human rights

Few policymakers came to power more preoccupied with both the international balance of power and the need for a new domestic consensus than Nixon and Kissinger. Détente was the best solution for both problems. Internationally, détente was a sort of 'containment by other means', which reduced its political, economic, and military costs. Détente gave the Cold War more stability and freed it from dangerous ideological competition. It was a bipolar foreign policy and international events were read through a 'bipolar lens'. Thus, events would be evaluated in terms of their effects on the bipolar equilibrium. Domestically, it was a 'centrist national security agenda', which avoided the extremes of the era: 'massive military retrenchment (left) and massive military escalation'. This permitted a response to the 'global protest' which

⁷ Barbara Keys, 'Congress, Kissinger, and the Origins of Human Rights Diplomacy,' *Diplomatic History* 34, no. 5 (November 2010): 823–52.

shocked America at the end of the 1960s.⁸ In order to be effective, détente needed to find domestic legitimisation, replacing Cold War liberalism and developing a new consensus through a public discourse which emphasised new buzzwords such as order, equilibrium, and stability, as well as resounding slogans such as ‘end of Cold War’ or ‘durable peace’.⁹

Kissinger’s strong emphasis on stability and control soon prompted accusations of amorality or even immorality for its explicit abandonment of traditional notions of American exceptionalism and national mission. Arthur Schlesinger Jr, among others, accused Kissinger of embracing ‘governments both of the authoritarian right . . . and of the totalitarian left’. Through a series of public speeches, Kissinger responded to these charges, explaining the moral purpose of his foreign policy. As historian Jeremi Suri recently argued, far from being a hyper-realist, Kissinger ‘firmly believed that he acted within the bounds of a strong moral compass’, whose legs did not rest upon an abstract ethical standard but rather upon the pursuit of global stability and the avoidance of nuclear war.¹⁰

However, in Kissinger’s flawed morality, there was no room left for human rights. The National Security advisor regularly thundered against linking human rights to other issues in foreign policy, fearing that an excessively moralistic stance could turn ‘quixotic or dangerous’.¹¹ Despite the frequent claims that the administration supported ‘quiet diplomacy’, Kissinger constantly dismissed human rights as irrelevant to American foreign policy. From his perspective, human rights represented both an intellectual and practical challenge to the aims of foreign policy. To begin with, human rights were hostile forces that thwarted the centralisation which Kissinger considered as a pre-requisite to developing a consistent foreign policy, free of parochial interests or ideologies. Second, according to Kissinger, American attention toward human rights was a quintessential expression of Wilsonian idealism, which encouraged the United States to embrace great causes and which Kissinger wanted to eradicate from American foreign policy. Human rights were an expression of a dangerous and deceptive morality: ‘the nettle we have to grasp is if this [attention on human rights] goes on another two years, we are going to see a precipitant slide of the American position in the world that is totally unprecedented. That is what we are going to see. And all the other stuff is sentimental nonsense’.¹² Third, the focus on human rights did

⁸ Julian Zelizer, ‘Détente and Domestic Politics’, *Diplomatic History* 33, no. 4 (September 2009): 653–70; Jeremi Suri, *Power and Protest: Global Revolution and the Rise of Détente* (Cambridge: Harvard University Press, 2003).

⁹ Mario Del Pero, *The Eccentric Realist. Henry Kissinger and the Shaping of American Foreign Policy* (Ithaca: Cornell University Press, 2010), 77–108.

¹⁰ Jeremi Suri, *Henry Kissinger and the American Century* (Cambridge: Harvard University Press, 2007), 14.

¹¹ Henry Kissinger in *Department of State Bulletin* 69, no. 1792 (29 October 1973): 527–52.

¹² ‘Minutes of the Secretary’s Staff Meeting’, 22 October 1974 in *Foreign Relations of the United States, 1969–1976, Volume E-3*. Online at <http://history.state.gov/historicaldocuments/frus1969-76ve03/d244> (May 2010), 16.

not serve the national interest which, as the president said to *The New York Times*, 'should be narrowly constructed to exclude moral commitments or causes that do not promise a clear, direct, predictable payoff in increased security or prosperity for the nation'.¹³ Human rights were outside legitimate foreign policy concerns. Indeed, they were contrary to two fundamental assumptions of realist thought about international politics: the respect of national sovereignty and the principle of non-interference in domestic affairs. It was dangerous 'to make the domestic politics of countries around the world a direct objective of American foreign policy' because

the protection of basic human rights is a very sensitive aspect of jurisdiction of . . . governments . . . If the infringement of human rights is not so offensive that we cannot live with it, we will seek to work out what we can with the country involved in order to increase our influence. If the infringement was so offensive that we cannot live with it, we will avoid dealing with the offending country.¹⁴

Not only did human rights constitute a challenge to Kissinger's cultural premises, they also introduced several problems in relations with other countries. In the bipolar system of international relations, human rights created two cracks in the structure of détente: they represented unacceptable interference in Soviet affairs and they revived the ideological fervour which, in the past, had led the United States to perceive the USSR as a total, illegitimate, and absolute enemy. Similarly, Kissinger and Nixon resisted the consideration of human rights in American relations with Third World countries. If the aim of foreign policy was to bring order and stability to the international system, the United States had to avoid all those actions – like the promotion of human rights – which could have destabilising effects and which, eventually, could permit the Soviets to increase their influence in the world. Rather, in order to achieve international stability and to reduce the costs of hegemony, the United States had to reinforce their economic, political, and military relations with abusive regimes. Many examples – such as assistance for the Greek junta; support for Pakistan during the Bangladesh crisis; the American role in the Chilean coup; and détente itself, which ignored the treatment of Soviet dissidents – seemed to confirm that the administration never intended to make human rights an issue in its foreign policy.

'Wave of the future' and 'best American tradition'

Between 1973 and 1974, several members of Congress – such as Donald Fraser (D-MN), Henry M. Jackson (D-WA), Dante Fascell (D-FL), Harold Hughes (D-IA) – began to feel that American foreign policy had abandoned its traditional values. They focused on the apparent lack of morality in Kissinger's foreign policy and they developed a constructive legislative action on human rights.¹⁵ This renewed interest in

¹³ George F. Will, *New York Times*, December 23, 1973.

¹⁴ Quoted in Claire Apodaca, *Paradoxical Legacy*, 31.

¹⁵ David P. Forsythe, *Congress Reconsidered*, 1–23; Apodaca, *Paradoxical Legacy*, 29–52.

human rights was rooted in the civil rights movement and in the process of decolonisation, which focused international attention on human rights. At the end of the 1960s, observers and commentators could agree with Clara Ponce de Leon, Colombian ambassador at the UN, who stressed: 'There has been an awakening of the world conscience to a duty that cannot be denied, an awakening of peoples to a clear right – that of strengthening the foundations of justice, society based on equality, the obligations of States to promote conditions that will permit every person the full enjoyment of his rights'.¹⁶ This 'awakening' was reinforced by the activities of NGOs, humanitarian foundations, and transnational networks, as well as a rich academic debate on human rights. Academicians' interest in human rights was no longer confined to international law. Indeed, human rights became a proper concern in literary studies, in sciences, in political sciences, where human rights intertwined with the concept of 'global interdependence'.¹⁷

Interdependence was the new buzzword to describe international relations. It proclaimed the idea of growing interconnections among the traditional international actors (i.e. states) and the new ones (i.e. NGOs), which emphasised negotiations, diplomacy, and the creation of 'international regimes' as vehicles for a more just and efficient international system.¹⁸ Human rights became increasingly important in such analysis. International jurist Richard Falk, for instance, predicted awareness of the issue would become a force to realise a new global community which could transcend the boundaries of 'traditional territorial sovereignty'.¹⁹ Similarly, according to Congressman Dante Fascell (D-FL), recent advances in communication and transportation had 'created an enormous increase in transnational ties among nations.' In this process, 'structures within a society, whether cultural, business, education, professional, or scientific' had become involved in new international relationships. 'These non-governmental groups and individuals', wrote Fascell, 'now play an important role in world affairs . . . [and] are demanding a say in the traditional agreements, exchanges, and relationships among world government leaders'.²⁰

In 1974, the *Virginia Journal of International Law* convened a symposium on 'Human Rights, the National Interest and American Foreign Policy', whose proposals were the most representative ideas on the proper place of human rights in American foreign policy. All the commentators, such as the President of the American Society of International Law Louis Henkin, the President of the American Bar Association Jerome Shestack, or international law professor Tom Farer, agreed on the importance of human rights in the American political tradition: 'the United States', wrote Henkin,

¹⁶ United Nations, General Assembly, Official Records, Plenary Meetings 1966, 1495th meeting, 7.

¹⁷ Goodman, 'Academicians, Human Rights and Soviet Jews', March 1971, Folder 3, Box 37, National Conference on Soviet Jewry, Center for Jewish History [hereafter NCSJ-CJH].

¹⁸ Robert Keohane and Joseph Nye, *Power and Interdependence. World Politics in Transition* (Boston: Little Brown & Company, 1977).

¹⁹ Falk, *Legal Order in a Violent World* (Princeton: Princeton University Press, 1968).

²⁰ Dante Fascell, 'The Helsinki Accord: a Case Study', *Annals of the American Academy of Political Sciences*, 442, no. 1 (1979): 69–76.

has been second to no other major country in the international effort to establish, promote, and maintain human rights. While the concept of human rights draws on older roots, American traditions and ideas helped to give it shape and particular content, and American predispositions were prominent in making human rights a matter of international concern.²¹

With an outspoken attack on Kissinger's record, Richard Bilder criticised the false 'dichotomy between moral concerns and selfish national interests'.²² Despite their similar understanding of the importance of human rights, the commentators had different reasons for advocating their promotion as a legitimate concern in American foreign policy. While some argued that human rights were the 'wave of the future' which should be the most important element for the definition of a new American foreign policy, others, such as Jerome Shestack, focused on the bipolar competition: 'the moral claim, that is the vision of maintaining human dignity and enlarging human rights, is the only compelling claim that can be juxtaposed against the appeal of Marxian promise'.²³

The new consciousness about human rights was particularly strong among NGOs. New human rights groups were formed and old groups saw their membership increase. The American section of Amnesty International, for instance, registered some remarkable progress: between 1968 and 1976 membership increased by roughly 8,000 new members per year, the annual budget jumped to \$1 million and new offices were opened in Los Angeles and Washington.²⁴ At the end of the decade, more than one hundred human rights NGOs were operating in the DC area. It was 'an amorphous yet multifaceted aggregate' of organisations advocating human rights legislation both as a broad agenda and as country-specific actions, ranging from Korea to Chile, from Argentina to Ukraine. Moreover, they began publishing reports, raising public awareness of human rights, and communicating and collaborating with members of the US government and Congress. NGOs' communication techniques became more sophisticated and effective, combining grassroots activism and lobbying practices with the publication of reports on the state of human rights in the world. Professional newsletters became more concerned with human rights: in 1971 the American Bar Association started to publish its quarterly, *Human Rights*, and the National Conference on Soviet Jewry presented its *Newsletter on Jews in the Soviet Union*, while in 1972 the Index on Censorship made its first appearance. Furthermore, NGOs started to

²¹ Henkin, 'The United States and the Crisis in Human Rights', *Virginia Journal of International Law* 14, no. 4 (1974): 653–71.

²² Bilder, 'Human Rights and US Foreign Policy: Short-Term Prospects', *Virginia Journal of International Law* 14, no. 4 (1974): 609–15.

²³ Thomas Farer, 'United States and the Protection of Human Rights: Observations and Proposals', *Virginia Journal of International Law* 14, no. 4 (1974): 623–52; Jerome Shestack and Roberta Cohen, 'International Human Rights: a Role for the United States', *Virginia Journal of International Law*, 14, no. 4, 673–701.

²⁴ Blaine to Morris, 31 January 1974, Folder Meetings (1974), Box 1, RG I, Series I.1; and also 'Memo to the Directors of AIUSA', 17 December 1974, Folder 'Executive Committee Meetings, Nov.–Dec. 1974', Box 1, RG I, Series I.2, both in A.I. USA Papers, Columbia University Library.

set the political agenda and provide vital input into the legislative process, through their reports and their participation in congressional hearings.²⁵

Within the political audience reached by NGOs, there were those representatives and senators who, from the beginning of the 1970s, started to call themselves 'new internationalists'. It was an informal, unstructured group that hoped for a radical transformation in American foreign policy. Senator Harold Hughes (D-IA) said that 'a new internationalism' was growing in Congress and it was 'based on the demilitarization' of foreign policy and 'an increased emphasis on cultural and economic factors'. It was up to the empowered Congress to 'develop a moral foreign policy.'²⁶ They became increasingly critical of the bipolar perspective which shaped America's international action and, clearly, of Kissinger's lack of morality. In this sense, although motivated by a deep hostility toward Kissingerism, the new internationalists' actions tried to promote an alternative, albeit vague, vision of America's role in the world. Instead of containment, they advocated a demilitarised foreign policy and a stronger emphasis on addressing the economic and social problems of the world. Accused by Kissinger of being 'liberals' who 'wanted us to withdraw from the world and tend to our domestic improvement', they actually wanted to modify American internationalism at its core.²⁷ Rather than advocating a domestic retreat, new internationalists tried to define a new international role for the US, which would be both more consistent with the American tradition and more responsive to interdependence and global challenges.

Writing in 1978, in the midst of the new internationalists' moment, Schlesinger summarised their historical perspective on the role the US had played in the affirmation of human rights: 'The United States was founded on the proclamation of unalienable rights, and human rights ever since have had a peculiar resonance in the American mind'. After describing their role in the formative years of the republic and then in the 19th century, Schlesinger argued that the Cold War distorted this attention, although it was not able to completely eradicate it.²⁸

With a record which was still dismally poor both at home and abroad, Schlesinger's representation of such a glorious past became a sort of rhetoric of absence. Nevertheless, the new internationalists gained possession of the 'very concept of human rights' as an 'American value'. In this sense, looking back at the 'American tradition', human rights became a new universal language which was intended to transcend the division of the world into two blocs.

The agenda of the new internationalists found a boost in the events of 1973, a real watershed for American politics: the final American withdrawal from Vietnam after a decade of war; the Watergate Affair, which was amplified by the televised hearings; the introduction of the War Power Act, which limited presidential discretion to commit

²⁵ 'The Growing Lobby for Human Rights', *Washington Post*, 17 December 1976; Morgan, 'Human Rights'; Cmiel, 'Human Rights Policy'.

²⁶ Hughes, *Congressional Record*, 92nd Congress, 1st Session, 19 May 1971, 15953.

²⁷ Henry Kissinger, *Years of Renewal* (New York: Simon & Schuster, 2000), 135.

²⁸ Arthur Schlesinger Jr., 'Human Rights and the American Tradition', *Foreign Affairs* 57 (1978): 503–26.

armed forces abroad; Andrei Sakharov's letter to Congress on free emigration from the Soviet Union; and the coup in Chile. Congress took the initiative and challenged the White House on human rights. The first action was the introduction of a 'sense of the Congress' resolution by James Abourezk (D- SD), which was enacted as an amendment to section 32 of the 1973 Foreign Assistance Act. With non-binding language, it asked the president to 'deny any economic or military assistance to the government of any foreign country which practices the internment or the imprisonment of that country's citizens for political purposes' and requested an investigation of human rights violations in Chile by the Inter-American Commission on Human Rights.²⁹

Contemporaneously, Donald Fraser (D-MN) began his hearings on human rights and American foreign policy. Between August and December 1973, Fraser collected the depositions of officials from the government, representatives from NGOs and Congress, experts in international law and human rights. Noting the 'rampant violations of human rights' and the need for a more effective strategy from both the United States and the world community, the witnesses agreed on three main points: first, the growing interdependence between the US and the world had made the American public more responsive to human rights violations; second, the United States ought to reinforce cooperation with NGOs and transnational networks; third, the United States government ought to be more active in the promotion of human rights and fundamental freedoms abroad. Fraser's hearings proposed to rediscover the (perceived) traditional values of American foreign policy, in order to face the challenges of interdependence. It was, as Richard Falk suggested during Fraser's hearings, a wide definition of national interest, which could (and should) include the defence and the promotion of human rights, and which could become a legal and ethical standard for the new global order.³⁰ After a nearly 1000-page transcription, Fraser's conclusions were collected in 'Human Rights in the World Community: A Call for US Leadership'. Already in the preamble, which reported that 'the human rights factor is not accorded the high priority it deserves in our country's foreign policy', the report accused the Nixon administration of 'embracing governments which practice torture and unabashedly violate almost every human right'. After declaring that 'the human rights factor too has often been neglected in foreign relations despite the existence of internationally agreed guarantees' and that violations were 'not limited to any particular ideological persuasion' because 'governments of the right, center and left have been responsible for violating the fundamental rights of men and women', Fraser listed 29 recommendations to give human rights greater priority. According to the report, the State Department should:

²⁹ Abourezk, *Congressional Record*, 93rd Congress, 2nd Session 21 June 1974, S1–S4.

³⁰ House Committee on Foreign Affairs, Subcommittee on International Organizations and Movements, *International Protection of Human Rights: the Work of International Organizations and the Role of U.S. Foreign Policy*, Hearings 93rd Congress, 1st Session, 246–57.

1. treat human rights factors as a regular part of U.S. foreign policy decision-making;
2. discourage governments which are committing serious violations of human rights;
3. respond to human rights practices of nations in an objective manner without regard to whether the government is considered friendly, neutral, or unfriendly;
4. upgrade the consideration given to human rights in determining Soviet-American relations.³¹

The report called on the State Department to create a specific office for human rights or to appoint an officer for human rights in each bureau of the department, and for Congress to play an active role, through the extension of competences of the Civil Rights Commission or, alternatively, through the creation of a new agency devoted to the promotion of human rights abroad. Finally, it suggested certain political initiatives, such as the adoption of the human rights treaties not yet ratified by the US or linking military and economic aid to the promotion of human rights.³² The report was not well received within the administration. Kissinger's staff underlined that congressional initiatives on human rights had 'a substantive meaning' which foreshadowed 'language in the aid bill prohibiting us from providing any military aid to Chile almost completely because of human rights. If that happens, we can look at it in Korea, it will impact on our maintaining troops in Korea. And you can go down the line to about fifteen places'.³³ From this conversation, it emerges that the administration was not able to face the challenge on human rights. During the meeting, William Buffum, Deputy Assistant Secretary for International Organisations, confirmed the bureaucratic unpreparedness for the problem: 'we do have two guys now, one in L[egal] one in I[nternational] O[rganizations] designated as the human rights guys' and so it was necessary to 'reorganize and strengthen our techniques of handling them'.³⁴ In October 1974, Kissinger's assistant Winston Lord produced a political analysis of the human rights concern. He listed four main reasons for congressional activism:

1. Recent events in four countries [. . .]
2. The debate on the Jackson amendment [. . .]
3. The charge that the US Government is insensitive to human rights issues in its overall conduct of foreign policy surely hinders development of a domestic 'consensus' on some aspects of foreign policy because it has tended to alienate significant elements in Congress, the media, the universities and the natural foreign affairs constituency. American publications are giving increasing attention to repressive measures by

³¹ House Committee on Foreign Affairs, Subcommittee on International Organizations and Movements, *Human Rights in the World Community: A Call for US Leadership*, 4.

³² *Ibid.*, 5.

³³ Minutes of the Acting Secretary's Functional Staff Meeting, Washington, 12 June 1974 in *Foreign Relations of the United States* Volume E-3. On line at <http://history.state.gov/historicaldocuments/frus1969-76ve03/d236> (June 2010), 16.

³⁴ *Ibid.*, 19.

regimes with which the United States is identified and are editorializing against our policies toward them

4. In Congress, these developments have led to support for a stronger US official posture on human rights. Dissatisfaction with the Government's present policies on human rights issues abroad has been a factor in the increase of legislative restrictions on aid programs for countries with authoritarian regimes and has provided additional arguments for opposing foreign aid programs generally.³⁵

In order 'to strengthen a domestic consensus in support of US foreign policy, to promote detente and to improve our ability to deal effectively with troublesome issues that obstruct our national objectives abroad', Lord called for 'selective changes in [the] [American] position' with few public interventions to condemn abusive regimes and a greater willingness to broach the subject of human rights through quiet diplomacy channels.³⁶ Lord's final suggestion was to work out a compromise between realpolitik formulas – such as the non-interference principle, or the power-centred definition of national interest – and the need to preserve a domestic consensus for foreign policy, through public expressions of concern about human rights and morality in foreign affairs.

While State Department officials were discussing human rights, Congress approved new amendments to modify the 1974 Foreign Assistance Act which imposed a \$25 million ceiling on aid for Chile, instead of the \$60 million economic aid proposed by the White House, and a total ban on any military assistance. Furthermore, Fraser introduced an amendment to Section 502B of the 1974 Foreign Assistance Act. It stated that:

the President shall substantially reduce or terminate security assistance to any government which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman or degrading treatment or punishment; prolonged detention without charges; or other flagrant denials of the rights to life, liberty and the security of the person.³⁷

The amendment required the State Department to present a country-by-country report on the protection of human rights. Despite the non-binding language of the amendment, Fraser and 104 other members of Congress stated that, in the future, their support for foreign aid legislation would be influenced by the administration's actions on human rights.³⁸

Fraser later referred to the law requiring the submission of human rights reports as 'perhaps the best thing we have done'. Much to his chagrin, the first report presented

³⁵ 'Summary of Paper on Policies on Human Rights and Authoritarian Regimes, Washington, 24 October 1974' in *Foreign Relations of the United States*, Volume E-3, <http://history.state.gov/historicaldocuments/frus1969-76ve03/d243> (June 2010), 1–2.

³⁶ *Ibid.*, 15.

³⁷ 'Legislation Enacted on Human Rights', Box 1603, Folder 4, D.P. Moynihan Papers, Library of Congress (hereafter DPM).

³⁸ *Ibid.*

by the State Department was 'a bland, unsigned summary report', which reaffirmed the department's commitment to respect the 'authoritative expression of congressional concern for human rights in all countries receiving assistance'. After listing several examples of human rights violations, which had occurred 'within both those countries receiving U.S. Security assistance and those that do not', the report concluded that 'quiet but forceful diplomacy' was the best way to improve human rights abroad.³⁹ The report produced negative reactions. Fraser criticised it as 'a defense of the State department's apparent intention not to comply with the law' and Alan Cranston (D-CA) said the report 'amount[ed] to a cover-up of information that American taxpayers and legislators are entitled to'.⁴⁰ Adverse congressional reaction to this report was an element in the strengthening of human rights advocacy. In 1975, Tom Harkin, a freshman Democrat from Iowa, introduced a binding amendment to Section 116 of the International Development and Food Assistance Act. It stated that:

no assistance may be provided under this part to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person unless such assistance will directly benefit the needy people in such country.⁴¹

The Harkin Amendment was soon followed by the Humphrey-Cranston Amendment which abolished the non-binding language of the Fraser Amendment to the 1974 Foreign Assistance Act and instructed the president to interrupt any economic aid programme wherever he noticed 'a consistent pattern of gross violations of internationally recognized human rights'.⁴²

Between 1973 and 1976, Congress chastened the White House for its unscrupulousness. In doing so, it introduced human rights as a proper concern for American foreign policy. The success of the new internationalists' proposals depended not only upon NGOs and public support for these measures but also upon the convergence of the views of both conservatives and liberals on these proposals. Both liberals and conservatives could agree on the importance of human rights. However, there was a deep difference between their perspectives. Among liberals and new internationalists, a more human rights-focused foreign policy created the possibility of transcending the Cold War and developing a new, global foreign policy; among conservatives and neo-conservatives, the

³⁹ Donald Fraser, 'Human Rights and US Foreign Policy: Some Basic Questions Regarding Principle and Practice,' *International Studies Quarterly* 23, no. 1 (1979): 174–85; Department of State, *Report to Congress on the Human Rights Situation in Countries Receiving U.S. Security Assistance* (Washington: Government Printing Office, 1975), 5–6.

⁴⁰ Bernard Gwertzman, 'U.S. Blocks Human Rights Data, on Nations Getting Arms,' *New York Times*, 19 November 1975.

⁴¹ Harkin, *Congressional Record*, 94th Congress, 1st Session, 10 September 1975, 8607–612; and Mary McGrory, 'Freshman Presses a Point,' *Washington Star*, 29 September 1975.

⁴² 'Legislation Enacted on Human Rights', Folder 4, Box 1603, DPM.

rediscovery of human rights was linked to the attempt to overcome détente and to reinforce the containment of the Soviet Union.

'A détente with a human face': Conservative insurgency against Kissinger's détente

Far from either Kissinger's realism or the new internationalists' global perspective, Senator Henry Jackson (D-WA) was advocating a foreign policy devoted to the containment of the USSR. Jackson was the quintessential promoter of an assertive and anti-communist foreign policy, which was at odds with Kissinger's détente. Refusing any form of interdependence or deterrence, Jackson believed that American security could only be enhanced through a clear position of military and nuclear preponderance. He became a vocal critic of the SALT agreement because, he said, it gave 'the Soviets more of everything . . . In no area covered by the agreement is the United States permitted to maintain parity with the Soviet Union.'⁴³ From his perspective, the US should reject any defence posture inspired by deterrence, which was strategically and morally unacceptable. As historian Mario Del Pero wrote:

it was morally repugnant because a peace founded on the notion that the destruction of the planet was theoretically acceptable was a fictitious and militarized peace: a non peace, in fact, which preserved permanent high risk. It was strategically unacceptable [. . .] because it obliged the United States to place its security, indeed its own survival, in the hands of the enemy: an absolute enemy – in terms of ideology, methods, global reach – as there had never been before in the history of the United States.⁴⁴

According to Jackson, the lack of morality in détente was particularly clear in the repression of political dissent, which he saw as being legitimised by détente. Since the publication of Andrei Sakharov's 'Peace, Coexistence and Intellectual Freedom' in 1968, Soviet dissidents had captured Western attention.⁴⁵ In July 1968, *The New York Times* published Sakharov's essay and, two months later, Senator Dodd (D-CT) asked the staff of the Library of Congress to update a 1966 report on 'intellectual ferment' in the Soviet Union. Significantly, the new report's title was 'Intellectual Ferment and Political Dissent in the Soviet Union' because, the introduction reported, the phenomenon 'had already achieved epidemic proportions' and represented a challenge for the Soviet system.⁴⁶

By emphasising the plight of dissidents, Jackson succeeded in promoting several anti-détente initiatives. In February 1972, for instance, he proposed the creation of a \$250

⁴³ Senator Jackson on the Moscow Arms Agreements, 1 June 1972, Accession 3560–06/9/97, Henry M. Jackson Papers, University of Washington, Seattle (hereafter HMJP).

⁴⁴ Del Pero, *Eccentric Realist*, 130–31.

⁴⁵ Lyudmila Alexeyeva, *Soviet Dissent. Contemporary Movement for National Religious and Human Rights* (Middletown: Wesleyan University Press, 1985); Vladislav Zubok, *Zhivago's Children: the Last Russian Intelligentsia* (Cambridge: Harvard University Press, 2009), 226–334.

⁴⁶ 'A Russian Physicist's Plan', *New York Times*, 22 July 1968; Library of Congress, *Aspects of Intellectual Ferment and Dissent in the Soviet Union* (Washington: Government Printing Office, 1968).

million program to facilitate the resettlement of Soviet Jews in Israel.⁴⁷ More importantly, he introduced an amendment to the 1972 trade agreement between the United States and the USSR. It made the normalisation of trade relations (the ‘most-favoured-nation’ status) with all the non-market economies (i.e. communist states) conditional on those countries allowing their citizens to emigrate freely. This intervention, known as the Jackson-Vanik Amendment for Jackson and his co-sponsor Charles Vanik (D-OH), was motivated by the Soviet introduction of an ‘exit tax’ which had provoked an indignant reaction in the United States, well before Jackson’s proposed amendment.⁴⁸ Jackson capitalised on American discontent, linking it to his larger political objective: to fight détente. His amendment constituted a political setback to détente since it affirmed that human rights should have prominence in guiding the policy of détente. While Jackson’s positions were gaining strength, Soviet authorities reduced – and then abrogated – the exit tax.⁴⁹ The crucial boost to Jackson’s campaign arrived in September 1973, when Congress received a letter from Sakharov and another one from 84 Jews from Moscow and Vilnius, supporting the Jackson-Vanik amendment.⁵⁰ On 11 December, a large majority in the House (272–140) approved the US-Soviet trade agreement. The Jackson-Vanik amendment received an even greater majority (319–80).⁵¹ Having lost the first round of the battle, the administration had no alternative but to negotiate with Jackson.⁵² By the end of September, the compromise was reached: Jackson agreed to withdraw his opposition to the trade agreement in exchange for a Soviet commitment to allow 60,000 emigrants per year. The treaty would also have to include a new clause allowing the president to grant a yearly waiver to the provisions.⁵³ To Kissinger’s chagrin, Jackson made the deal public, celebrating his personal victory. Shortly after, the Soviet news agency TASS announced that the USSR would not accept the 1972 trade agreement. Despite this setback, Jackson could claim a victory: he had undermined Kissinger’s foreign policy. The Jackson-Vanik amendment was not an isolated gesture. Instead, it was a symptom of a weakness in Kissinger’s détente policy and in its fundamental premise that the national interest could be pursued without consideration for ideals and morality. Its effects were magnified by congressional approval of a new amendment, named after Senator Adlai Stevenson (D-IL), which placed a ceiling on credits to the Soviet Union.⁵⁴

⁴⁷ ‘Senator Jackson Introduces Two-Year Program of Aid to Resettle Soviet Jews in Israel’, 3 February 1972, Accession 3560-06/43/16, HMJP.

⁴⁸ William Orbach, *The American Movement to Aid Soviet Jews* (Amherst: University of Massachusetts Press, 1979), 90.

⁴⁹ ‘Senator Jackson on Freedom of Emigration and East-West Trade’, 18 April 1973, Accession 3560–06/17/9A, HMJP.

⁵⁰ Sakharov to the US Congress, 14 September 1974, Accession 3560–06/37/18; and ‘Appeal to U.S. Congress by Jews from Moscow and Vilnius’, 19 September 1973, Accession 3560-06/40/9, HMJP.

⁵¹ ‘Senator Jackson on House Passage of the Jackson–Mills–Vanik Amendment to the Trade Reform Act’, 11 December 1973, Accession 3560-029/1/1, HMJP.

⁵² Memorandum from Richard Perle, 14 March 1974, Accession 3560–028/1/11, HMJP.

⁵³ Kissinger to Jackson, 18 October 1974, Accession 3560-029/1/1, HMJP.

⁵⁴ ‘The Stevenson Amendment to the Ex-Im Bank’, 11 July 1974, Accession 3560-06/40/9, HMJP.

American opposition to realism and détente reached a new apex when Alexander Solzhenitsyn was expelled from the USSR. Jackson pounced on the administration's reluctance to condemn the expulsion. 'It [was] clear', the senator stated, 'that the administration has narrowed its conception of détente to exclude issues of human rights'.⁵⁵ Many intellectuals as well as politicians joined Jackson in his campaign. Socialist Michael Harrington, liberal James McGregor Burns, neoconservative Irving Kristol and the AFL-CIO president George Meany were among those who claimed that détente should be more than an absence of military confrontation or the exchange of Pepsi Cola for vodka.⁵⁶ Jesse Helms and other Republicans asked the president to grant honorary American citizenship to Solzhenitsyn. When the Russian writer arrived in the United States, the 'Solzhenitsyn Affair' erupted. In March, Kissinger asked the Voice of America to minimise the impact of Solzhenitsyn's books on the American public. Thus, the international radio service did not broadcast an exclusive interview with the Soviet author.⁵⁷ Furthermore, on Kissinger's suggestion, Ford declined George Meany's invitation to participate in a banquet at which the Russian writer was the guest of honour. As Kissinger foresaw, during the banquet Solzhenitsyn did not waste time in attacking the policy of détente. He explained that the Kremlin's demand of non-interference in its domestic affairs meant in reality: 'Let us strangle our citizens in peace and quiet'.⁵⁸

Three days prior to Solzhenitsyn's speech, the White House announced that the president was unable to either participate in the banquet or meet the author. American columnists railed against the White House's neglect of Solzhenitsyn. *Washington Post* columnist George F. Will remarked: 'obviously Mr. Ford decided that meeting with Solzhenitsyn would be inconsistent with détente. Obviously, Solzhenitsyn is correct: Détente as practiced by the United States prevents even gestures of support for the cause of human rights in the Soviet Union'.⁵⁹ In the same newspaper, Pulitzer prize-winning cartoonist Herb Block drew Ford and Kissinger going into a hole in order to avoid the meeting with Solzhenitsyn while, in another cartoon, Ford is hiding under his desk and, as Solzhenitsyn is departing, Kissinger comments: 'it's all right to come out now. If you had met him Brezhnev might have disapproved'.⁶⁰ When Solzhenitsyn spoke at the US Congress, Jackson accused the president of 'cowering in fear of the Soviet reaction'.⁶¹ Similarly, Ronald Reagan wrote that 'some of President Ford's . . . advisers are so nervous about bruising the sensibilities of the Soviets that they have persuaded him not to meet the man who is considered by many to be the world's . . . most profound spokesman for human freedom and morality'.⁶²

⁵⁵ 'Jackson Ired at Silence on Solzhenitsyn', *Seattle Post – Intelligencer*, 16 February 1974.

⁵⁶ 'News Release of the Committee for Intellectual Freedom', Accession 3560- 06/38/1, HMJP.

⁵⁷ Keogh to Kissinger, 4 March 1974; Kissinger to Keogh, Box 5, Folder USIA Voice of America (1953–1978), Entry 5552, NARA, Record Group 59, College Park.

⁵⁸ Speech by Solzhenitsyn, 30 June 1975, Accession 3560-06/42/3, HMJP.

⁵⁹ George F. Will, 'Solzhenitsyn and the President', *Washington Post*, 11 July, 1975.

⁶⁰ Herb Block, *Washington Post*, 8 July 1975, and 18 July 1975.

⁶¹ Jackson's Press Release, 17 July 1975, Accession 3560-006/11/112, HMJP.

⁶² 'The Ronald Reagan Column', 18 July 1975, Box 175, R.T. Hartman Papers, Gerald Ford Presidential Library, Ann Arbor (hereafter GFPL).

The Solzhenitsyn affair gained momentum as a result of Ford's decision to participate in the closing session of the Conference on Security and Cooperation in Europe (CSCE) to sign its 'Final Act'. Believing that the conference was of limited importance for American interests, Kissinger, Nixon, and then Ford accepted it dismissively. Given the importance the Soviets attributed to the meeting, the Americans considered it as a piece of the linkage strategy, with the ultimate aim of pushing forward the MBFR (Mutual and Balanced Force Reductions) negotiations. Kissinger's neglect of Helsinki was balanced by Western European hopes of introducing some recognition of human rights in communist countries.⁶³ The outcome was a four-basket document which encompassed questions relating to security in Europe; co-operation in the fields of economics, science, and technology; cooperation in humanitarian fields; and the convocation of a follow-up conference to monitor the progress made by signatory states. With the Jackson-Vanik amendment and the Solzhenitsyn affair having directed the spotlight on the link between détente and human rights, the American public protested against the CSCE or, as William Safire wrote, this 'Super Yalta'.⁶⁴ A *Wall Street Journal* editorial urged 'Jerry, Don't Go' and argued 'it is hard to see any Western gain at Helsinki . . . [There is] no reason to endow the whole project with the President's imprimatur' while *The New York Times* affirmed that 'nothing signed at Helsinki will in any way save courageous free thinkers in the Soviet empire from the prospect of incarceration'.⁶⁵ Senator Henry Jackson said: 'There are times in international diplomacy when the president of the United States ought to stay home'.⁶⁶ Foreshadowing his upcoming nomination challenge to Ford, former California governor Ronald Reagan said that Ford's trip to Helsinki had placed 'our stamp of approval on Russia's enslavement of the captive nations', and declared: 'I am against it and I think all Americans should be against it'.⁶⁷

However, the agreement reached at Helsinki represented a real watershed both in Cold War and human rights history. It embodied two different conceptions of order: a conservative vision of international stability linked to state sovereignty and the balance of power, and a more progressive conception, which promoted a liberal view of global order through the reduction of barriers to the free flow of people, ideas, and information, as well as the promotion of human rights and cultural exchange. This 'Helsinki paradox' was made clearer in the following month, with two unexpected consequences of the Final

⁶³ Jussi Hanhimäki, "'They Can Write It in Swahili": Kissinger, The Soviets, and the Helsinki Accords, 1973–1975,' *Journal of Transatlantic Studies* 1, no. 1 (2003): 37–58. A different perspective is in 'Détente and Human Rights: American and West European Perspectives on International Change,' *Cold War History* 8 (November 2008): 527–45.

⁶⁴ William Safire, 'Super Yalta,' *New York Times*, 28 July 1975.

⁶⁵ 'Jerry, Don't Go,' *Wall Street Journal*, 23 July 1975; 'Solzhenitsyn Says Ford Joins in Eastern Europe's Betrayal,' *New York Times*, 22 July 1975; 'The Limits of Détente,' *Washington Post*, 7 August 1975. See also Sarah Snyder, *Human Rights Activism and the End of the Cold War. A Transnational History of the Helsinki Network* (Cambridge: Cambridge University Press, 2011), 34.

⁶⁶ 'Jackson on Helsinki Summit,' 22 July 1975, Accession 3560/06/11/115, HMJP.

⁶⁷ Gerald Ford, *A Time to Heal: the Autobiography of Gerald R. Ford* (New York: Harper and Row, 1979), 300.

Act: the birth of a Moscow-based Helsinki Watch Group and the creation in the United States of a congressional Commission on Security and Cooperation in Europe.

On 9 September 1975, Millicent Fenwick (R-NJ) introduced a bill calling for the creation of a commission and a few days later, Senator Clifford Case (R-NJ) introduced the same proposal in the Senate.⁶⁸ The executive branch strongly opposed the proposal. Writing to John Sparkman, chairman of the Senate Foreign Relations Committee, Robert J. McCloskey, Assistant Secretary for Congressional Relations, listed the administration's objections. From the executive branch's perspective, the commission was a superfluous body, which duplicated the functions of the State Department. Furthermore, the administration, wrote McCloskey, had 'taken all the necessary steps for monitoring the implementation and compliance with CSCE by the other signatory states'. According to McCloskey:

the Commission . . . would not appear to be equipped to add significantly to the action already being taken or the information being compiled; nor would it appear to be able to exercise a more effective monitoring role than existing committees or subcommittees of the Congress. Furthermore, its extraordinary composition would not seem to provide an appropriate or effective means for coordinating or guiding our efforts.⁶⁹

This firmness arose partly as a result of the Soviet reaction. Indeed, the Soviets denounced this continuous American interference in their domestic affairs. The indignant Soviet response prompted the administration to take a more critical position regarding the commission.⁷⁰ In May, the Subcommittee on International Political and Military Affairs held the hearings on the creation of the commission. Several witnesses pointed out that the commission would have been the only tool to ensure that the Helsinki Agreement would be respected. Senator James Buckley (R-NY) demanded 'some assurance that the Helsinki Accords will be observed by all signatories' because he was 'concerned that the Final Act not become, as détente has become, a one-way street'.⁷¹ Joshua Eilberg (D-PA) stressed that 'there should be no doubt that unless there is a constant public monitoring of how the various signatories to the Helsinki declaration live up to the promises of the section on human rights that section will be ignored by the Soviet Union and, quite probably, other East European countries'.⁷² And in March 1976, Jackson announced his support for the commission.⁷³ Hearing of the dissidents' activities in Eastern Europe, the 'ethnic lobbies' abandoned their critical positions of the

⁶⁸ Fenwick, *Congressional Record*, 94th Congress 2nd Session, 23 March 1976, 7737.

⁶⁹ McCloskey to Sparkman, 19 January 1976, in Senate Committee on Foreign Relations, *Establishing a Commission on Security and Cooperation in Europe* (Washington: Government Printing Office, 1976).

⁷⁰ Clift to Scowcroft, 'Soviet Propaganda on U.S. Violations of the CSCE Final Act', December 2, 1975, Folder CSCE 1975(7) WH, Box 44, NSA-NSC Europe, Canada and Ocean Affairs Staff, GFPL.

⁷¹ House Committee on International Relations, Subcommittee on International Political and Military Affairs, Hearings on H.R.9466 (S.2679) to Establish a Commission on Security and Cooperation in Europe, 24.

⁷² House Committee on International Relations, Subcommittee on International Political and Military Affairs, *Hearings on H.R.9466 (S.2679) to Establish a Commission on Security and Cooperation in Europe*, 15.

⁷³ 'Jackson Urges Action on the Helsinki Accords', 26 March 1976, Accession 3560-06/12/26, HMJP.

agreement and supported the Fenwick-Case legislation, which received public endorsement from many organisations, such as the Polish-American Congress, the Joint Baltic American Committee, and the Union of Councils for Soviet Jews. From their perspective, the monitoring commission was a means to pressure the Soviet and East European governments to comply with the Helsinki rules.⁷⁴ The National Conference on Soviet Jewry coordinated a national campaign to press Congress in favour of the bill, which was considered the only instrument with which to promote the protection of human rights in the Soviet empire. Thus, the organisation's president Jerry Goodman wrote: 'the tone of our campaign should not be so designed as to preclude the possibility that the Soviet Union will at some point disregard the provision completely'. It was necessary to act 'intelligently [and] . . . not embarrass the Russians so much that they can scrap it completely'.⁷⁵ Above all, the NCSJ started to see the document as a substitute to promote freer emigration from the USSR. Through the articles concerning the reunification of families, it would be possible to reverse the negative trend in Soviet exit visas, which decreased from 20,628 in 1974 to 13,221 in 1975.⁷⁶

On 13 May 1976, Andrei Sakharov summoned a press conference in his apartment. During the meeting with Western correspondents, eleven dissidents announced the creation of a monitoring group of the Helsinki Accords, whose aim was to collect denunciations of Soviet authorities' violations of the Helsinki Act.⁷⁷ Despite an immediate crackdown by the authorities, the group started to report Soviet violations of human rights, thus providing the ultimate impetus to the Fenwick proposal. On 17 May, five days after the group's formation, Congress finally approved the creation of the 'Helsinki Commission'.⁷⁸ During the vote, Dante Fascell (D-FL), who became the first chairman of the commission, told the floor that Congress should play a more vigorous role in the promotion of human rights and then, he confessed:

when I first learned of Mrs. Fenwick's proposal I was skeptical about the wisdom of setting up yet another government entity for such a specific purpose . . . I am now convinced that such an entity would not only be useful but could play a vital role in the promotion of human rights and in making certain that détente will be a two-way street and will mean substantive progress on fundamental humanitarian issues.⁷⁹

⁷⁴ House Committee on International Relations, Subcommittee on International political and Military Affairs, *Hearings on H.R.9466 (S.2679) to Establish a Commission on Security and Cooperation in Europe*, 43–51.

⁷⁵ Jerry Goodman to Stanley Lowell, 22 October 1975, Folder Goodman 1975, Box 6, NCSJ-CJH.

⁷⁶ House Committee on International Relations, Subcommittee on International political and Military Affairs, *Hearings on H.R.9466 (S.2679) to Establish a Commission on Security and Cooperation in Europe*, 29–41.

⁷⁷ 'Work Project: The Group to Promote the Observance of the Helsinki Agreements', Andrei Sakharov Papers, Coll. Andrei Amalrik Papers, Box 9, Folder 140; Andrei D. Sakharov, 'Statement to the Signatories of the Helsinki Agreement' 1976, S.II.2.1.15.3; Andrei Sakharov Papers, Andrei Sakharov Collection, Harvard University.

⁷⁸ Drinan, *Congressional Record*, 94th Congress, 2nd Session, 17 May 1976, 14052; Fenwick, *Congressional Record*, 94th Congress, 2nd Session, 17 May 1976, 14190.

⁷⁹ Fascell, *Congressional Record*, 94th Congress, 2nd Session, 17 May 1976, 14052.

Although the bill had bipartisan support, the executive branch kept firmly opposing it.⁸⁰ Indeed, the State Department advised ‘permit[ing] the bill to become law without presidential signature.’⁸¹ Staff member Jim Cannon suggested the president should not veto the bill because such an action ‘would be perceived by the American Jewish community and others as an effort to hamper the work of the Commission’; in fact ‘a number of Jewish community leaders have called to urge [presidential] approval.’⁸² Similarly, believing that ‘presidential disapproval of the legislation at this time might be construed by the public, albeit incorrectly, as evidence of a callous Administration attitude toward the question of human rights’, the Department of Commerce proposed an official ceremony for the signature.⁸³ A halfway solution prevailed: on 3 June, President Ford signed the bill at the White House with Case, Fenwick, and her legislative aide Bill Canis present.⁸⁴

Despite the signing of the bill, the Ford administration did not rush to comply with the legislation. Rather, in the following months, Kissinger tried to slow down the commission’s works, not appointing representatives from the executive branch. Officially, the State Department was concerned about their role in the commission. Off the record, Kissinger confessed to his staff the political implications of such a body:

Kissinger: The President signed the bill only because I had not been told what was happening. I would have fought it to the death. It never would have passed if I had known more about it. . . . I put DOD up to send their General Counsel. What would the Congressional members of the Commission think if DOD sent a substantive man from ISA and I don’t send Hartman? I don’t want the Executive branch to be helpful.

Hartman: the bill has been signed. We are now in a position of having to comply whether we like it or not

Kissinger: While I am the Secretary of State there will be no questioning of the Secretary by State Department personnel in public, not if they want to keep their jobs. I will not have the Executive branch participants used to encourage disputes between its various branches. It will not be Monroe Leigh’s job to bring forth information for the committee. That function is to be performed by the witnesses. I am worried about Senator Jackson setting up a similar Commission on SALT compliance with three generals. If that happens the department will lose control completely. We might as well put Jackson in the Pentagon.⁸⁵

It was only after four months of public and private pressure from the commissioners and ‘ethnic lobbies’, and a month before the presidential elections, that Ford appointed

⁸⁰ Scowcroft to Collins, ‘HR 10193’, Folder CSCE 1975(6) WH, Box 44, Accession NSA–NSC Europe, Canada and Ocean Affairs Staff, GFPL.

⁸¹ ‘Enrolled Bill S.2679 – CSCE – Sen. Case’, 28 May 1976, Box 46, White House Record Office, GFPL.

⁸² Cannon to Ford, ‘H.R. 15813 – To Amend the Act Establishing the CSCE’, 15 October 1976, Box 65, White House Record Office, GFPL.

⁸³ Frey to the President, ‘Enrolled Bill S.2679 – CSCE’, 28 May 1976, Box 65, White House Record Office, GFPL.

⁸⁴ ‘Stanley Lowell on the Fenwick-Case Bill’, 3 June, 1976, Folder 1, Box 73 NCSJ-CJH.

⁸⁵ Memorandum of Conversation, Kissinger, Hartman, Leigh, Eagleburger, Jenkins, Gantz, 26 July 1976, Box 44, NSA–NSC Europe, Canada and Ocean Affairs Staff, GFPL.

James G. Poor, Monroe Leigh, and Mansfield Sprague to the commission. In doing so, the President specified that the State Department, not the commission, had 'primary responsibility within the United States government for assuring compliance with the Helsinki Accords.'⁸⁶

Conclusions: 'A rare convergence, like an eclipse of the sun'

'In the past year', the Friends Committee on National Legislation noted in 1976, 'human rights have changed from a rather tedious subject of low visibility to one of the most relevant issues on Capitol Hill'.⁸⁷ Despite White House opposition, Congress succeeded in introducing human rights legislation into American foreign policy. The rationale behind this action was manifold. Firstly, this action was rooted in the changes caused by the Vietnam War. 'The American Century has ended . . . foundered on the shoals of Vietnam', sociologist Daniel Bell wrote in 1975.⁸⁸ The emergence of human rights was a reply to the crisis of American internationalism, the Vietnam war, the Watergate affair, and the American role in the Chilean coup. It was an exceptionalist answer to the crisis of American exceptionalism.

Secondly, human rights proposals were an 'unintended consequence' of Nixon, Ford, and Kissinger's foreign policy and of the latter's inability to recreate a domestic consensus on *détente*. In a speech he gave during the 1976 electoral campaign, when his policy was subject to heated criticism, Kissinger reacted to those who charged his foreign policy with amorality: warning against the deceptive Wilsonian moralism, he claimed that the first political and moral duty was to avoid nuclear war. It was the clash between two different, albeit complex, neither linear nor coherent, *Weltanschauung*. To achieve peace among states, Kissinger claimed, American foreign policy ought to be aimed at bringing stability and order to the international system. Instead, human rights advocates claimed that to achieve peace, states needed to modify the treatment of their citizens. Within this position, the human rights interest turned out to be contradictory, 'two-headed', and dependent upon two ideological definitions of the American role in the world. On the one side, the advancement of human rights permitted the new internationalists, such as Donald Fraser, to define a new foreign policy, which was consistent with the 'exceptionalist self-perception': 'Americans have agreed since 1776', Schlesinger wrote at the end of the 1970s, 'that the United States must be the beacon of human rights to an unregenerate world'.⁸⁹ Looking back at this past, new internationalists found the key elements to face future challenges, transcending the Cold War and responding to the growing interdependence. It was a vague position, which criticised Kissinger's realist assumptions and style, but which accepted *détente* because – from their perspective – it reduced the bipolar rivalry, facilitating the demilitarisation of American foreign policy

⁸⁶ Ford to Fascell, 7 October 1976, Box 44, NSA – NSC Europe, Canada and Ocean Affairs Staff, GFPL.

⁸⁷ Friends Committee on National Legislation, Newsletter, December 1976.

⁸⁸ Daniel Bell, 'The End of American Exceptionalism', *The Public Interest*, Fall 1976, 193–224.

⁸⁹ Schlesinger Jr., 'Human Rights and the American Tradition', 503–26.

and the definition of a solution to the problems of interdependence. On the other side, Jackson and those who started to call themselves neoconservatives differed from both Kissinger's détente and the new internationalists' globalism. American moral and military power should not be limited by any form of interdependence. In this sense, their action on human rights policy again put forward the 'American difference' both in the global arena (in opposition to new internationalists' interdependence) and in bipolar relations (against Kissinger's détente). These two approaches reinforced each other. Kissinger himself had to admit that 'conservatives who hated Communists and liberals who hated Nixon came together in a rare convergence, like an eclipse of the sun.'⁹⁰ This 'rare convergence' produced two results.

First, it permitted human rights to gain prominence in American foreign policy in the following years. As D.P. Moynihan soon understood, the roots of Carter's human rights agenda ran deep in this ambiguity and in the need to mediate between these two different positions.⁹¹ Second, the human rights movement largely disowned Kissingerism. The domestic attention toward human rights was one of the key factors in the failure of Kissinger's project, although not the only one. The implosion of the Portuguese regime, Soviet adventurism in Africa, and the evolution in the Middle East provoked the sudden crisis of Kissinger's strategic vision, but it was congressional assertiveness on human rights which weakened his realistic rhetoric and his ability to build a domestic consensus. By early 1976, journalists, commentators, and pundits were foreshadowing Kissinger's decline. Indeed, his diplomacy and the successes it brought never really resonated with the American public, who were in favour of détente and bipolar dialogue, but who also felt that morality and ideals should be reflected in the making of American foreign policy.

Once the Cold War consensus had split and Kissingerism had been defeated because of its perceived amorality, human rights offered a strong moral and ideological way to recreate wide domestic support. By proclaiming human rights to be a 'fundamental tenet of (American) foreign policy', the new president, Jimmy Carter, attempted to respond to the growing attention toward human rights, uneasily trying to synthesise the neoconservatives' and the new internationalists' approaches to human rights.

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⁹⁰ Isaacson, *Kissinger*, 608.

⁹¹ Memorandum of Conversation, Moynihan and Vance, December 1978, Box 39, DPM; Moynihan, 'The Politics of Human Rights,' *Commentary* (November 1977): 19–26.

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