

Bait and Switch?

Human Rights and U.S. Foreign Policy

By Julie A. Mertus | March 2004

In the aftermath of the failure to find Iraqi weapons of mass destruction, human rights have become the most prominent justification for the Iraq War in statements by President George W. Bush and other administration officials. This represents the latest of what has become a routine pattern for numerous U.S. administrations: invoking human rights to justify a range of foreign policy decisions and military ventures. But this human rights talk has not been supported by a human rights walk. Policymakers consistently apply a double standard to human rights norms: one that the rest of the world must observe but which the U.S. can safely ignore.

Talk of human rights has become the political equivalent of a “bait and switch tactic.” Like the car salesman promoting an amazing but bogus deal in order to get people into his showroom and to boost his reputation as a preferred dealer, politicians champion human rights in order to induce desired behaviors in others and to nurture a positive self-image. Then, as soon as the desired behavior occurs, they offer a substitute sentiment unreflective of a genuine concern for rights. Instead of promoting just solutions to contemporary foreign policy dilemmas, rights talk is becoming just another way to dupe otherwise-unwilling allies into supporting U.S. interests.

What’s going wrong with rights?

There is nothing wrong with human rights per se, but they are often opportunistically seized upon as the best available choice for framing arguments and making policy choices. Other options, which may not be intrinsically bad, look less appealing when compared to the pretty veneer of human rights. What is wrong is that human rights remains only an option and has not achieved the status of an imperative. Furthermore, in interplay with other policies, human rights are vulnerable to misuse by powerful states plying the cause for their own benefit.

To extend the car dealer analogy, the car is a desired commodity promised by the dealer in an attractive package, but when the customer arrives, he or she finds that the option actually offered is not the same as the advertised special. The car dealer misleads people through his power of influence, stemming from the desired product he has to offer and from the magnified voice that his wealth affords him (i.e., his ability to advertise). Like the car dealer, the U.S. can use its wealth and influence to mislead other states about its commitment to a human rights

framework, appearing to support universal human rights standards while actually applying double standards.

Recognizing the ethical problems with “bait and switch” car dealers, consumer protection laws seek to set advertising requirements that diminish the possibility for such behavior. Perhaps even more influential is the limit to the amount of nonsense and trickery that the American consumer is willing to tolerate. What is needed with respect to human rights is a similar safety mechanism—a “consumer protection provision” regarding human rights and limits to what is socially acceptable—to eliminate or at least highly restrict the possibility that they will be trumped by lesser, competing norms.

The misuse of human rights gets to the heart of international relations theories about how norms spread and gain influence. For a long time, the most popular theory of norm diffusion has been the socialization and persuasion approach championed by such international relations thinkers as Thomas Risse and Kathryn Sikkink. According to this school of thought, dialogue, communication, and argumentation are essential mechanisms for the socialization of norms.¹ Arguing for the inherent goodness of human rights may shame states into action in individual instances, and, as human rights norms are internalized, this process may provoke a shift in identity, interests, and expectations. The best advocates are those that make the most convincing or skillful argument in favor of one norm over another.

One could point to significant evidence that human rights arguments are indeed powerful tools for framing policy issues and can influence behavior. After all, in recent years, regardless of administration, both the White House and Pentagon have repeatedly invoked human rights concerns as justifications for their actions. But in

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those cases where human rights advocates are successful, have they really persuaded anyone in a broad or transformative sense, or have they only managed to convince someone to apply their approach to a specific, isolated case?

The socialization theory of norm diffusion has serious shortcomings. If we could get into President Bush's head when he speaks about human rights, what would we find? Given the instrumental and selective manner in which the Bush administration employs human rights, can we really point to a shift in the identity, interests, or expectations of anyone in the White House? Can we ever really tell if someone's sentiments have shifted? More importantly, does a sentiment shift matter if behavior does not change? Why is it that U.S. foreign policy, regardless of administration, continues to address in a selective and self-serving manner the violation of human rights by other countries while refusing to apply the same international standards to its own behavior?

How do human rights influence U.S. foreign policy?

To understand this problem, we need to consider a new theoretical model of norm diffusion. One current theory does not require explicit evidence of a philosophical shift but rather just enough "rhetorical coercion" to compel the endorsement of a normative stance. Under this model of norm diffusion, proposed by international relations upstarts Patrick Jackson and Ronald Krebs, claimants deploy arguments less in the naïve hope of persuasion than in the realistic expectation that they can, through skillful framing, back their opponents into a "rhetorical corner."² The goal then is not to persuade but to coerce by limiting policy options.

According to this norm diffusion theory, human rights advocates who focus on persuasion and primarily target decisionmakers have it all wrong. Philosopher Richard Rorty's notion that human rights concerns can provide a "sentimental education"³ that generates openness and awareness to the oppression of others is viewed as nice but ineffective over the long term. Instead of trying to change minds in government, advocates should focus on changing minds in the general public. Only a wholesale cultural shift in favor of humane values can create the conditions that compel human rights policy choices.

Thus, to the extent that advocates concentrate on changing perspectives, the perspectives that matter most are those of the general public, not those of policymaking

elites. Returning to the car salesman analogy, rights advocates should create consumer protection conditions and raise the expectations of consumers in order to limit the range of ways in which a car deal can be closed. How could this be done? The answer lies in creating a human rights culture, an environment in which human rights double standards are not tolerated.

It's really all about a culture war.

A *human rights culture* is the vehicle through which a particular set of shared beliefs and understandings—human rights norms—take root in and influence a population.⁴ The adoption of human rights language is an essential step in building a human rights culture, but this alone is insufficient. Human rights concepts enter a culture slowly, as the population develops its own shared (although often contested) understanding of the prominence and importance of the norms. Incrementally, humane values become part of the identity, interests, and expectations of individuals and groups within the society.

America has human rights language without a human rights culture—the talk without the walk. The level of awareness of human rights in the U.S. is extremely low. According to Amnesty International, 94% of American adults and 96% of American youth have no awareness of the Universal Declaration of Human Rights (UDHR).⁵ Even when they are aware of human rights, U.S. citizens are far too willing to tolerate their government's abridgement of international human rights standards.

Since the adoption of the UDHR in 1948, the U.S. has never taken seriously its mandate that "every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction." To have done so in 1948 would have meant acknowledging the legalized discrimination of racial segregation. To do so in 2004 would mean admitting that, as a matter of policy, every U.S. administration has refused to acknowledge social and economic rights as human rights.

Today, "although generally well-informed about their civil and political rights under the U.S. Constitution, most people in the U.S. would be astounded to learn that they have international human rights," observes Nancy Flowers, an American educator who pioneered human

rights education programs for Amnesty International and other groups.⁶ “Rather than cultivating a culture of human rights,” Flowers explains, “the U.S. government has consistently found it advantageous to suppress human rights awareness at home while using human rights abuses abroad as a grounds for sanctions and even invasions.”⁷ Only recently have U.S.-based human rights groups challenged this stance by directing their efforts toward human rights culture building activities at home.

Among the most dynamic of the new human rights groups is the National Center for Human Rights Education (NCHRE)⁸ in Atlanta, Georgia, which “seeks to catalyze a human rights movement in the U.S. by integrating a human rights framework into existing social movements.”⁹ Founder and Executive Director Loretta Ross views human rights as a key to empowerment. “Like teaching slaves to read in 19th-century America,” she explains, “teaching human rights in 21st-century America is a far-reaching act that offers a rich vision of human possibilities. Human rights education trains us in a new way of relating to each other—not through opposition—but through uniting us for the sake of our mutual destiny.”¹⁰ Activists trained by the NCHRE who work on a multitude of issues—combating racism, rooting out homophobia, alleviating poverty, countering discrimination against people with disabilities, promoting women’s rights, protecting the environment, defending reproductive rights—identify themselves as part of the global human rights movement.

Other groups also attempt to infuse human rights thinking into existing social movements. The International Human Rights Law Group promotes implementation of the Convention on the Elimination of All Forms of Race Discrimination (CERD) in the U.S. by helping civil rights and social justice groups integrate the language, techniques, and procedures of international human rights law into their efforts to combat racial discrimination.¹¹ Mindful of the synergistic benefits for its global advocacy work, Amnesty International has focused attention on building a human rights culture in the United States. In 1999, Amnesty held hearings in cities across the country addressing the international human rights dimensions of police brutality.¹² These hearings led to the creation in 2002 of Amnesty USA’s first full-scale domestic human rights program. “We’ve continued to hold public hearings, because storytelling by the community is very important,” noted Cosette Thompson, Amnesty International’s Western Regional coordinator, citing hearings on racial profiling held in 2003 as the most recent such examples.¹³

Transcending human rights education, the Center for Economic and Social Rights (CESR) employs four additional strategies for nurturing a human rights culture: (1) supporting emerging human rights movements by providing capacity building and linkage to UN mechanisms; (2) developing human rights-based advocacy models and policy proposals to effect social change and generate new methodologies for domestic human rights work; (3) building networks of groups addressing human rights concerns in the U.S.; and (4) cultivating U.S. human rights jurisprudence through legal submissions in courts, commissions, and tribunals as well as broader analysis of U.S. legal accountability.¹⁴

The infusion of international norms into the law and policy of state and local communities serves to foster greater participation in the development and enforcement of human rights. Leading the way, San Francisco became the first city in the U.S. to pass a law instituting the principles that underlie the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).¹⁵ This law, spearheaded by the Women’s Institute for Leadership Development (WILD), requires city departments to use a gender and human rights analysis to review city policy in employment, funding allocations, and delivery of direct and indirect services.

Other campaigns have been directed at human rights abuses outside the United States. For example, the Massachusetts General Assembly passed legislation in 1996 prohibiting state agencies from contracting with any person doing business with Myanmar. Twenty-six cities, including Santa Monica, San Francisco, Berkeley, Oakland, Boulder, and Ann Arbor, have passed similar ordinances limiting business with Myanmar.¹⁶ Other local ordinances have targeted Nigeria, China, Indonesia, and Cuba for their human rights abuses.¹⁷ Though still extremely rare, such efforts have served to enhance local awareness of human rights norms.

Despite the energy expended and progress made, America still does not have a human rights culture. U.S. foreign policy employs a human rights double standard, because—just like our wily car dealer—Washington perceives that it has that privilege. Such behavior is incompatible with the central tenet of human rights—that they should be applied to all equally. Double standards in human rights policy not only weaken America’s claim to lead globally through moral authority but also undermine the legitimacy of human rights norms. As long as there is no sensitized citizenry unwilling to tolerate government chicanery and no “consumer protection provision” disal-

lowing American exceptionalism to trump human rights, it will continue to do so. The building of a strong human rights culture within American society may provide the only antidote to Washington's "bait and switch" propensity.

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ENDNOTES

- ¹ Thomas Risse and Kathryn Sikkink, *The Power of Principles: The Socialization of Human Rights Norms in Domestic Practice* (New York: Cambridge University Press, 1999).
- ² Patrick Thaddeus Jackson and Ronald R. Krebs, "Twisting Tongues and Twisting Arms: The Power of Political Rhetoric," Paper prepared for delivery at the 2003 Annual Meeting of the American Political Science Association, August 28-31, 2003, p. 1.
- ³ Richard Rorty, "Human Rights, Rationality and Sentimentality," in Stephen Shute and Susan L. Hurley, eds., *On Human Rights: The Oxford Amnesty Lectures* (New York: Basic Books, 1993), p. 114.
- ⁴ John Witte, "A Dickensian Era of Religious Rights: An Update on Religious Human Rights in Global Perspective," *William and Mary Law Review*, vol. 42 (2001), pp. 707, 712. Witte states that human rights norms "need a human rights culture to be effective."
- ⁵ See <<http://www.hrusa.org/features.shtm>>. The survey was commissioned in 1997 by Human Rights USA Partners—Amnesty International USA, the National Center for Human Rights Education, Street Law, Inc., and the University of Minnesota Human Rights Center.
- ⁶ Interview with Nancy Flowers, September 14, 2003.
- ⁷ Ibid.
- ⁸ National Center for Human Rights Education (NCHRE). See <<http://www.nchre.org/>>.
- ⁹ See <<http://www.nchre.org/>>.
- ¹⁰ Nancy Flowers, "Human Rights Education in the USA," Issues of Democracy (electronic publication of the U.S. State Department), available at <<http://usinfo.state.gov/journals/itdhr/0302/ijde/flowers.htm>>.
- ¹¹ International Human Rights Law Group, "Combating Racial Discrimination in the U.S.," available at: <http://www.hrlawgroup.org/country_programs/united_states/default.asp>.
- ¹² Interview with Cosette Thompson, Amnesty International, September 2003.
- ¹³ Ibid.
- ¹⁴ The Center for Economic and Social Rights, <<http://www.cesr.org/PROGRAMS/usprogram.htm>>.
- ¹⁵ WILD for Human Rights, <http://www.wildforhumanrights.org/human_rights_advocacy.html>.
- ¹⁶ Erin E. Milliken, "National Foreign Trade Council v. Natsios: Massachusetts as a Participant or a Regulator in the International Market," *Journal of Law and Commerce*.
- ¹⁷ Ibid.

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