

## **The 1990 State of Human Rights Address**

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Dec. 10, 1990

New York, New York

### **Introduction**

During each of the last few years I have been asked by the human rights representatives to give a brief address on a particular subject. This year there was a unanimous decision that I should speak on the rule of law. As a non-lawyer, I will do the best I can during these next few minutes to outline some of the principles that all of us should keep in mind.

We are honored by the presence of these two recipients of the Carter-Menil awards. It is difficult to describe what they have done in their own countries to expose human rights abuses and to seek justice and peace for those whom they represent. But it is impossible to measure the inspiration they offer us in our fortunate, secure, and safe world. Too often, we are inclined to focus our attention on oppression only when it is convenient or expedient. We wait for a highly publicized outrage to be brought to our attention. We are rarely persistent when the first flash of dismay has passed. We tend to protect our friends or political allies from exposure of their crimes. Partial or temporary relief from tyranny is likely to satisfy us. We forget how remote and inarticulate are those who we know to suffer most. We diminish the universal nature of human rights by our inconstancy and timidity.

There are few of our human rights associates who have been able to overcome these failings with the depth of their concern. One such friend honors us with her presence: Dominique de Menil. I am honored to be her partner in this effort.

### **State of Human Rights Address**

It is important for us to consider how law affects the protection of human rights. If laws were only enforced, would freedom and justice prevail and oppression be precluded? Aristotle wrote more than 23 centuries ago:

He who bids the law rule, may be deemed to bid God and Reason alone rule, but he who bids man rule adds an element of the beast; for desire is a wild beast, and passion perverts the minds of rulers even when they are the best of men.

John Locke added another crucial dimension when he wrote, in 1690, "...freedom of men under government is to have a standing rule to live by, common to everyone of that society, ...and not to be subject to the inconstant, uncertain, unknown or arbitrary will of another man."

For justice to prevail, the government itself must be bound by the same laws that apply to all citizens—laws that guarantee what we call in this country "due process." Problems develop when the law comes from one man or an elite group and grants special privileges to some and deprives others of justice.

Even while claiming to protect the rights of people, powerful leaders pass laws that authorize, condone, encourage, or actually require the denial of basic human rights. The oppressed have no recourse to a court or higher authority.

In Guatemala, the law of the land still forces the Mayan Indians to work in bondage for racist masters, without compensation and with little freedom to participate in shaping their own destiny. Because they demand justice, they have been murdered by officers of their own government. John Locke's premise is violated. There is no "standing rule to live by, common to everyone of that society...." Guatemala has a Constitution that includes many human rights guarantees, but when CERJ members have held up a copy of their own constitution in the face of repeated harassment by the military, army leaders have called it a "subversive document."

As Aristotle reminded us, the best of rulers even in an enlightened society can be perverted by a passion for privilege. During a substantial part of my early life, I joined other Americans in condoning by silence the legal oppression of our black neighbors. It was a way of life in the South when I was growing up. The blight of racial discrimination has still not been completely removed from our society. Just this summer a modest civil rights bill was killed with a presidential veto.

Racism exists in a much more virulent form in South Africa, and oppression of non-Muslims in Sudan has caused hundreds of thousands of deaths. As we emphasized last year in these same ceremonies, the peoples of the Middle East will never be peaceful and secure until Palestinians achieve the basic rights of citizenship.

Our human rights failures in the United States are correctable, because the rule of law is shaped by the principles of our Constitution. "Due process" is a key phrase, and the judiciary is independent. The will of the people is ultimately supreme. In too many countries, the final decisions are made by the government itself, depending on transient circumstances. The definition of "citizens rights" can be changed by the ruler of the moment. No higher law constrains the state. International standards and covenants and even their own laws are simply ignored.

Both dictators and unstable regimes tend to move toward increased repression. An authoritarian regime is often immune to the truth, with leaders living in ivory towers, surrounded by sycophants who only tell them what they want to hear. I remember that in 1978 the Iranian ambassador in Washington told me that he was distressed because the beleaguered Shah had no way to obtain the truth about his country or people. Last year, as election day approached in Panama, Rosalynn and I tried for more than two hours to get a commitment from General Manuel Noriega that he would accept the voters' decision even if his candidates should lose. He was psychologically incapable of imagining that he might be unpopular. Three days later, when only 22 percent of the voters had supported him, he nullified the election results, bringing tragedy on himself and his people. It is hard to believe that President Saddam Hussein is receiving objective, sometimes critical analyses of his decisions in the Gulf crisis.

All too often in this hemisphere in particular, military officers dominate elected civilian leaders, subverting the rule of law and protecting human rights violators. Now, in Chile, the military have the right to name senators to the congress, and the elected president has no authority to remove the head of the armed forces. El Salvador is probably the worst case. Thousands of innocent people have been murdered by death squads that are often indistinguishable from the military.

These murderers are protected from trial or punishment by the law itself. Under it, only security forces can actually provide evidence of human rights crimes committed by their own members. In no case of this kind, despite tens of thousands of murders committed, has an officer been found guilty and prosecuted.

Even when civilian courts are empowered to act, their decisions are subverted by pressure from the military. In Argentina, where we had high hopes for democracy, after it became known that more than 9,000 people had been "disappeared" by the military rulers, 400 defendants faced trial. Prosecution was limited to two dozen senior officials. Two former presidents and three other officials were convicted, but all other proceedings were terminated. President Carlos Menem has now stated that he will pardon all of them before end of this year.

A nation's leaders have an obligation to maintain order in their society, but order and justice are often in conflict. In democracies, citizens can protect themselves against their government. Otherwise, violence is likely to erupt. Increased oppression is then imposed to control the violence by changing the laws or just replacing them with so-called "emergency measures." Listen to a few examples:

- The people of Singapore have been ruled with an iron hand, with severe limits of freedom of speech and religion. Just last month, a measure was approved that permits the arrest and detention without trial of a member of the clergy who criticizes the government for its mistreatment of the poor. Detention can be renewed under Singapore law indefinitely. A person may spend an entire life in prison without ever having been judged.
- Except for a brief period under Anwar Sadat, a state of emergency has been in place in Egypt for the last 23 years. President Mubarak explained to me recently that this was necessary to protect the people against the temptation to act irresponsibly.
- Under Prime Minister Indira Gandhi, in the world's greatest democracy, forced sterilization and massive abuses took place in India.
- Countries like India and Israel still detain thousands of people for six months or more under carefully crafted laws that prevent effective judicial inquiry and prevent the imprisoned from knowing their accusers or even hearing the accusation against them that has put them in prison.
- Under a Sri Lankan emergency act, police or military personnel may arrest anyone without a warrant, hold detainees up to a year and a half without charge or trial, and deny access to a lawyer.

Reaction to such measures has increased in recent years because global travel and improved communications, especially television, have made oppressed people more aware of their own plight as they contrast their lives with those of free people. Thousands of Chinese students came here to study and returned home to demand democratic reforms. The people of Eastern Europe have risen up to demand freedom. The desire for human rights is a powerful force, not easily comprehended by those of us who are free. Oppressed people will offer their very lives to secure the rights that we take for granted.

Last year, at this same ceremony, I discussed war as the major cause of suffering. Most of us are unaware of the civil strife that prevails throughout the world—not all of it designed to achieve democracy and freedom.

Let me give you a quick picture of the global scene as it existed the day before Iraqi forces invaded Kuwait: On August 1, The Carter Center was helping to monitor more than 100 conflicts in the world, 25 of which were "major" wars. In each of these, at least 1,000 deaths have occurred on the battlefield. Of those 25 major wars, not a single one was between sovereign nations. All were civil wars, among neighbors within a country, with some striving to secure independence. The tragedy is that only on rare occasions can either international organizations or other major world powers act to alleviate this suffering. It is simply not permissible for United Nations officials or an American ambassador to negotiate or even communicate with revolutionary forces seeking to change or overthrow a recognized or member government. We at The Carter Center and a few other nongovernmental organizations, therefore, are free to delve into the causes of these civil wars, to communicate with both the established government and the revolutionaries, to try to bring them to the peace table or to orchestrate other means by which they can be ended.

Attempts have been made to restrict such violence through the rule of law. A basic tenet of the rule of international law is nonintervention in the internal affairs of another country. The United Nations Charter prohibits "the threat or use of force" against another nation. Listen to the charter of the Organization of American States, to which we are signatory: "No state has the right to intervene directly or indirectly for any reason whatever in the internal or external affairs of another state." Great nations have a special responsibility to honor their commitments, to prevent armed conflict, and to preserve the rule of law.

As such, our nation does not fare well. The United States has launched several recent strikes in direct contravention of these restraints. American planes bombed Tripoli, U.S. shells and bombs fell on Lebanese villages around Beirut, and our troops invaded Grenada and Panama. Our nation even withdrew from jurisdiction of the International Court of Justice because we were orchestrating the Contra war and accused of mining Nicaraguan harbors. This example set by the world's greatest nation was a severe blow to the concept of international law. In sharp contrast, Soviet President Mikhail Gorbachev has demonstrated in Eastern Europe, Afghanistan, and Kampuchea a long-overdue preference by the Soviet Union for negotiations and nonviolence.

There are some stabilizing legal factors that increasingly deter attacks by one nation on another.

First, the world community is now strongly committed to the preservation of existing international boundary lines, no matter how arbitrarily they were drawn by the victorious nations after the First and Second World Wars. This has been demonstrated by reluctance to recognize sovereignty in the Baltic States and Eritrea, and more recently and very vividly by reaction to the violation of Kuwait's borders.

Second, the United Nations Charter was adopted, then the Universal Declaration of Human Rights. Such international agreements have set uniform standards that are comprehensible by people in all nations, but the global community has been ineffective in enforcing these criteria in oppressive societies. When national laws conflict, world leaders should demand that the international human rights guarantees be honored.

As president, I insisted that the provisions of the United Nations Charter, the Helsinki Accords, and the Universal Declaration of Human Rights should prevail over contradictory human rights policies in other countries, such as those then being followed in the Soviet Union.

It is encouraging that, in the last few weeks, the Supreme Soviet has adopted new human rights laws based on the international standards. Complying with a Soviet request, Professor Harold Berman of The Carter Center actually participated in drafting them. There are still some discrepancies in these laws, but this is not uncommon on the world scene. At the recent Conference on Children, for instance, the United States refrained from signing the final declaration because it condemns the death penalty for children.

A third factor is that international condemnation is helping to redress human rights abuses. Exposure by human rights watch groups is a powerful force. Particularly in developing nations, there is intense competition for tourism, economic assistance, the forgiveness of debt, and investments that produce needed products and provide employment. The threat of being branded as a violator of human rights can damage the nation's well-being and the personal prestige and monetary rewards of a corrupt or oppressive regime. Such leaders must react to the condemnations of Amnesty International, the Lawyers Committee for Human Rights, Human Rights Watch, and other organizations that share this responsibility.

Some citizens, even in the best of circumstances, have little confidence in their own laws. Even the right to choose one's own political leaders is meaningless if the electoral process is corrupt. A surprisingly effective means of bringing peace and freedom to a society has been evolving in recent years: the holding of internationally monitored elections. Our Center has worked with others to perform this task in Panama, Nicaragua, and the Dominican Republic. In the future, such efforts by the United Nations and others could help to resolve the conflicts in Kampuchea, Afghanistan, Ethiopia, Lebanon, Bangladesh, Liberia, and perhaps even in Kuwait and the territories now occupied by Israel.

The rule of law is a process rather than an end product. The desire for freedom and justice is a most powerful force in the lives of suffering people. We must recognize their plight, expose the human rights crimes, rescue victims from their oppressors, and let them join us in sharing the benefits of the rule of laws that provide justice and lives of quality and peace. We must continue to recognize the heroes, like those in Sri Lanka and Guatemala, who reject tyranny as a way of life.

In less than a week, Rosalynn and I will join others in Haiti as election observers. Early on the morning of December 16, still doubtful of success or even their own safety, the Haitian people will assemble at their polling places, willing to face a potential recurrence of the murderous assaults they met three years ago when they lined up to vote.

They don't expect or demand very much. They would like to have an honest government responsive to their basic needs. They want a voice in shaping their own future. They hope to live without fear of hunger, oppression, or persistent deprivation. These courageous neighbors of ours, like those honored today, are willing to risk their lives for what we have long taken for granted: the rule of law.