

STATEMENT OF  
REVEREND THEODORE M. HESBURGH, C.S.C.  
PRESIDENT, UNIVERSITY OF NOTRE DAME  
BEFORE THE  
SUBCOMMITTEE ON INTERNATIONAL ORGANIZATIONS  
AND MOVEMENTS  
FOREIGN AFFAIRS COMMITTEE, UNITED STATES  
HOUSE OF REPRESENTATIVES

OCTOBER 11, 1973

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to discuss with you various proposals to strengthen the United Nations in the human rights field and to increase the priority given to human rights considerations in United States foreign policy decision-making. These are subjects close to my heart. I had the honor to head the Delegation of the Holy See to the United Nations Conference on Human Rights held in Teheran in April, 1968. That conference urged "all peoples and governments to dedicate themselves to the principles enshrined in the Universal Declaration of Human Rights and to redouble their efforts to provide for all human beings a life consonant with freedom and dignity and conducive to physical, mental, social and spiritual welfare." I believe your hearings are responsive to the recommendations of the Teheran Conference, and I congratulate you for undertaking this inquiry.

I think the United States should play a leading role in strengthening the United Nations in the human rights field. I think international human rights questions should receive greater consideration in our foreign policy decision-making. But I do not think we can hope to succeed as a champion of international human rights as long as our record here at home falls short of the commands of our own Constitution and of

the many civil rights laws and executive orders that exist today. Our credibility within the United Nations and throughout the world is in direct proportion to what we do domestically. As long ago as 1947, President Truman's Committee on Civil Rights warned that although "our foreign policy is designed to make the United States an enormous, positive influence for peace and progress throughout the world...our domestic civil rights shortcomings are a serious obstacle." Former Secretary of State Dean Rusk made this same point when, in 1963, he testified in support of the proposed public accommodations statute and said: "...in waging this world struggle [in which all men will be safe in freedom and peace] we are seriously handicapped by racial or religious discrimination in the United States. Our failure to live up to the pledges of our Declaration of Independence and our Constitution embarrasses our friends and heartens our enemies.... I want to reiterate most emphatically that in the fateful struggle in which we are engaged to make the world safe for freedom, the United States cannot fulfill its historic role unless it fulfills its commitments to its own people."

We have made much progress in this country, but we have a long way to go. The battle here at home must go on. In our own small way, Notre Dame is seeking to contribute to civil rights progress in this country. This summer we established a Center for Civil Rights which will conduct research into civil rights issues of the recent past, analyze current civil

rights proposals and develop recommendations for future action. Many other groups and institutions are continuing to deal with domestic civil rights issues. Nevertheless, we must be careful that in directing our attention and concerns to the international picture, we do not ignore or minimize our problems here at home. I do not wish to detract from what this Subcommittee is doing; I think it is enormously important. I merely wish to caution against overconcentration on international affairs at the expense of our internal problems--a matter which concerns me with respect to the Executive Branch of government.

Before turning directly to the subject matter of these hearings, let me say a word or two about the situation here at home. The Commission on Civil Rights--the agency which I headed until nearly eleven months ago and which still remains without a Chairman--has made many recommendations over the years which remain unimplemented. I will not take the time today to describe all of those recommendations but will remind you only of the area in which the Commission has concentrated with special vigor during the past few years--the question of enforcement of our civil rights laws. In January of this year the Commission issued its fourth report evaluating the Federal civil rights enforcement effort. The conclusions of that report, especially when viewed in the context of this Nation's recent preoccupation with "law and order," are shocking and disheartening. "In this, our most recent

assessment," the Commission said, "we have found that the inertia of agencies in the area of civil rights has persisted.... This latest Commission study has reinforced the findings of the three preceding reports that the Government's civil rights program is not adequate or even close to it." I believe that this is a gap between our ideals and laws that must be closed before we can hope to exercise effective world leadership in the field of human rights.

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'Perhaps we are approaching that goal; perhaps our law has developed to the extent that this dichotomy is beginning to disappear. In many respects, I believe we have enlarged our concept of human rights without really acknowledging it. It should be acknowledged and the full range of civil, political social and economic rights--all of the rights enumerated in the U.N. Declaration of Human Rights--should be protected and guaranteed by our government. Let me suggest one way for focusing greater attention on an all encompassing concept of human rights here at home. We could broaden the

jurisdiction of the Commission on Civil Rights to make it clear that it is empowered to study and report on all of the aspects of the human condition that have been labeled "human rights" on the international level. This would allow our domestic focus to coincide with our international obligations. It would provide us with an internal mechanism for measuring the human rights of our own people so that we might be more assured and convincing advocates of those rights on the international level. I recognize that this suggestion is outside of the subject matter of this hearing, but it represents one possible approach--an approach that some people might disagree with, including some of my former colleagues on the Commission on Civil Rights--for enlarging our concern with human rights here at home while we move forward to protect those rights abroad.

Let me now turn to a consideration of what the United States must do to fulfill its international human rights obligations.

The United States has ratified only two of the more than twenty human rights covenants and conventions drafted since the establishment of the United Nations. This seriously impairs our international credibility. As the President's Commission for the Observance of Human Rights Year 1968--a Commission on which the Commission on Civil Rights was represented--concluded:

No other single action which the Government

could take would more clearly demonstrate our intention to participate in the international promotion of human rights than the ratification of major human rights conventions. It would also add the weight of United States prestige to action in this field.

I therefore strongly support House Resolution 557 which expresses the sense of the House of Representatives that the Senate ratify pending United Nations conventions on human rights, including the Genocide Convention, the Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social, and Cultural Rights and the International Covenant on Civil and Political Rights. I might note parenthetically that a nation's ratification of human rights conventions does not necessarily guarantee that human rights, as we understand them, will be secure. Only last week the press noted that the Soviet Union was relying on the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights--two covenants recently adopted by that country--to justify the limitations it has placed on the right of emigration and the free flow of ideas.

I also endorse this Subcommittee's objective to insure that the United States places greater emphasis on human rights issues in the making of foreign policy decisions. Some attempts have been made in this direction in the past. At one time, the Department of State convened an Interdepartmental Committee on Foreign Policy Relating to Human Rights--a Committee on



which the Commission on Civil Rights was represented--which was responsible for developing the United States' position on all human rights subjects coming before international bodies. To my knowledge, there have been no meetings of that Committee since 1968.

H.R. 10455 embodies an alternative approach for increasing this country's concern for international human rights issues. It establishes within the Department of State a Bureau of Humanitarian Affairs headed by an Assistant Secretary who would be required to prepare a human rights impact memorandum for all government decisions and foreign events which have significant human rights implications. While I certainly would not object to any step that would intensify our government's concern with international human rights questions--and H.R. 10455 might well be a step in the right direction--I am concerned that a bureau within the Department of State might lack the independence and forcefulness that is needed in this area. It might be desirable, as an alternative to the Bureau of Humanitarian Affairs, to consider empowering an independent agency to undertake the functions that H.R. 10455 would vest in that Bureau. I am sure you can anticipate what I am now about to suggest. Rather than establishing a new agency, I think it would be worthwhile to consider reconstituting the Commission on Civil Rights as a Commission on Human Rights with the broadened domestic jurisdiction I already have suggested and with

the further responsibility of studying, reporting on, publicizing and making recommendations with respect to international human rights issues. Independence is of critical importance. I believe that the independence of the Commission on Civil Rights is the principal factor accounting for its effectiveness. Before I elaborate on the importance of the Commission's independence, let me mention some other possibilities for insuring that human rights questions receive greater consideration in foreign policy decision-making.

Over and over again, the Commission on Civil Rights has emphasized the role of Presidential leadership in insuring that civil rights laws and policies are effectively implemented. White House leadership also is essential to promoting international human rights. One means of insuring greater attention to this issue on the part of the White House is through the designation of an Assistant to the President for Human Rights. Such an individual could advise the President on all matters pertaining to human rights and could be given general responsibility for coordinating the government programs in the human rights field. This was a recommendation made by the President's Commission for the Observance of Human Rights Year 1968.

Another ingredient of effective civil rights enforcement that has been emphasized by the Commission on Civil Rights is the need for all departments and agencies with programs affecting civil rights to designate a high official to insure that civil

rights responsibilities are being carried out. Similarly, departments and agencies which have programs with a significant impact on the protection or realization of human rights should designate a high-level officer to have policymaking and coordinating responsibilities for human rights. This recommendation also was advanced by the President's Commission for the Observance of Human Rights Year 1968.

These various recommendations for increasing United States priority to human rights questions are more likely to be effective if there is an independent agency monitoring their implementation. As I already have mentioned, it is the independence of the Commission on Civil Rights that largely accounts for its ability to influence the policies of the Executive Departments. The Commission is bi-partisan; it exists outside of the usual framework of government and has no vested interest in assuring the success of any substantive program. Its only interest is to insure that the government's civil responsibilities, as they affect every substantive program carried out by the government, are properly fulfilled. The Commission, moreover, is not purely a presidential commission. Its charter requires that it report to both the President and Congress. Thus the Commission is responsible not only to the President, but to the American people through their elected representatives in Congress.

The only power the Commission has, the only pressure it can

exert is the pressure of public opinion, stirred to action by the facts it presents. The Commission fact-finding activity is based on the conviction that if the American people are fully aware of the facts concerning racial injustice, they will act to end it. Fact-finding also serves to document. When Congress first sought to enact legislation to curb denials of the right to vote, there was a great deal of dispute as to the extent of those denials. The Commission documented those denials in its early reports. Those reports did not reveal a new problem to the Nation. Rather, they documented denials in detail so that the existence and scope of the problem no longer was in doubt. Subsequently, when Congress was called upon to act in the area of voting, it had reliable data on which it could rely.

Similarly, the Commission's findings in its Federal civil rights enforcement effort reports surprised no one with knowledge of how our government was operating. The main contribution of these reports was not to reveal new injustices, but to document inadequacies in detail and arm those concerned with the facts needed to confront the agencies.

While there certainly is room for debate, I believe the Commission has carried out its mission successfully. One measure of the Commission's accomplishments is the percentage of recommendations that have been adopted. It is a fairly good

record; over 60 percent of the Commission's recommendations have been adopted. This does not tell the entire story, however. Some of the Commission's recommendations have been politically unrealistic; they represent ideas whose times have not yet come. But through these recommendations the Commission has brought new ideas into the arena of public dialogue, with the conviction that such dialogue would hasten the time of acceptance.

It is hard for me to believe that an agency without independent status would be as forceful in finding and publicizing the facts and as forthright in its criticism. Despite its independence status, the Commission often was subjected to intense pressures to redirect its activities, to play down certain facts it uncovered or to modify its recommendations. These pressures, coming from the powerful, could not be lightly ignored. Elsewhere, I have written about the Commission's reaction to the pressures placed upon it:

While the Commission was a David facing the Goliath of big government, big business, big labor, or big prejudice, it has acted out of deep conviction of the moral imperatives of our government to realize, in fact, the promises of our Constitution and Bill of Rights. When faced with difficult decisions, opposition from Presidents or Cabinet members or large industries was considered, but was ignored if it conflicted with the special kind of virtue that gave the legal independence of our agency--our integer vitae--a special efficacy and a convincing power in an area fraught with emotion, myth and, worst of all, prejudice. Somehow the legal weakness became endowed with moral strength and allowed the Commission, like David, to emerge victorious.

I seriously doubt whether a Bureau, within a cabinet department and subject to Presidential oversight, would be as free to speak the truth as the Commission. The Commission has served as the conscience of the Federal government; it has been a burr under the saddle. I do not believe it could have played such a role if it did not have the independent status which Congress, in its wisdom, conferred when it created the Commission in 1957.

Similarly, in the field of international human rights, I believe an independent agency could play an effective role within our government. There might be merit, however, in experimenting with the approach embodied within H.R. 10455. If we discover that a Bureau within the Department of State is not an effective way for improving our international human rights posture, we then could turn to an independent agency. Whatever approach is followed, however, should include a role for Congress. As you know, recently the House Judiciary Committee established a Civil Rights Oversight Subcommittee. I think such a subcommittee is an effective way for Congress to insure that the laws it has enacted are being carried out, particularly in areas where there is likely to be bureaucratic resistance. Any Congressional action designed to insure greater priority to human rights considerations in our foreign policy should be accompanied by the acceptance of responsibility by Congress to oversee closely the implementation of this new policy.

Finally, I believe the United States would contribute greatly to the promotion of human rights around the world by supporting the U.N. Decade to Combat Racism and Racial Discrimination which will be launched on December 10, 1973, the 25th anniversary of the Universal Declaration of Human Rights. House Concurrent Resolution 313 is designed to marshal United States support for the U.N.'s program, and I support its enactment. I think it is particularly appropriate that the United States support this effort during the decade of the bicentennial of our independence. Few expressions of human rights are as forceful and noble as the words of our own Declaration of Independence where we proclaimed the "self-evident" truths "that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty, and the pursuit of Happiness." Our country is at its greatest when it is true to its founding principles.

Let me turn now to the proposals that have been advanced for strengthening the U.N.'s role in furthering and protecting human rights.

House Concurrent Resolution 312 urges the U.N. to take measures to prevent the practice of torture. The goals and objectives of this bill are admirable and have my support.

House Concurrent Resolution 310 urges the creation of a Human Rights Council as a principal organ of the U.N. in place of the Commission on Human Rights. The Council would be authorized to hold special sessions to deal with urgent situations involving gross violations of human rights--a power not

held by the Commission. The protection of human rights is so important that it should have a place in the U.N. structure commensurate with its significance. House Concurrent Resolution 310 increases the stature of the agency within the U.N. designated to deal with human rights issues and provides greater authority. I support its passage.

House Concurrent Resolution 311 urges the U.N. to strengthen its effectiveness in preventing human rights violations. It calls for the appointment of a High Commissioner for Human Rights who would initiate action to promote and strengthen universal and effective respect for human rights and fundamental freedoms. The Delegation of the Holy See to the Teheran Conference endorsed the creation of the office of High Commissioner for Human Rights, and I would like to quote what I said at that time:

Our Delegation is especially intrigued by the imaginative Costa Rican suggestion of a High Commissioner for Human Rights who might become a world wide ombudsman, especially if this post could be filled by someone recognized everywhere for his personal integrity and high moral leadership. With the help of a committee universally chosen for high competence, with adequate national and regional support, governmental and non-governmental, with ultimate juridical support from national, regional and international courts. The Commissioner could indeed become the personal and living focus for the problem that so concerns us here in this conference. The problem of human rights is so universal that it transcends all other problems that face humanity and the United Nations. It is obvious to our Delegation, as to all of you, that this conference will not reach a successful conclusion if we do not agree on some realistic mechanisms to translate words into deeds, ideals into reality, hopes into achievement. The strong agreement of this conference on the necessity of a High Commissioner for Human Rights



would seem to be a minimum first step in this direction.

(I would like to offer for the record the full text of my remarks at the Teheran Conference.)

I continue to favor a High Commissioner for Human Rights. I recognize that there are some who feel that a High Commissioner for Human Rights would not have the necessary power and authority to do an effective job. Many also thought that the Commission on Civil Rights would prove to be a useless agency. We must make a start, however, and I believe we should support the creation of the post of High Commissioner for Human Rights and vest that position with adequate authority which should include the authority to publicize human rights violations.

I hope the Commission on Civil Rights will never cease calling this country's attention to the injustices that exist within our borders. I hope that the international community will have the courage to create a U.N. Commissioner for Human Rights who can appeal to the better hopes of mankind and remind the world community of the distance it yet has to go to give full recognition to the dignity of human beings. I commend this Subcommittee for the role it is playing in seeking to strengthen the role of the United States and of the United Nations in furthering human rights.

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92A YALE STATION, NEW HAVEN, CONNECTICUT 06520

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Mr. Richard Conklin  
Director  
Department of Information Services  
University of Notre Dame  
Notre Dame, Indiana 46556

Dear Mr. Conklin:

I am returning to you herewith the additional materials you sent us to consider for Father Hesburgh's book (the title seems to keep changing).

I enjoyed with you and him on it; I hope you are pleased with the results.

Please give my regards to Father Ted.

Sincerely,

*Cathy*

Catherine Anne Iino