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./.. Hiernevens moge ik U een ten behoeve van de Group of Planning Staffs van de Europese Politieke Samenwerking opgesteld discussiestuk doen toekomen. Het stuk betreft de rol van de mensenrechten in het Europese beleid ten aanzien van de Derde Wereld.

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DE MINISTER VAN BUITENLANDSE ZAKEN

Voor de Minister

De Adviseur Beleidsplanning

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AFGESCHREVEN

EUROPEAN POLITICAL COOPERATION
GROUP OF PLANNING STAFFS

THE ROLE OF HUMAN RIGHTS
IN EUROPEAN THIRD WORLD POLICY

This paper was prepared for discussion and does not necessarily represent the official views of the Government of the Kingdom of the Netherlands

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Summary

Promotion of respect for human rights has become an important foreign policy issue. As respect for human right is fundamental for its identity, the West cannot but actively foster the worldwide application of this principle. This also applies in the relation with Third World countries. While allowance must be made for their specific phase of development, the West should not be too timid on this issue.

Respect for human rights is not only based on moral considerations, but is also a matter of practical advantage for all parties concerned, improving feelings of security in mutual relations and fostering national and international stability in the long run. Moreover, experience has shown that disregard of human rights does not bring any additional economic gains. On the contrary, the failure of collectivist social models in a number of developing countries may contribute to a growing appreciation of the merit of a system based on a greater degree of freedom.

Classic human rights (civil and political rights) aim at guaranteeing the individual an area of personal freedom, for which purpose authorities should refrain from certain actions. Social human rights (economic and cultural rights) place the authorities under an obligation to take positive action.

Third World countries sometimes argue that social economic rights should take precedence over classic human rights. Full implementation of the latter could not be expected from developing countries so long as they have not reached an economic level to realize the social rights.

It should be recognized that the present level of safeguards for the classic human rights in the Western world is the fruit of a long historical process and that other countries cannot be expected to cover the same ground within a few short years. Different peoples, starting from their own circumstances and their own views, can in different ways shape a society in which full human development is possible. Therefore Western human rights policy should take full account of the specific circumstances of each case.

But in spite of its understanding for the enormous difficulties which face the developing countries, the West cannot accept grave violations of classic human rights being simply dismissed by a reference to external circumstances or to the low development level of the country, especially when such fundamental values as the right to life and physical integrity are being violated.

Therefore, the Community should promote the respect for human rights by inclusion of explicit reference to it in the Lomé III convention. This is also advisable, in order not to renounce the option of non-allocation or suspension of aid in cases where it would imply complicity of continuing and systematic violations of human rights.

1. Introduction

Since the second World War the promotion of respect for human rights has become an important foreign policy issue. It has been enshrined in the Charter of the United Nations and, more specifically, in the Universal Declaration of Human Rights of 1948.

Respect for human rights is a fundamental part of the identity of the West. Therefore the West cannot but actively foster the worldwide application of this principle. The non-Western members of the international community would be surprised if the West would not take a firm stand on human rights. Individuals and groups in other parts of the world, whose rights are threatened, expect the West to do so and draw occasionally some benefit from it. Western public opinion encourages and requires its governments to press for human rights.

Human rights must certainly be an important issue in the relations with Third World countries, many of which have a poor record in this field. Although allowance must be made for the specific phase of development in which they find themselves, there is no reason to play the issue down. In order to remain credible the West should not act too discretely and timidly on human rights. In doing so it will encourage the gradual development of democracy in the Third World.

Respect for human rights is not only based on moral considerations. It is also a matter of practical advantage and self-interest for all parties concerned. It fosters the feeling of security for individuals as well as states in the relations with each other.

Moreover, it has become clear that disregard of human rights does not bring any additional economic gains. On the contrary, the failure of collectivist social models in a number of development countries may contribute to a growing appreciation in the Third World of the merits of a system based on a greater degree of freedom. Furthermore, growing respect for human rights will in the long run promote greater national and international stability.

Western policy action aimed at the respect for human rights can only be effective, however, if full account is taken of the specific circumstances of each case. Given the enormous diversity within the Third World, careful attention must be given to the particular situation within the country concerned. Besides, political costs and benefits should be carefully weighed, taking into account e.g. the relationship of the country to the West, to the East and other groups of countries (non-aligned movement, Arab League, ASEAN, OAU, etc.), and the possible implications of human rights policies for the bilateral relationship with the country in question.

All this adds up to a careful approach, both as regards substance and means. As far as the latter are concerned, sometimes an open and frank approach is required in order to be effective; in other cases more discreet methods are more suitable. In view of the intricacies indicated before, more often than not a common Western approach, especially in the framework of European Cooperation, will be called for, maximizing the impact of our actions and minimizing the exposure of individual participating countries.

2. Classic and social human rights

While human rights should be considered as an integrated whole, a distinction is sometimes made between the classic human rights (i.e. civil and political rights) on the one hand and the social human rights (which in this context include economic and cultural rights) on the other hand. The aim of classic rights is to guarantee the individual an area of personal freedom. For this purpose, they primarily impose obligations upon the authorities to refrain from certain actions. The purpose of the social rights is to place the authorities under an obligation to take positive action, viz. to make certain social provisions.

Because in general social rights entail obligations to make social provisions, some people include them among the collective human rights. The idea behind this is that while the classic rights can be invoked directly by the individual against the authorities, the social rights give rise to claims which can only be asserted collectively. Although it is true that social rights do always have a collective aspect, the distinction between classic and social rights cannot simply be equated with that between individual and collective rights. After all, social rights such as the right to work and the right to education must also be regarded as being vested in individuals. It seems more accurate to use the expression "collective human rights" only for those cases in which a group of people can genuinely be regarded as the subject of the right. Examples of this are the right of peoples to self-determination, the right of cultural minorities to retain their cultural identity, and the right of

Precedence between Economic and Social Human Rights

national, ethnic, racial and religious groups not to be destroyed as a group, this right is protected by the Genocide Convention. Incidentally, it is interesting to note that in fact these three examples lie rather within the sphere of the classic than of the social rights.

As they have not reached an economic level which makes it possible for them to realize the social rights. They claim that the same standards regarding civil and political rights should not be applied to developing countries as the rich countries can afford for themselves. The poor countries, they say, are compelled to give priority to their economic and social development and to strengthening their political institutions. Criticism of the curtailing of certain freedoms in these countries constitutes an unjust simplification, in their view, as such criticism takes insufficient account of the nature and magnitude of the problems which confront those countries. The point of view is also repeatedly put forward that in the event of a conflict between collective and individual human rights, the collective rights should prevail.

In more general terms the West is accused of approaching human rights problems too abstractly and too individualistically while disregarding the social context and the structural causes which stand in the way of full realization of human rights. Western countries are told that however much they may have achieved within their own territories in the way of safeguarding human rights, they should nonetheless realize that their own political and economic policy

3. Precedence between classic and social human rights

Recently, especially in the Third World, many voices have been raised arguing that social human rights should take precedence over classic human rights. The proponents of this point of view assert that full implementation of the classic freedoms cannot be expected from them so long as they have not reached an economic level which makes it possible for them to realize the social rights. They claim that the same standards regarding civil and political rights should not be applied to developing countries as the rich countries can afford for themselves. The poor countries, they say, are compelled to give priority to their economic and social development and to strengthening their political institutions. Criticism of the curtailing of certain freedoms in those countries constitutes an unjust simplification, in their view, as such criticism takes insufficient account of the nature and magnitude of the problems which confront those countries. The point of view is also repeatedly put forward that in the event of a conflict between collective and individual human rights, the collective rights should prevail.

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has contributed and continues to contribute towards the inadequate realization of those rights in the Third World. This point of view would therefore call for a new orientation in human rights policy to take more account of these structural factors.

It should be realized that the present level of safeguards for the classic human rights in the Western world is the fruit of a long historical process and that other countries cannot be expected to cover the same ground within a few short years. Different peoples, starting from their own circumstances and their own views, can in different ways shape a society in which full human development is possible.

But in spite of its understanding for the enormous difficulties which face the developing countries, the West cannot accept grave violations of classic human rights being simply dismissed by a reference to external circumstances or to the low development level of the country, especially when such fundamental values as the right to life and physical integrity are being violated. Besides, to accept such reasoning would in many cases be fail in one's solidarity with those who are victims of unjust social structures within those countries. To the extent, therefore, that advocates of "new orientations" intend to bring about a change in human rights policy which would entail the international community abdicating its responsibility to combat flagrant abuses of human rights anywhere in the world, such attempts should be rejected.

4. Human rights and development cooperation

The dismal economic conditions in much of the Third World constitute a serious obstacle to the realization of human rights. Development of the Third World is a necessary precondition for enabling its inhabitants - the majority of the world population - to enjoy human rights in a meaningful sense. Therefore countries which give development aid should take into account whether the recipient country pursues a policy oriented towards the well-being of the whole population.

The assessment of the measure in which a country meets this criterion is difficult to make objective in the sense of quantifying it. One can however obtain a certain objectivity by using various indicators.

Donor countries should not go so far as to use development co-operation as an instrument for manipulating recipient countries. The idea that aid should be used to reward countries which respect human rights and conversely withheld to punish countries which disregard those rights should be rejected. In principle aid should relate to the needs of the people and not to the conduct of governments.

On the other hand, this principle does not alter the fact that in the shaping of development co-operation one must consider in what ways development aid can be made to serve the best possible realization of human rights, for the very reason that in the last analysis such aid is intended to benefit human beings. In this respect it certainly is necessary to take account of the human rights situation in the recipient country,

including the policy pursued by its authorities. The aid-giving countries should however act with a certain restraint and without presumption in this delicate area and should bear in mind that possibilities of contributing by means of aid to the observance of human rights are limited.

Governments of Third World countries often argue that certain restrictions of the classic freedoms are essential in order to cope with the problems which face their countries. However, violations of such fundamental human rights as the right to life, liberty and integrity of the person cannot possibly be justified by pointing to the necessity of achieving economic progress. Murder, torture, inhuman treatment of prisoners or the withholding of equal protection by the law will therefore be stronger reasons for a response than will restrictions upon the exercise of political rights.

It is, however, highly dubious at the least that restrictions of rights of the latter category (such as the freedom to express opinions, the right of association and of assembly, the right to participate in the government of the country through freely elected representatives, the freedom to form and join trade unions and the rights of minorities to non-discrimination) can have a positive effect upon the achievement of a higher level of development. Precisely as a result of the lack of adequate political means of correction, abuses of these rights can contribute towards an economically unsound policy and to an uneven distribution of income.

Bearing in mind these considerations, one should take care at any rate to ensure that aid does not contribute directly to the perpetuation of repression. Where there is gross and persistent violation of fundamental human rights, non-allocation or suspension of aid can be considered, but other relevant policy considerations must be taken into account before such exceptional measures are taken.

In brief, in the framework of bilateral development cooperation it will be necessary to review from case to case how aid can be made to serve individual development in terms of human rights.

5. Human rights and Lomé III

Respect for human rights constitutes a moral imperative and a basic element of the Western identity. Save exceptional circumstances, and making due allowance for the special characteristics of the stage of development of the countries concerned, it is a necessary precondition for economic progress. Like every subject of international law, the Community shares responsibility for the respect for the international legal order, of which human rights constitute an integral part.

Therefore, it is very important that respect for human dignity, as laid down in the Universal Declaration of Human Rights, in the Treaty of Europe and the African Charter on Human Rights, has been included in the mandate of the European Commission for the negotiations on Lomé III. By explicitly referring to human rights in Lomé III the Community will keep its option of non-allocation or suspension of aid, in cases where this would imply complicity with continuing and systematic violations of human rights.