

On the wrong side of the hill

**Congress, the human rights revolution, and U.S.
foreign policy towards South Africa (1973-1978)**

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Introduction

In the spring of 1978, the Washington Post ran an editorial on the widening attack on apartheid in the U.S. Congress. Over the previous year, the white minority government in Pretoria had attempted to conduct a nuclear test, tortured and murdered the famous activist Steve Biko, and subsequently detained hundreds of members of the opposition and closed down several newspapers. The White House had responded by recalling its ambassador and supporting a resolution that imposed a mandatory arms embargo at the United Nations, but for many in Congress, this was not enough. Now, they were seeking to terminate all government support for trade with South Africa. “The new restriction on trade with South Africa now making its way through the legislative process represents a growing force in American politics. No longer is opposition to apartheid merely a minority cause or a campus issue”, the Washington Post editor wrote. “On the contrary, it is coming to represent a genuine popular movement commanding its own Congressional base.”¹ The fact that foreign policy initiatives were now coming out of Congress instead of the Administration was a relative novelty. Although the American constitution assigns power over foreign policy to both the executive and the legislative branch, in practice Congress had deferred to the White House during most of the Cold War, so that it could act forcefully in times of crisis.² But the Vietnam War had shown how wrong this could go: it had been a presidentially directed war, that had developed largely without any effective Congressional oversight, and had led to the loss of countless lives and billions of dollars. Perhaps even worse was the fact that the United States had wasted all these resources, only to save an oppressive regime that lacked any legitimacy outside of the fact that it was a Cold War ally. The consequence was, as one historian put it, that “in the 1970s, largely because of mounting dissatisfaction with executive secrecy and abuse of power associated with Vietnam and Watergate, but in part because of internal changes within the legislative branch, Congress began to assert itself strongly in the foreign policy area, imposing restrictions on presidential action and initiating new foreign policy objectives.”³ In the wake of these national traumas, the balance of power between the executive and legislative branch in the making of foreign policy was being re defined.

Among the new foreign policy objectives that were formulated by Congress, one of the most important was the international observance of human rights. Congressmen from across the board rebelled against what they perceived as the complete absence of morality from American foreign policy during the Cold War, and demanded a larger share in the creation of it. Inspired and assisted

¹ ‘Widening the attack on apartheid’, *The Washington Post* (4 May 1978).

² James Lindsay, ‘Congress and foreign policy: why the hill matters’, *Political Science Quarterly* 107 (1992) 607-628, 608.

³ David Leyton Brown, ‘The role of Congress in the making of foreign policy’, *International Journal* 38 (1982) 59-76, 59.

by the work of NGOs, members of Congress used their investigative powers to inform themselves on the human rights implications of American foreign policy, and enacted a substantial body of legislation that forced the executive to be more sensitive to human rights concerns from 1973 onwards.⁴ These efforts initially met with a great deal of resistance from the Nixon and Ford Administrations and especially Secretary of State Henry Kissinger, who guarded the making of foreign policy as an executive privilege. Ultimately, Jimmy Carter embraced human rights in his successful election campaign in 1976 and made their promotion a fundamental objective of his foreign policy. This rapid and significant transition in American foreign policy led historians to speak of a 'human rights revolution', a phenomenon which has attracted abundant scholarly attention over the last years.⁵ Their contributions have gone a long way of explaining the success of human rights activism in the 1970s. By framing human rights as an American tradition, they could restore some confidence and pride in America's role in the world after a dark and tumultuous period. Human rights could be used to mobilize support for a wide range of social and political issues. Their vagueness ensured that there was something in it for everyone: neoconservatives wanted to harness human rights as an ideological weapon against the Soviet bloc, while liberals and isolationists could use them to prevent new military commitments to save unsavoury American allies abroad. In this sense, Congressmen of all stripes could use human rights as a wrench to reclaim the foreign policy initiative from the executive branch in order to push their own agendas.

The haphazard coalition between the different strands of human rights activism was bound to fall apart once it had to be translated into a coherent foreign policy under the Carter Administration. Their different views of what a human rights-based foreign policy should look like in practice were irreconcilable: liberals wanted human rights to replace anti-communism as the driving force of American foreign policy, while conservatives were trying to use human rights as an instrument to revive superpower confrontation. Although Carter had not indicated a clear preference for either version of human rights activism during his campaign, he is generally seen as a champion of the liberal conception of human rights.⁶ Once in office, it proved to be easier to exert influence on countries that were Cold War allies over their human rights practices than on enemies. This earned him the scorn of (neo)conservative critics, who criticized the Carter Administration for looking for human rights violations in the wrong places. They accused Carter of being punitive, inconsistent and biased against right-wing allies. Not all neoconservatives opposed promoting the observance of

⁴ Daniel Sargent, *A superpower transformed: the remaking of American foreign relations in the 1970s* (Oxford 2015), 204.

⁵ Barbara Keys, *Reclaiming American virtue: the human rights revolution of the 1970s* (Cambridge MA 2014), Jan Eckel and Samuel Moyn (eds.), *The breakthrough: human rights in the 1970s* (Philadelphia 2013), Akira Iriye, Petra Goedde and William Hitchcock (eds.), *The human rights revolution: an international history* (Oxford 2012).

⁶ Keys, *Reclaiming American virtue*, 271.

human rights with Cold War allies in principle, but they thought it was hypocritical that American Cold War enemies did not receive the same harsh treatment as some allies did. By focusing its efforts on allies, the Carter Administration was going the easy way. According to one of his critics, “no group of countries, neither in Latin America nor the Warsaw Pact, was a more certain target of the Carter human rights policy than the white supremacist regimes of Southern Africa.”⁷ Southern Africa was the last region in the world where white rule was preserved in the 1970s: in the Portuguese colonies of Angola and Mozambique, in the former British colony of Rhodesia, and through the apartheid system of South Africa. The human rights abuses perpetrated by these countries were beyond question. In the words of a Canadian diplomat, South Africa was unique among human rights transgressors in the sense that “abuses are guaranteed to the majority of the people from cradle to the grave.”⁸ The continuance of racial discrimination in South Africa aroused strong emotions in the United States, particularly in light of its own recent desegregation experience, and placed the bilateral relations of the two countries under a magnifying glass in Congress.

The tendency to criticize and punish the right-wing friends of the United States was complicated by another geopolitical development that ran parallel to the human rights revolution: the resurgence of the Cold War in Africa. In April 1974, the Portuguese government announced its sudden withdrawal from Angola and Mozambique, leaving a power vacuum that was quickly seized by national liberation groups with ties to the communist bloc. This alarmed policymakers in Washington, who feared a domino effect that could tip the continental balance of power in favour of communism, and were looking hard for ways to counter that. Their concern heightened with the deployment of Cuban troops to Angola in 1975, that assisted the Marxist national liberation group MPLA in the Angolan Civil War. The United States found an eager ally in the South African government, who equated the success of socialist national liberation movements with a threat to minority rule. South Africa was by far the most economically developed and powerful state in the region and regarded itself as a loyal member of the west, but its bad reputation for its racial practices and the illegal occupation of Namibia made the United States reluctant of openly working together – especially now that Congress was rallying around the cause of human rights in order to demand a larger share in the creation of foreign policy.

The logic of the Cold War and the human rights revolution contradicted each other in South Africa during the 1970s. Policymakers were confronted with a dilemma: should we give precedence to traditional Cold War-geopolitics, or to human rights? In the opening days of the Carter Administration, the circumstances for a human rights-based policy towards South Africa seemed

⁷ Joshua Muravchik, *The uncertain crusade: Jimmy Carter and the dilemmas of human rights policy* (Lanham 1986), 132.

⁸ FRUS 1977-1980 vol. XVI, doc. 335: ‘Telegram From the Department of State to Multiple Diplomatic Posts’ (24 March 1978).

ideal: it was committed to the promotion of human rights, it sought to improve the relations with black African states which loathed apartheid, it had overwhelming support from African-American voters at home, and it wanted to move beyond anti-communist containment as the driving force behind American foreign policy.⁹ Yet many historians point out that while there was an increase in anti-apartheid rhetoric, in practice there was a remarkable degree of continuity in the foreign policy of the Carter Administration towards South Africa with earlier administrations.¹⁰ In the words of one of these historians, “there was little substantive change in U.S. policy toward the white regimes of southern Africa during his tenure.”¹¹ This seems to suggest that Congressional human rights initiatives had little impact, and failed to substantially influence American foreign policy towards South Africa even after the Carter Administration took office. Therefore, this thesis sets out to answer the question: to what extent did Congress influence American foreign policy towards South Africa between 1973 and 1978 through its hearings on human rights?

There are a number of good reasons why an approach from the viewpoint of the Congressional human rights revolution is relevant, both to the understanding of American foreign policy towards South Africa as well as the human rights revolution in general. First of all, there is a general tendency in American historiography to neglect the role of Congress in the making of foreign policy. According to Robert David Johnson, this “insufficient attention to Congressional influence has yielded a distorted perspective, especially in works dealing with the Cold War.”¹² Johnson argues that for scholarly as well as practical reasons, historians of American foreign policy have focused excessively on the executive and the economic and ideological structures in which American foreign policy operates, at the expense of Congress. Some other works describe the constitutional struggle between the legislative and executive on foreign policy, mostly focusing on the events in which the executive enlarged its share in the creation of foreign policy and national security.¹³ Nearly all of these interpretations acknowledge the Congressional backlash that followed after the Vietnam War, exemplified most clearly by the War Powers Act of 1973. But in order to understand the role of Congress in the Cold War more fully, we also have to look beyond the high-profile legislative achievements, and also focus on the more subtle ways in which Congress influenced or attempted to influence foreign policy. An excursion into the historiography on United States – South African

⁹ Thomas Borstelmann, *The Cold War and the color line: American race relations in the global arena* (Cambridge MA 2001), 245.

¹⁰ Simon Stevens, ‘From the viewpoint of a Southern Governor: the Carter Administration and apartheid, 1977 - 81’, *Diplomatic History* 36 (2012) 843-880, 843.

¹¹ Francis Njubi Nesbitt, *Race for sanctions: African Americans against apartheid* (Bloomington 2004), 105.

¹² Robert David Johnson, ‘Congress and the Cold War’, *Journal of Cold War Studies* 3 (2001) pp. 76-100, 76.

¹³ Robert David Johnson, *Congress and the Cold War* (Cambridge 2005), xxii-xxiii. Examples include Louis Fisher, *Presidential war power* (Lawrence 1995) and John Hart Ely, *War and responsibility: constitutional lessons of Vietnam and its aftermath* (Princeton 1993).

relations learns that this subject is no exception to the general trends that Johnson describes. Earlier works on American foreign policy towards South Africa during the Cold War have tended to focus on the government on the one hand, or grassroots activism and domestic race relations on the other hand, particularly in relation to the civil rights movement.¹⁴ This obscures the role of 'regular' institutionalized political opposition, which was going through a big and relevant transition at the time. Consequently, an approach from the viewpoint of Congress will also further our understanding of American foreign policy towards South Africa.

Secondly, in addition to works on the human rights revolution of a general nature, a number of studies have been published that deal with its influence on the bilateral relations of the United States with specific countries. So far, all of these works have focused on Latin American countries and have ignored Africa.¹⁵ Lars Schoultz has argued that Latin American countries bore the brunt of the Carter Administration's human rights initiatives, because they were "lacking any of the strategic significance that exempted other nations from diplomatic pressure on behalf of human rights."¹⁶ In other words, the human rights initiatives of the Carter Administration were most rigorously applied against 'expandable' Latin American allies, which might explain the preference of historians looking into the effects of the human rights revolution. But in order to explain the specific problems of developing a country-specific human rights policy, we also have to look to instances in which human rights activism seemed to conflict with other national interests. Because of the collision between Cold War-geopolitics and human rights activism in South Africa, it can be expected that a case study on South Africa will reveal the inner conflicts of the human rights revolution most clearly.

Thirdly and finally, the availability of relevant source material has expanded significantly over the last year. Important foreign policy documents of the Carter Administration relating to Southern Africa have been published only last September. In addition, the digitalization of Congressional material by organizations such as HathiTrust has made valuable sources for the study of the human rights revolution widely and easily accessible for the first time. By using these sources and by positioning itself within the recent historical work on the human rights revolution, this thesis seeks to fill these historiographical gaps with a systematic study of Congressional human rights initiatives and their impact on American foreign policy towards South Africa. In doing so, this thesis will go in the

¹⁴ Studies of the government side include Alex Thomson, *U.S. foreign policy towards apartheid South Africa, 1948-1994: conflict of interests* (New York 2008) and Christopher Coker, *The United States and South Africa, 1968-1985: constructive engagement and its critics* (Durham 1986). Examples of works on race and activism are Nesbitt, *Race for sanctions*, Janice Love, *The U.S. anti-apartheid movement: local activism and global politics* (New York 1997) and Borstelmann, *The Cold War and the color line*.

¹⁵ William Michael Schmidli, *The fate of freedom elsewhere: human rights and U.S. Cold War policy toward Argentina* (Ithaca 2013), Kathryn Sikkink, *Mixed signals: U.S. human rights and Latin America* (Ithaca 2004) and Lars Schoultz, *Human rights and United States policy toward Latin America* (Princeton 1981).

¹⁶ Schoultz, *Human rights and United States policy toward Latin America*, 114.

details of the practical problems and dilemmas that both policymakers and Congressmen faced by making human rights a fundamental standard for conducting foreign policy.

This thesis will trace the development of Congressional human rights initiatives and their impact on American foreign policy towards South Africa from 1973 until 1978. Starting point is the end of the Vietnam War in January 1973, which is generally regarded as a pivotal moment in the breakthrough of Congressional human rights activism.¹⁷ The Vietnam War left many Americans with a sense of anger and frustration about the direction of American foreign policy, which was utilized by Congressmen to tie American foreign policy to human rights considerations. Its ending freed up a lot of energy in Congress and the government that could be invested in other issues. The thesis then follows this development until the end of 1978. Although this moment may seem arbitrary, there are several reasons to do so. In the summer of 1978, Congress passed the Evans Amendment, which restricted the services of the Export-Import Bank to companies that supported fair employment principles in South Africa in order to further human rights there. David Forsythe has described this moment as “the apogee of Congressional activism on human rights.”¹⁸ But this was also the only instance in which Congress managed to overtake the Carter Administration on its human rights policy in South Africa. Other historians argue that the Carter Administration had exhausted the steps that it was willing to take to pressure South Africa to respect human rights by the end of 1977, and consequently decided to focus on more pressing issues, such as the transition to majority rule in Rhodesia and Namibia.¹⁹ This is also in line with the widespread assertion that during the second half of its term, the Carter Administration backed down from its human rights activism, and pushed its foreign policy back into a more traditional Cold War-mould.²⁰ For all of these reasons, the last two years of the Carter Administration are left outside of the scope of this thesis.

The research that has been done for this thesis draws on a number of different sources. In order to establish the objectives and legislative initiatives of human rights activists in Congress in relation to South Africa, I have made use of the records of relevant Congressional hearings from the period. The ability to conduct hearings is part of the investigative powers of Congress and an essential phase within the legislative process for the creation of law. During hearings, lawmakers have the opportunity to interact with experts, activists, policymakers and other Congressmen to shape their opinions, or to mobilize support for a cause. In fact, “hearings are the only forum within the American constitutional structure for extemporaneous, on the record, discussion between

¹⁷ Keys, *Reclaiming American virtue*, 128.

¹⁸ David Forsythe, *Human rights and U.S. foreign policy: Congress reconsidered* (Gainesville 1987).

¹⁹ Thomson, *U.S. foreign policy towards apartheid South Africa*, 106, Nancy Mitchell, *Jimmy Carter in Africa: race and the Cold War* (Washington 2016), 229.

²⁰ John Dumbrell, *The Carter presidency: a re-evaluation* (Manchester 1995), 200.

members of one branch and policymakers on the other”, as Johnson acknowledges.²¹ The important role of Congressional Subcommittees and their chairmen within the human rights revolution has been widely acclaimed, especially in relation to the work of Donald Fraser (D.-MN) in the House Subcommittee on International Organizations and Movements –although he was not the only important personality.²² Part of the explanation for the growing role of the Subcommittees lies in the Congressional reforms that were implemented in the early 1970s, expanding the legislative powers and the budget (and consequently, staff sizes) of the Subcommittees, allowing them to increase their activities and influence.²³ Because of the regional specialization of the Subcommittees within the House Committee on Foreign Affairs (renamed in 1975 to House Committee on International Relations) and the Senate Committee on Foreign Relations, nearly all of the relevant hearings used in this thesis took place in the respective Subcommittees on African Affairs. To assess the development of American foreign policy towards South Africa and the impact of Congressional human rights initiatives, this thesis draws on two different collections of government material: the *Foreign Relations of the United States-series* (FRUS) and the *Digital National Security Archive* (DNSA). Whereas the FRUS-series is edited and published by the Department of State, the DNSA is organized by a non-governmental board of editors. In practice, both collections encompass broadly the same kind of documents, including policy papers, diplomatic cables, reports of meetings, intelligence estimates and speeches, although there are differences in emphasis. The DNSA collection also includes media reports and pays more attention to the United Nations, but the FRUS-volumes are heavier on the more recently declassified policy documents. By making use of both collections, I have tried to balance my research and to circumvent any gaps that the single collections might have.

The setup of this thesis is largely chronological. Chapter 1 will trace the origins of the human rights revolution and its evolution in Congress until the Carter Administration takes office. It will discuss the motives, tactics and different objectives of human rights advocates in Congress, the obstruction by the Nixon and Ford Administrations, and ultimately their success in turning human rights in one of the main objectives of American foreign policy after the election of Jimmy Carter. The rest of this thesis will focus specifically on Congressional human rights activism in relation to American foreign policy towards South Africa. Chapter 2 will focus on the period from 1973 until 1976, a time in which Southern Africa became increasingly a priority for policymakers and Congressmen alike. The final chapter will focus on the first two years of the Carter Administration, in which human rights activism had become institutionalized.

²¹ Johnson, *Congress and the Cold War*, xxiv-xxv.

²² Sarah B. Snyder, ‘A call for U.S. leadership: Congressional activism on human rights’, *Diplomatic History* 37 (2013) 372-397, 372.

²³ Keys, *Reclaiming American virtue*, 142.

1 The 'human rights revolution' in American foreign policy

When Jimmy Carter was inaugurated as president of the United States on 20 January 1977, he started his address by thanking his predecessor "for all he has done to heal our land."¹ Gerald Ford had assumed the presidential office less than two and a half years earlier, with the dubious honour of being the first person who had not been elected to the White House through a national election. Back in the summer of 1974, Richard Nixon had only announced his resignation the night before, fearing a hopeless and painful impeachment procedure after the release of evidence that he had obstructed the FBI investigation into the Watergate break-in. The Nixon Administration had been surrounded by secrecy, malpractice by government agencies, and ruthless behaviour abroad. Denied the privilege of an official inauguration ceremony, Ford declared in his inauguration speech that "our national nightmare is over."² He assumed leadership over a country damaged by scandals, while facing an oil crisis and distrust from Congress. Lacking an electoral mandate, Ford could not do much more than assuming the role of caretaker for the rest of his term. Nevertheless, looking back at his own presidency in 1987, he repeated Carter's words to his interviewers from the *Harvard Business Review*: "If I'm remembered, it will probably be for healing the land."³

With his opening statement, Carter left open whether he thought if the healing of his predecessor had been sufficient. His inaugural address centred on the theme of bringing America back to its basic principles, implying that it had abandoned them in its recent history. While Ford seemed to have referred to healing the situation at home, reflecting the circumstances under which he had become president, Carter's outlook was wider. In another version of his inaugural address that was videotaped to be directed to a global audience, he added:

"We will not seek to dominate nor dictate to others. As we Americans have concluded one chapter in our Nation's history and are beginning to work on another, we have, I believe, acquired a more mature perspective on the problems of the world. It is a perspective which recognizes the fact that we alone do not have all the answers to the world's problems. [...] We need your active participation in a joint effort to move the reality of the world closer to the ideals of human freedom and dignity."⁴

¹ Gerald Ford, 'Swearing-in ceremony speech' (9 August 1974). Accessed through the Ford Presidential Library, <https://www.fordlibrarymuseum.gov/library/document/0122/1252055.pdf>.

² Jimmy Carter, 'Inaugural address' (20 January 1977). Accessed through The American Presidency Project <http://www.presidency.ucsb.edu/ws/?pid=6575>.

³ Quoted in John Robert Greene, *The presidency of Gerald R. Ford* (Lawrence 1995), 190.

⁴ FRUS 1977-1980 vol. I, doc. 15: 'Editorial note' (20 January 1977).

According to Carter, the obsession with Soviet communism and the Cold War had led the American government to undertake actions that were mistaken and worse, un-American.⁵ The main innovation of his administration was the development of a foreign policy that claimed to be founded on the ideals of human freedom and dignity instead of national security within the Cold War. To this end, Carter decided that “our commitment to human rights must be absolute” in creating policies.⁶ The agenda of the Carter Administration was a catalyst as well as an exponent of what has been called ‘the human rights revolution’ of the 1970s. This chapter seeks to trace the origins of this revolution, the role of Congress, and the motivations of the Carter Administration to embrace it.

The deepest roots of the idea of human rights can be traced as far as the memory of historians goes: from Biblical origins through antiquity, Renaissance humanism, the Enlightenment, the French and American Revolutions to the present – although it can be pointed out that human rights also have non-western sources. Most histories of human rights emphasize the importance of the 1940s in which human rights play the role of reaction and antidote to the horrors of the Holocaust, culminating in the Universal Declaration of Human Rights in 1948. But although the Declaration remains the main point of reference for human rights advocates today, it did not immediately manage to move from the idealist rhetoric in the United Nations and the minds of intellectuals to the agenda of national policymakers, who quickly became caught up in the battles of decolonization and the Cold War. Conservatives within the United States also feared that the Declaration would demand precedence over the American constitution.⁷ Paradoxically, the United Nations also firmly established state sovereignty as an international norm, smothering any possible interference in the affairs of other countries on the grounds of human rights at the same time.

In recent years, the attention of the historians that are interested in human rights has shifted towards the 1970s. According to the legal historian Samuel Moyn, it was not until the 1970s that human rights really began to make sense to a broad public as a cause of justice. He argues that human rights were in competition with other programmes that prescribed steps towards a better world, such as revolutionary communism and nationalism. But at the brink of the 1970s, human rights survived while other programmes did not, most of all because human rights provided a moral alternative when the other political utopias went bankrupt.⁸ Daniel Sargent argues that human rights could thrive in the United States during the 1970s because three historical forces came together: globalization, détente and the ideological revival of individualist liberalism.⁹ The coverage of

⁵ Dumbrell, *The Carter presidency*, 110.

⁶ Carter, ‘Inaugural address’.

⁷ *Ibidem*, 26.

⁸ Moyn, *The last utopia*, 5.

⁹ Daniel Sargent, ‘Oasis in the desert? America’s human rights rediscovery’ in: Jan Eckel and Samuel Moyn (eds.), *The breakthrough: human rights in the 1970s* (Philadelphia 2013) 125-146, 129.

humanitarian crises on television made the American public more susceptible for problems abroad, as well as strengthening the belief that Americans were living in an increasingly interdependent world, where problems were of a global nature rather than strictly national. Globalization also opened doors for the work of international NGOs. The normalization of Cold War relations brought some relief against the threat of nuclear war from earlier decades, which allowed some space to speak about abuses in the communist world in terms of human rights. And, echoing the argument by Moyn, the collapse of democracies that resulted from self-determination movements into authoritarian regimes in the Third World and the disillusionment with the collectivism of 1968 led to the belief that the individual instead of the collective should be the starting point for global justice.

To be sure, there are a lot more concrete and tangible explanations for the occurrence of a human rights revolution in the 1970s, but these interpretations point to the fact that we cannot rely solely on the perspective of the national government or international organizations to explain the sudden ascent of human rights in American politics. They rose when domestic political developments intersected with transnational social movements, at a moment when politicians as well as non-governmental actors were rethinking the role of America in the world. When Carter was speaking about ending a chapter in the nation's history and beginning another, he was talking as much of domestic experiences as America's experience in conducting foreign policy abroad. The insertion of human rights in American politics reflects not only the broad international developments that Moyn and Sargent describe, but also specific characteristics derived from domestic events. These characteristics in turn influenced the behaviour of America as a political actor in the global arena.

From civil rights to human rights?

During the election campaign of 1975-1976, Carter was regarded as the outsider candidate for the Democratic ticket and the presidency.¹⁰ Before Carter started his campaign, his political experience consisted of one term as Governor of Georgia and one term in the Georgian State Senate, and he lacked a nationwide profile. In a time when the faith of the American public in its political institutions was low, he prided himself on the fact that he had not been part of the Washington establishment. But during the earlier days of his political career in Georgia, Carter had witnessed one of the most profound transitions in American society of his time: the end of racial segregation in the American South. Although Carter had kept himself neutral, he had found himself in the middle of colliding forces between segregationists and civil rights activists in the Deep South, and had been sympathetic

¹⁰ Betty Glad, *An outsider in the White House: Jimmy Carter, his advisors, and the making of American foreign policy* (Ithaca 2009), 7.

to the civil rights movement.¹¹ When Carter was assembling his foreign policy team in preparation of his presidency, some important posts went to veterans of the civil rights movement. This included Patricia Derian and Andrew Young, who were appointed as Assistant Secretary of State for Human Rights and ambassador to the United Nations respectively, but there were many more.¹² Given the international outlook of some members of the civil rights movement, it would make sense to continue the struggle for justice abroad under the banner of human rights. But perhaps this suggests too much continuity between the American civil rights movement and the human rights-based foreign policy of the United States. According to Keys, there were stronger elements of discontinuity in terms of time, group membership and the issues they addressed.¹³ With the possible exception of apartheid, African Americans were preoccupied with the struggle for justice at home.

African American activists had fought to bring the world closer to the same ideals of human freedom and dignity long before Carter came to office. The end of World War II and the creation of a multinational organisation that was committed to universal human rights flamed hopes that race relations could be rebuilt along more progressive lines in the United States, but also internationally. It was not hard to see a parallel between the treatment of non-white people as second-rate citizens at home and the survival of white-dominated colonialist states abroad. In the minds of many activists, the struggle for equality at home coincided with the struggle for equality between nations.¹⁴ And just like other proponents of human rights in the 1940s, they had put their hopes on the United Nations as a vehicle for the change they desired. But appeals to the United Nations relating to the American record on domestic race relations increasingly acquired a subversive connotation when the Cold War was taking shape. When the National Association for the Advancement of Colored People (NAACP) issued an appeal criticizing the human rights position of coloured people in the United States to the UN Human Rights Commission in 1947, Eleanor Roosevelt threatened to resign from the NAACP board because she considered the appeal propaganda for the Soviet Union.¹⁵ She stayed, and the NAACP leadership shunned similar arguments in the future.

The primary focus of organisations like the NAACP was to address injustices at home by securing more protection from the federal government. Incidents like this that undermined the role of the United States in the world alienated possible support from moderate sympathizers and the government, and put domestic progress at risk. As the United Nations was increasingly seen as a political body dominated by Second and Third World interests, activists refrained from basing their

¹¹ Peter Bourne, *Jimmy Carter: a comprehensive biography from Plains to postpresidency* (New York 1997), 133-143.

¹² Muravchik, *The uncertain crusade*, 9-10.

¹³ Keys, *Reclaiming American virtue*, 33.

¹⁴ Borstelmann, *The Cold War and the color line*, 45-46.

¹⁵ Keys, *Reclaiming American virtue*, 35.

appeals on universal human rights, framing human rights instead as an American tradition.¹⁶ Human rights discourse became part of a wider vocabulary of generic terms such as freedom, equality, civil rights and justice that were used to refer to concrete problems that African Americans were facing in American society: the obstruction of voting rights, segregation laws in public life, discrimination and lynching. As a part of this discourse, human rights was generally used as a fluid term that hinted at the inclusivity of minorities as American citizens, without much reference to international law or international concern. By 1965, one of the few persons in America to argue to move beyond domestic concerns and to take action against racism and colonialism within the UN human rights system was Malcolm X.¹⁷ It was also embraced by Martin Luther King in a later stage of his activism. Starting in 1967, at a time when the most important legal reforms in the field of civil rights had already been achieved, King started to focus on the underlying structures of power that kept inequality between black and white in place around the world. King wanted to exchange constitutional rights for human rights to bring about a 'revolution of values' that would destroy the gap between the wealthy and the poor.¹⁸ His economic activism contributed to his marginalization, and by the time he adopted human rights in his discourse, he was increasingly seen as a radical figure. The bottom line is that during the 1960s, human rights were only regarded as a credible agenda for change when they were used within a domestic framework.¹⁹ When people tried to invoke it in a global context or tried to base it more firmly in international law, they were regarded as radicals who were out of touch with mainstream opinion.

In the meantime, the domestic human rights record of the United States was becoming a major embarrassment in American foreign relations. Thomas Borstelmann opens his book with a story from 1961 about the newly appointed ambassador of Chad to the US, who was denied service in a Maryland restaurant because the serving lady argued that "he looked just like an ordinary run-of-the-mill nigger to me."²⁰ In the same year, the newly appointed Secretary of State Dean Rusk called American racism "the biggest single burden we carry on our backs in foreign relations."²¹ Segregation at home was becoming more problematic in a period when America was in a competition with the Soviet Union over the loyalty of newly decolonized states in Third World, and tried to engage more actively with them under the Kennedy and Johnson Administrations. This included an attempt to participate in multiple UN covenants on human rights, but most of these efforts failed in Congress during the ratification procedure. The priorities of Kennedy and Johnson to improve the standing of

¹⁶ Ibidem.

¹⁷ Ibidem, 39.

¹⁸ Thomas F. Jackson, *From civil rights to human rights: Martin Luther King, Jr., and the struggle for economic justice* (Philadelphia 2007), 326.

¹⁹ Keys, *Reclaiming American virtue*, 39.

²⁰ Borstelmann, *The Cold War and the color line*, 1.

²¹ Ibidem, 141.

the United States abroad lay in fostering economic growth in developing countries and to make work of domestic civil rights.²² When the Johnson Administration set up a commission for the upcoming Human Rights Year marking the twentieth anniversary of the Universal Declaration, the instruction was “not to deal with issues abroad.” Instead, it focussed on areas such as civil rights, health, education and housing.²³ The media virtually ignored the festivities for the Human Rights Year, and it ended in utter failure. The organizers found out the hard way that international human rights had little resonance in the minds of American people in 1968, as long as the struggle for civil rights at home occupied their minds.

At the end of the 1960s, both civil rights reform and global decolonization (with the exception of Southern Africa) were approaching their end.²⁴ But human rights had not made their way into American foreign policy yet. The State Department did not have to apologize anymore for the injustices that non-white people faced at home, but it did not rush out immediately to tackle injustices elsewhere through a coherent programme based on human rights. At least for some years to come, the status of human rights was primarily perceived as a domestic problem, not an international issue that deserved the consideration of the United States.

Vietnam and the crisis of American liberalism

The engagement of Kennedy and Johnson in the Third World did not stop at promoting economic development in order to contain communism. Over the 1960s, the United States had extended its commitment to keep Vietnam out of the hands of communism to the point that it was waging a full-fledged war with hundreds of thousands Americans servicemen involved. The presence of the international media and the distribution of televisions made sure that the atrocities of war were broadcasted right into American households. To many Americans, the commitments of the U.S. government to support a dictatorship so far away from home seemed out of proportion. And worse, the revelation of scandals such as the My Lai massacre in 1969, the existence of the Phoenix-counterinsurgency programme ran by the CIA and the use of tiger cages to detain opponents of the South Vietnamese government implied that the United States were complicit in many of the brutalities that came along with asymmetric warfare. It also illustrated that the American public was systematically lied to when it came to American activities in Vietnam.²⁵ Protest against the Vietnam flourished, but the claims made against the war were usually not founded on appeals to human

²² Odd Arne Westad, *The global Cold War: Third World interventions and the making of our times* (Cambridge 2005), 134-136.

²³ Keys, *Reclaiming American virtue*, 41-42.

²⁴ Borstelmann, *The Cold War and the color line*, 222.

²⁵ Charles DeBenedetti and Charles Chatfield, *An American ordeal: the antiwar movement of the Vietnam era* (New York 1990), 314-315.

rights. The only groups raising the issue of human rights in relation to the Vietnam War were international lawyers and some church groups, but human rights discourse was still too closely tied to issues at home to function in the context of an international issue.²⁶ Instead, opponents argued that American involvement in the conflict was imperialist, racist, morally wrong and unconstitutional.

The trauma of the Vietnam War cast doubt on the benevolence of American power and whether anticommunism was the correct purpose for which it should be exercised. This debate came to the forefront in American national politics most vividly within the Democratic Party. According to John Dumbrell, American post-1945 liberalism rested on three pillars: a strong presidency, an internationalist foreign policy driven by anti-communist containment, and social reform funded by economic growth. At the dawn of the 1970s, all of these foundations were under threat.²⁷ The Vietnam War had been a presidentially directed war, initiated and escalated by Democratic presidents for the wrong reasons. It had also absorbed a disproportionate amount of money and attention from the government, causing neglect for domestic policies in the eyes of some politicians. In 1972, the Democratic presidential candidate George McGovern accepted his nomination with a speech with the theme 'Come home, America'.²⁸ McGovern wanted to bring the American involvement in the Vietnam War to an immediate end, drastically cut military spending and greatly expand social welfare. More broadly, he wanted to bring morality back into American policy and acknowledge the guilt that America had for what happened in Vietnam.²⁹ His nomination and subsequent humiliating defeat in the 1972 presidential election against Richard Nixon was the climax of the crisis in the Democratic Party, and led Democrats to search for a new identity beyond Vietnam. It was also an important step in the path towards the adoption of human rights as an American foreign policy credo.

McGovern was the most important exponent of New Left influence in the Democratic Party. At the Democratic Party convention in 1968, the party establishment had clashed with anti-war protesters, liberal intellectuals and New Left representatives over the nomination of Hubert Humphrey as presidential candidate. Humphrey's nomination was surrounded with controversy because of the opaque process that led to his selection, and because he was closely associated with the Vietnam War in his capacity as the incumbent vice-president. A reform commission had to ensure that the selection procedure would be more transparent in the future, and that minority voting groups such as blacks, women and youths would be adequately represented by installing a quota.

²⁶ Keys, *Reclaiming American virtue*, 50-57.

²⁷ Dumbrell, *The Carter presidency*, 17.

²⁸ George McGovern, "Address Accepting the Presidential Nomination at the Democratic National Convention in Miami Beach, Florida," (14 July 1972), *The American Presidency Project*, accessed online through <http://www.presidency.ucsb.edu/ws/?pid=25967>.

²⁹ Keys, *Reclaiming American virtue*, 71.

But in reality, the new selection process favoured the groups that were most outspoken in the primary elections, which were generally of a higher social class and educational level than the silent majority, and held more radical views. As a result of, the Democratic Party drifted away from its traditional blue collar power base and favoured candidates with a more radical liberal programme instead, such as McGovern.³⁰ Mocked by his adversaries as running on a platform of ‘amnesty, abortion and acid’, McGovern lost against Nixon in all but one state and the District of Columbia.

The historical defeat of McGovern in the 1972 elections produced a backlash in the Democratic Party under the banner of the Coalition for a Democratic Majority (CDM). The foundations for this movement were already laid before the defeat of McGovern, as well as its sentiments, but in order not to undermine the Democratic presidential bid they had postponed their launch until after the election. Seeking to reconnect the Democratic Party to its traditional power base, it initially focused on undoing many of the party reforms and quotas that had led to the selection McGovern. Positioning itself more clearly between the New Left and the Republican Party, the CDM increasingly shifted its attention to foreign policy issues.³¹ It rejected the isolationism that McGovern had forwarded and argued for a confrontational foreign policy instead, especially towards the Soviet Union. In this sense, the CDM was as much a reaction to McGovern as to the policy of détente that the Nixon Administration was pursuing. Détente had been the answer of Nixon and Henry Kissinger to cope with the financial and electoral constraints on American power that had developed during the Vietnam War. This included downplaying the role of ideology in Cold War relations, the opening of relations with China, and the start of bilateral negotiations with the Soviet Union on issues such as arms limitation and trade. But in the eyes of the members of the Coalition, the Soviet Union remained a totalitarian country that was eager to expand.³² Any accommodation was amoral and simply mistaken, because it would weaken the position of the United States vis-à-vis the Soviet Union. Instead, the CDM wanted to revitalize the traditional Cold War framework of ideological confrontation between superpowers. In the eyes of the CDM, American power was a generally a force that caused good, and they rejected the guilt over Vietnam that McGovern personified.³³ Exponents of the CDM would later start to identify themselves as neoconservatives, and foreign policy would become their exclusive interest.

It was this political current that put human rights firmly on the agenda in Washington for the first time as a foreign policy objective. This was done most famously by Senator Henry ‘Scoop’ Jackson (D.-WA), a hard-line anti-communist and associate of the CDM. Unsurprisingly, his concern focussed primarily on human rights within the Soviet Union, and in particular on the fate of two

³⁰ Justin Vaïsse, *Neoconservatism: the biography of a movement* (Cambridge MA 2010), 81-85.

³¹ *Ibidem*, 96.

³² *Ibidem*, 99-100.

³³ Keys, *Reclaiming American virtue*, 116.

groups: dissidents and Jews. Dissidence had slowly developed when the policy of destalinization under Krushchev opened up some space for critique on the Soviet system. After the crackdown on reform communism during the Prague Spring in 1968, dissidents like Andrei Sakharov and Aleksandr Solzhenitsyn acquired a heroic status in the Western media.³⁴ In addition, concern with the position of Jews in the Soviet Union was also heightening in the late 1960s. The defeat of its Arab allies by Israel during the Six Day War in 1967 had flamed the discrimination and harassment of Jews within the Soviet Union. This was all the more worrisome, because Soviet emigration laws refused Jews the right to leave the country. The issue was picked up in the American media when a group of these *refuseniks* that had unsuccessfully tried to hijack an airplane in 1970 in a desperate attempt to emigrate were sentenced to death. Two years later, the Soviet Union caused further outrage when it introduced an exit tax for prospective emigrants, in order to repay the country for the public services they had benefited from.³⁵ Since 1968, Soviet dissidents (including Jews) had increasingly tried to rally public opinion by basing their appeals on international human rights.³⁶ In return, the intensive media coverage that they received in the United States “helped to internationalize American understandings of human rights”, according to Keys.³⁷ Meanwhile, the policy of détente of the Nixon Administration was running at full speed. At the Moscow Summit in May 1972, the leaders of both superpowers had signed the SALT I-treaty, the Anti-Ballistic Missile Treaty, and had initiated talks for a trade agreement granting the Soviet Union most favoured nation status with the United States.³⁸ Crucial for the success of détente was the principle of non-interference in the affairs of other states, which was laid down in the provisions of the agreement. Those who sympathized with the Soviet dissidents and Jews consequently had little hope that the Nixon Administration was going to do anything to support them.

It was against this background that Henry Jackson filed the Jackson-Vanik amendment to the Trade Act on 27 September 1972. Co-sponsored by Charles Vanik (D.-OH) in the House of Representatives, it proposed to deny the most favoured nation status to any country that denies its citizens the right to emigrate.³⁹ Linking the issue of Soviet Jewry with trade negotiations was a move by Jackson to thwart détente and to revive the confrontation with the Soviet Union. His innovation was to base his counteroffensive on international human rights, referring to them extensively in his amendment. This was a novelty among staunch anti-communists, who traditionally had little

³⁴ Moyn, *The last utopia*, 134-139.

³⁵ Keys, *Reclaiming American virtue*, 108-113, 118-119.

³⁶ Benjamin Nathans, ‘The disenchantment of socialism: Soviet dissidents, human rights and the new global morality’ in: Eckel and Moyn (eds.), *The breakthrough*, 33-48, 37.

³⁷ *Ibidem*, 109.

³⁸ Raymond L. Garthoff, *Détente and confrontation: American-Soviet relations from Nixon to Reagan* (Washington 1994), 335-338, 342.

³⁹ Forsythe, *Human rights and U.S. foreign policy*, 12.

sympathy for the internationalism of the UN and who ordinarily based themselves on American values such as freedom instead.⁴⁰ In the way Jackson framed it, the right to emigrate was the most fundamental human rights because it guaranteed that people could 'vote with their feet'. Next to his determination to end détente, Jackson had probably also another personal agenda to engage very actively with a lively issue in a year in which he was competing for the Democratic presidential ticket. His ambitions did not fade after he lost it to McGovern, and he would try again in 1976.

The Jackson-Vanik amendment would not be signed into law until 1974, but by the end of 1972 Jackson had succeeded to put international human rights on the Washington agenda firmer than ever before. Already in the spring of 1973, he had found a majority for his amendment in both houses.⁴¹ The success of his campaign rested partly on his fight against détente, but it also fed on the hopes of people that wanted to see a more prominent role for human rights in an American foreign policy that would move beyond the traditional paradigm of Cold War-confrontation. Lacking a better term, Jackson's version would become known as the conservative or neoconservative conception of human rights, as opposed to the liberal version that saw human rights as a new foundation for an interdependent, post-Cold War world that America should commit to. The alliance between the two would persist until the presidential election that brought Carter into the White House.

The liberal notion of human rights and international NGOs

It is somewhat ironic that the breakthrough of international human rights in Congress came from a politician like Henry Jackson, who stood up for the right of Jews to emigrate but had seen no human rights problems in waging the Vietnam War. The filing of the Jackson-Vanik amendment almost coincided with a breakthrough in the peace negotiations in Vietnam. On 27 January 1973 the Paris Peace Accords were signed, removing the biggest stain on the reputation of the United States in international politics at that time. Especially the last phase of the war had been gruesome, as the Nixon Administration had tried to force the North Vietnamese government to the negotiation table by sending troops into Laos and Cambodia, and launching the 'Christmas bombings', an aerial bombing campaign over the North at an unprecedented scale.⁴² Nixon had tried to sell the peace agreement as a 'peace with honour' at home.⁴³ To others, there was little honour in fighting a brutal war only to keep an undemocratic and corrupt government in place. Nixon had wanted to end the war on his own terms, rather than leaving the impression that the United States had succumbed to internal or external pressures, which would have made it look weak. There was also a broader

⁴⁰ Keys, *Reclaiming American virtue*, 104.

⁴¹ *Ibidem*, 122.

⁴² Sargent, *A superpower transformed*, 51.

⁴³ Online video, 'President Nixon announces agreement on ending the war in Vietnam and restoring peace' (23 January 1973), accessed through <https://youtu.be/wiKulZK-ddl>.

message to this: the United States honours its commitments to its allies. But if there were many more allies like South Vietnam, how many more wars was the United States willing to fight? This question was raised already in an earlier phase of the war, in a period when many other Third World countries were receding into authoritarianism shortly after their independence.⁴⁴ The Congressmen who initiated this debate represented a different political current than Jackson, which also adopted the language of international human rights, but used it to question the human rights record of America's allies instead of its adversaries.

The most well-known exponent of this current was Representative Donald Fraser (D.-MN). Fraser also opposed communism, because it obstructed the development of democracy, but he thought that right-wing dictatorships were not necessarily any better in that respect. Fraser made name for himself with his campaign against the Greek junta, which had come to power after a coup d'état in 1967. The military leadership had instituted martial law, imprisoned political opponents and made widespread use of torture, leading to strong condemnation from other European countries.⁴⁵ But it was also a host to important American military bases and a NATO ally. When the Johnson Administration proved hesitant to disassociate the United States from the junta, Fraser and his likeminded colleagues launched an opposition campaign.⁴⁶ Outrage with Greek repression was largely overshadowed by the Vietnam War, but it also led opponents to see the cases of Greece and Vietnam as signs of a larger pattern. According to Fraser's colleague Don Edwards (D.-CA), Vietnam was "only a symptom of a sick and misguided view of our role in the world."⁴⁷ To be sure, there were plenty of other strategic allies of the United States that had abysmal records on torture or respect for political freedoms, such as Brazil, Argentina, the Philippines and South Africa.

Fraser's campaign against the Greek junta was also important for another reason, namely because it brought in international non-governmental organizations to challenge American foreign policy. It were also these organizations that managed to frame the opposition more decisively in the language of international human rights. Among the most important ones was Amnesty International. Amnesty had already opened a branch in the United States in its founding year of 1961, but had followed a somewhat different development path than the original in the United Kingdom, focussing more on lobbying than on group work.⁴⁸ Originally focussed on political prisoners and victims of torture, it started to base its appeals on international human rights and the UDHR frequently from 1967 onwards, particularly in reference to Greece. It published a report called 'Situation in Greece',

⁴⁴ Keys, *Reclaiming American virtue*, 75.

⁴⁵ Effie G.H. Pedaliu, 'Human rights and foreign policy: Wilson and the Greek dictators, 1967-1970', *Diplomacy and Statecraft* 18 (2007) 185-214, 188.

⁴⁶ Keys, *Reclaiming American virtue*, 86.

⁴⁷ Ibidem.

⁴⁸ Sarah B. Snyder, 'Exporting Amnesty International to the United States: transatlantic human rights activism in the 1960s', *Human Rights Quarterly* 34 (2012) 779-799, 786-787.

which provided detailed evidence on the repressive activities of the government and put the junta under further international scrutiny.⁴⁹ Although Amnesty had been virtually unknown to Americans before, its activism on behalf of political prisoners in Greece won it considerable attention by the end of the 1960s.⁵⁰ Amnesty's strategy of approaching human right problems on the level of the individual proved to be successful in appealing to lawmakers and the wider public. This tactic also reinforced its standing as an organization that was above politics and ideology, and merely focussed on fighting harm. The combined efforts NGOs and Congressmen led the House to vote for a ban in military aid to the Greek dictatorship in 1971.⁵¹ Even though the Nixon Administration later issued a waiver to overrule this decision, this vote set an important precedent for later legislation.

Nevertheless, the human rights activism that Amnesty promoted beyond specific issues such as Greece remained largely irrelevant to the wider public until the end of the Vietnam War, according to Keys.⁵² Moyn also argues that at the end of the 1960s, Amnesty was just one among many organizations that forwarded their particular agenda for social improvement, along with other groups that operated on a more political or religious basis.⁵³ But the years preceding this were important for numerous reasons. It laid the groundwork for Congressional opposition to foreign policy on a different basis than reviving Cold War antagonism, focussing on American complicity in human rights breaches instead. It also marked the beginning of cooperation between NGOs and lawmakers, as important partners in providing information and setting the agenda. Furthermore, it also set torture and political imprisonment on the agenda as the main breaches of human rights in the minds of lawmakers and the general public, along with the freedom of movement propagated by Henry Jackson. Fraser would become the most visible advocate of the liberal human rights current after 1971, when he was appointed as the chairman of the House Subcommittee on International Affairs for International Organizations and Social Movements.⁵⁴

Congress forces human rights upon Kissinger

The Paris Peace Accords were signed exactly one week after the second inaugural address of President Nixon, giving him a flying start after his landslide victory in the 1972 elections. There was a lot of relief that "America's longest and most difficult war" had come to an end, freeing a lot of energy and resources for other endeavours.⁵⁵ But for Congressmen such as Fraser, the peace accords

⁴⁹ Amnesty International report, 'Situation in Greece' (25 January 1968).

⁵⁰ Snyder, 'Exporting Amnesty International', 781.

⁵¹ Keys, *Reclaiming American virtue*, 97.

⁵² *Ibidem*, 102.

⁵³ Moyn, *The last utopia*, 132.

⁵⁴ Snyder, 'A call for U.S. leadership', 372.

⁵⁵ Quote from: Richard Nixon, "Oath of Office and Second Inaugural Address" (20 January 1973). The American Presidency Project (<http://www.presidency.ucsb.edu/ws/?pid=4141>).

did not end the structural problems in American foreign policy. Fraser was seen as a 'new internationalist', a political current that wanted to adjust America's foreign policy to the reality of an interdependent world.⁵⁶ Central to their views was the idea that the demarcation between domestic and foreign problems was eroding, requiring the leadership of the United States on transnational issues such as narcotics trafficking, the environment and human rights. Their new internationalism had to replace the 'old internationalism' of the United States, which relied on military strength and secret operations.⁵⁷ New internationalists argued that in the recent past, the priority of the Cold War over issues other had harmed America's image abroad and undermined the morality in American foreign policy.⁵⁸ In their views, American power had been used for the wrong purposes, and one of the reasons for this was that too much of it was in the hands of too few people. Over the last years, the White House had hidden crucial information from Congress, including military incursions into Laos and Cambodia during the Vietnam War, or clandestine arms supplies to the Pakistani government during the Bangladesh Liberation War of 1970-71.⁵⁹ In the meantime, a new scandal was in the making in Chile, where the socialist government of Salvador Allende was ousted by General Augusto Pinochet in September 1973 with the aid of the CIA. Although American involvement was not revealed until several months later, Congress had to learn of these events either through the press or by using its own investigative powers. Such scandals reinforced the view that the Nixon Administration was testimony to the 'imperial presidency', lacking any inclination to consult Congress on its foreign policy or to respect existing legislative guidelines.⁶⁰

This impression was also fuelled by the erupting Watergate scandal that Nixon's staff tried desperately to suppress, but that would eventually end in his resignation. As the end of the Vietnam War also freed a lot of time and energy from Congress, it became more vigilant of and critical on the actions of the executive, and sought to curb some of the excesses of presidential power. An important example of this is the War Powers Resolution of September 1973, which limited the presidential capabilities of sending troops to war without a Congressional mandate. Human rights became one of the other battlegrounds for influence between Congress and the White House, echoing the new internationalists' yearning for a more 'moral' foreign policy that was perceived to be in line with American values. In the face of a reluctant administration, Fraser, Jackson and others found more and more support for their human rights advocacy in Congress. According to Sargent, the period 1973-1976 marked the legislative breakthrough of human rights promotion as a foreign policy

⁵⁶ Sargent, *A superpower transformed*, 201.

⁵⁷ Johnson, *Congress and the Cold War*, xiv.

⁵⁸ Snyder, 'A call for U.S. leadership', 374-375.

⁵⁹ Sargent, *A superpower transformed*, 84-87.

⁶⁰ Snyder, 'A call for U.S. leadership', 376. The expression 'imperial presidency' comes from Arthur M. Schlesinger's book, *The Imperial Presidency*, which was published in 1973.

objective.⁶¹ The Congressional initiatives to make human right considerations an integral part of American foreign policy were immensely frustrating to Kissinger, who regarded it as irreconcilable with détente. In the eyes of Kissinger, human rights were part of the domestic jurisdiction of other countries and consequently off limits for American foreign policy.⁶² Nevertheless, with the power balance shifting increasingly towards Congress, much of the legislation on human rights in American foreign policy was put in place during these years.

Riding on the wave of Congress discontent, Fraser managed to transform his subcommittee out of relative obscurity into a vehicle for human rights promotion. Between August and December 1973, Fraser organized hearings on U.S. foreign policy and human rights, questioning government officials about current practices, but also inviting academics and representatives of NGOs.⁶³ The interviews made clear that the Nixon Administration had no place in its foreign policy for human rights promotion, and that it also lacked the will and bureaucratic infrastructure to do so. During the hearings, it was testified that there was only one person in the State Department that was assigned to human rights issues on a full time basis.⁶⁴ The Fraser report that was published in March 1974 concluded that “the human rights factor is not accorded the priority it deserves in our country’s foreign policy”, and included recommendations to change that, including cutting military and economic aid.⁶⁵ By the time the report was published, Congress had already taken legislative initiatives to do so, by passing Section 32 to the Foreign Assistance Act (FAA) of 1973, denying economic and military assistance to countries that held political prisoners. When this was deemed too vague to implement, Congress passed Section 502B that excluded aid to governments that engaged in gross violations of human rights, including torture; cruel, inhuman or degrading treatment or punishment; prolonged detention without charges; or other flagrant denials of the right to life, liberty and security of person.⁶⁶ It also addressed the bureaucratic problems by pushing for the appointment of a Human Rights Coordinator and Human Rights Officers in the regional desks of the State Department. The Trade Act of 1974 also included the Jackson-Vanik amendment for the first time.⁶⁷

The Congressional initiatives were intensified by the continuing stream of scandals surrounding the White House. Ford had replaced Nixon after his looming impeachment in August 1974, and had pardoned him of his alleged crimes only one month later, suggesting an orchestrated

⁶¹ Sargent, *A superpower transformed*, 204.

⁶² Barbara Keys, ‘Congress, Kissinger and the origins of human rights diplomacy’, *Diplomatic History* 34 (2010) 823-851, 829.

⁶³ *Ibidem*, 831.

⁶⁴ *Ibidem*.

⁶⁵ Snyder, ‘A call for U.S. leadership’, 374.

⁶⁶ *Ibidem*, 388-389.

⁶⁷ Forsythe, *Human rights and U.S. foreign policy*, 12.

plan and weakening his credibility.⁶⁸ The midterm elections of November 1974 were an easy victory for the Democrats, sending a group of young liberal Congressmen to Washington that became known as the 'Watergate babies.' The replacement of Nixon also placed foreign policy even firmer into the hands of Henry Kissinger, who was unbending for Congressional activism on human rights.⁶⁹ Publicly, he expressed some sympathy for human rights, but made clear that he did not find it an appropriate objective of foreign policy and was cynical about what the United States could do about it. Privately, he dismissed human rights as "sentimental nonsense" or "empty posturing" and blatantly refused to comply with the new legislation.⁷⁰ The legislative limitations on aid were circumvented by calling upon exceptional circumstances, and the human rights bureau was notoriously understaffed. This was becoming increasingly uncomfortable for his civil servants in the State Department, who had advised him to adopt a more constructive attitude to head off further legislation.⁷¹

This bureaucratic conflict became most visible after the passing of the Harkin Amendment to the International Food Development and Assistance Act in 1975, which linked economic assistance to human rights standards. In order to ensure that these standards were met, the State Department was required to issue an annual report on the human rights situation in countries receiving aid.⁷² This put diplomats in an awkward position: they had to start collecting evidence of human rights practices from their embassies, and prepare their host governments for the publication of reports that might be very critical of them – and mean an end to their support. Nevertheless, the infrastructure to do so was put in place, but when the reports were finished, Kissinger refused to release them to Congress.⁷³ Needless to say, his opponents were outraged and launched a strengthened version of the act in 1976, that gave Congress a say in determining whether a country violated human rights or not.⁷⁴ To Kissinger, the issue became a matter of principle about who was in charge of foreign policy. Kissinger found it a cheap shot to raise human rights in an era of détente, when superpower relations were more forgiving for such initiatives. His tactic of addressing human rights was in the context of détente, promising to raise the issue in quiet diplomacy and pointing to the successes that had already been achieved by this, for instance in the emigration rate of Soviet Jews.⁷⁵ But most of his defence was purely cosmetic, like asking notorious human rights violators (such as Pinochet) for

⁶⁸ Yanek Mieczkowski, *Gerald Ford and the challenges of the 1970s* (Lexington 2005), 30.

⁶⁹ Greene, *The Ford presidency*, 117-119.

⁷⁰ Keys, 'Congress, Kissinger and the origins of human rights diplomacy', 828.

⁷¹ Snyder, 'A call for U.S. leadership', 390.

⁷² Keys, 'Congress, Kissinger and the origins of human rights diplomacy', 836.

⁷³ *Ibidem*, 846.

⁷⁴ *Ibidem*, 848.

⁷⁵ FRUS 1969-1976 vol. XXXVIII, doc. 49: 'Memorandum of conversation' (17 December 1974). Kissinger claimed that the emigration rate of Soviet Jews had risen from 400 to 35,000 between 1969 and 1974 as a result of quiet diplomacy.

token concessions or public relations gestures.⁷⁶ The problem was that his adversaries in Congress had no illusions that they were anything more than that.

The years between 1973 and 1976 were crucial for defining the character of human rights policies under Carter. If conservative human right advocates like Jackson forced the breakthrough of human rights by pointing to the Soviet Union, it were liberals like Fraser that seized the moment and directed it towards America's allies. This reflected the confrontational atmosphere in which the legislation came about: foreign aid was one of the few areas that required annual authorization, so Congress could use its powers to set requirements for human rights. In doing this, they found strange bedpartners in isolationist conservatives that were intent on lowering foreign aid in general.⁷⁷ The burden of such legislation fell inherently on strategically expendable allies that were cut off from that aid. Countries that were receiving no U.S. aid were harder to reach and did not suffer from the new legislation. This would cause criticism during the Carter presidency: that American human rights policies were inconsistent, biased unfairly towards right-wing allies, punitive in character and ineffective in reaching their intended goal of promoting human rights as a result.⁷⁸ The quarrel about the direction of foreign policy between Kissinger and Congress had very real consequences for the development of human rights policies, although Fraser claimed that, for him, it had never been about challenging the executive.⁷⁹ He had just wanted to base American foreign policy more firmly on American values by ending its complicity in repression elsewhere.

The United States and human rights in the international arena

In the middle of his resistance against the mounting stack of human rights legislation at home, Kissinger oversaw the signing of the Helsinki Accords on 1 August 1975. The accords were the outcome of almost three years of negotiating and covered nearly all aspects of East-West relations through different 'baskets' of issues, namely political and security matters (Basket I), economic relations and scientific and technological cooperation (Basket II), and human contacts, cultural relations and information flows (Basket III). The Final Act was one of the fruits of détente: it proclaimed the inviolability of borders and the territorial integrity of states, envisaged better economic and scientific relations and committed the signing parties to expanding human, cultural and intellectual contacts between East and West.⁸⁰ Part of the provisions in Basket I was that the participating states would respect human rights and fundamental freedoms as essential factors for

⁷⁶ Keys, 'Congress, Kissinger and the origins of human rights diplomacy', 837.

⁷⁷ Keys, *Reclaiming American virtue*, 139.

⁷⁸ Muravchik, *The uncertain crusade*, 114, 174-178.

⁷⁹ Snyder, 'A call for U.S. leadership', 376.

⁸⁰ Sargent, *A superpower transformed*, 215.

peace and justice. The accords were signed by Canada, the United States, the Soviet Union and every European country except Albania.

In the United States, the signing of the Helsinki Accords was widely criticized at the time for giving away too much to the Soviets while receiving little in return. The provisions about respecting non-interference and territorial integrity were interpreted as a formal recognition of a Soviet sphere of influence, giving the impression that the United States were acquiescing in the occupation of Eastern Europe.⁸¹ But later, the Helsinki Final Act would be celebrated as a prelude to the end of the Cold War, in particular because it made the Soviet Union accountable for human rights standards it did not want to meet. The act provided Soviet dissidents with a document which they could invoke against their own government to respect human rights such as freedom of thought, religion, conscience or belief. Moreover, the often forgotten Basket IV contained the obligation to disseminate the Final Act as widely as possible, and ensured that the performance of the signatories would be monitored during follow-up conferences.⁸² This gave Western countries a legitimate interest in the internal affairs of the Eastern bloc (and vice versa), a notion that was rather contradictory with détente. The Final Act would be an inspiration to many dissident movements in the Eastern bloc, and spawned NGOs such as Helsinki Watch (later Human Rights Watch) that reported on the implementation of the accords.

While the legacy of the Helsinki Accords would be largely determined by its reputation in regard to the end of the Cold War, the importance of the human rights provisions escaped many observers at the time in the United States, and made the whole Helsinki process look like failure. Kissinger had been very cynical about the entire Conference for Security and Cooperation in Europe (CSCE) that produced the accords, delaying progress in the negotiations for some time and using it for his own strategic purposes. On the one hand, the CSCE had been the desire of the Soviet Union, so he could use it to extract concessions on other points that he deemed more important, such as reducing conventional force levels in Europe. On the other hand, the negotiations gave a new impulse to the relations with America's European allies. So the United States went reluctantly ahead with the CSCE, to play along and keep everybody reasonably satisfied.⁸³ Kissinger did not care much for the content of the agreements in general, expressing disregard for them to his staff, although he became slightly more favourable later when he had to defend them against criticism at home.⁸⁴ As could be expected, this was also true for the human rights provisions, in which Kissinger neither saw

⁸¹ Richard Davy, 'Helsinki myths: setting the record straight on the Final Act of the CSCE, 1975', *Cold War History* 9 (2009) 1-22, 4.

⁸² *Ibidem*, 11-13.

⁸³ Michael C. Morgan, 'The United States and the making of the Helsinki Final Act' in: Fredrik Logevall & Andrew Preston (eds.), *Nixon in the world: American foreign relations 1969-1976* (Oxford 2008), 166-167.

⁸⁴ Jussi M. Hanhimäki, "They can write it in Swahili": Kissinger, the Soviets and the Helsinki Accords, 1973-75', *Journal of Transatlantic Studies* 1 (2003) 37-58, 38-41.

much importance. He even persuaded Brezhnev to make concessions on human rights as early as 1972, because he confided to him that they would not be taken seriously anyway.⁸⁵ This would have been a brilliant move, if he had not genuinely believed that himself too at the time. Kissinger could not conceive that committing to human rights or cultural exchange on paper could achieve any real change in Eastern Europe, arguing that he did not believe “that a bunch of revolutionaries who manage to cling to power for fifty years are going to be euchred out by the sort of people we have got negotiating at the European Security Conference.”⁸⁶ For Kissinger, the human rights provisions were only incorporated to please European countries and to evade opposition from the left.

Over 1975, Kissinger had come to accept that he needed to adopt a more conciliatory approach towards human rights in order to appease his opponents in Congress and to win more support for his administration’s foreign policy. One of the more notable gestures was the appointment of Daniel Patrick Moynihan as U.S. Ambassador to the United Nations in June 1975. Moynihan was a Democrat with a neoconservative view on foreign policy. He had previously served as ambassador to India and had published an essay called ‘The United States in Opposition’ that won him the interest of Kissinger. He argued that the United Nations had turned into a theatre of anti-Americanism as a result of the decolonization, and that the United States should stand up to its bullies, using its heritage as the champion of individual liberty to take a tougher stance against its opponents in the General Assembly.⁸⁷ With the dismantling of the Portuguese empire in 1975, the decolonization had come to an end, but it had failed to deliver on the hopes of leaders such as Kennedy, who thought that economic development would produce stable democratic regimes. In reality, many recently decolonized countries had descended into authoritarianism and had adopted socialist, anti-American ideologies and generally sided with the Soviet bloc. The human rights-conception of most of these states reflected their origin: a primacy of collective rights like self-determination over individual rights.⁸⁸ As a consequence of their numeric dominance, most of the rights-oriented debates in the United Nations were concerned with the violation of collective rights by ‘colonial powers’, for instance apartheid in South Africa or the occupation of Arab territories by Israel.⁸⁹ Moynihan wanted to stand up to the illiberal, statist and redistributive ideologies of states in the Third World by appealing to American individualism. Kissinger anticipated that this would resonate well with Congressmen and voters who had regarded détente as a sell-out of American values.

⁸⁵ Davy, ‘Helsinki myths’, 3.

⁸⁶ Quoted in Sargent, *A superpower transformed*, 216.

⁸⁷ *Ibidem*, 198-199.

⁸⁸ Bradley R. Simpson, ‘Self-determination, human rights and the end of empire in the 1970s’, *Humanity* 4 (2013) 239-260, 240.

⁸⁹ David P. Forsythe, ‘The United Nations and human rights, 1945-1985’, *Political Science Quarterly* 100 (1985) 249-269, 250.

In October 1975, Moynihan combative attitude got him into a quarrel with Ugandan dictator Idi Amin. Amin had slated colonialism, Israel, human rights and Amnesty International in a speech to the General Assembly, and had accused Zionists of infiltrating the CIA and turning it into a murder squad.⁹⁰ In response, Moynihan had called Amin “a racist murderer” at a trade union speech. One month later, Resolution 3379 was accepted by the General Assembly which declared Zionism to be a form of racism and racial discrimination.⁹¹ The resolution had been introduced by twenty-five predominantly Muslim countries, and had been supported by the Soviet bloc. Moynihan’s reaction was to introduce a resolution of his own, which called for global amnesty for all political prisoners.⁹² The choice for the particular issue of political imprisonment might have been fed to him by Fraser, who had been part of a Congressional delegation to the UN in that year and had worked on the proposal together with Moynihan. According to a State Department memorandum to Kissinger, the purpose of this initiative was to highlight the selective morality of countries in the UN that used human rights to bash Israel, but denied them to their own citizens at the same time.⁹³ Moynihan’s initiative was applauded by many commentators at home, but Kissinger was afraid that Moynihan’s universalism of human rights would damage relations with allies and adversaries alike. He concluded that Moynihan was making a fool of himself and called him back.⁹⁴ Moynihan subsequently resigned.

At the beginning of the election year 1976, three developments in the field of human rights stand out. The first is that Kissinger had to make some symbolic concessions in the sphere of human rights, but did this in areas of his choice which he did not regard as very important. His concessions were in the environment of multilateral diplomacy in the UN or the CSCE, in which rhetoric on human rights had relatively few implications for the reality of American foreign policy. But Kissinger would not allow any interference in areas that affected bilateral relations, like trade or military aid. By the end of 1976, the State Department was complaining that the new legislation subjected bilateral relations to unenforceable standards.⁹⁵ Tempering with bilateral relations would have real implications for American national security, and had to be resisted fiercely. The second development is that the vague consensus on American human rights policy defined itself primarily in reaction to other policies: in reaction to American support for dubious regimes, in reaction to détente, and in reaction to the abuse of human rights for collectivism within the United Nations. To many supporters of a human rights-oriented foreign policy, it was very clear what its purposes and methods should not be, but they lacked a clear vision of what a robust human rights policy had to look like in practice.

⁹⁰ ‘Amin urges extinction of Israel in UN speech’, *Chicago Tribune* (2 October 1975).

⁹¹ UN General Assembly Resolution 3379 (10 November 1975) A/RES/3379.

⁹² Sargent, *A superpower transformed*, 99.

⁹³ FRUS 1969-1976 vol. E-3, doc. 255: ‘Action memorandum from Buffum to Kissinger’ (3 November 1975).

⁹⁴ Sargent, *A superpower transformed*, 200.

⁹⁵ FRUS 1969-1976 vol. E-3, doc. 234, ‘Briefing memorandum from the director of the Policy Planning Staff (Lord) to Secretary of State Kissinger’ (1 September 1976).

This became problematic later, when the Carter Administration did commit itself to a human rights policy. The third development was that the promotion of human rights was increasingly seen as a national interest. This went for Moynihan, who had urged a colleague that “human rights are our secret weapon” after his resignation, but it was also manifest in Fraser’s report.⁹⁶ In promoting human rights, the United States could improve its image in the world, and reclaim some of the ideological leadership it had lost in Vietnam. James Peck has argued forcefully that human rights were actually welcomed by the national security establishment to serve its pressing ideological needs, because it diverted attention away from the arrogant ways in which American power usually operated.⁹⁷ Moreover, promoting human rights was popular at home and basically free. Although these benefits were not entirely lost on Kissinger, he would keep insisting that human rights were no viable alternative to the pursuit of international stability through détente.

Human rights in the election campaign of 1976

Despite the important shifts that were taking place in 1976, foreign policy was not an important theme in the election campaign. Particularly the Nixon Administration had been accused of being bored with domestic issues, giving priority to the more exciting sphere of foreign policy instead, but the elections that could have given Ford an electoral confirmation as president were dominated by themes that lay closer to the perception of the voters. Examples of important issues were inflation, unemployment, abortion, crime, and the damaged credibility of the national government.⁹⁸ Although foreign policy was only a secondary theme, the government came under attack for détente by its opponents. Contrary to four years earlier, détente had become associated primarily with bad news: the fall of South Vietnam, the rise of the Khmer Rouge in Cambodia and the establishment of Marxist regimes in Angola and Mozambique.⁹⁹ This reinforced criticism that détente was not only amoral, but also weak, and that the United States was getting the worse part of the deal. The pressure on Ford from his own party was increasing with the campaign of Ronald Reagan, the popular former governor of California, who was challenging the president for the Republican nomination. Reagan was running on a conservative platform that advocated a more confrontational foreign policy towards the Soviet Union. Feeling that détente was becoming a liability, Kissinger felt he had something to gain from embracing international human rights and started a speaking tour in 1976. He toured Africa and Latin America with a number of speeches on human rights in April and June. According to Keys, Kissinger gave more speeches on human rights in 1976 than any other major political figure.¹⁰⁰ He clearly

⁹⁶ Sargent, ‘Oasis in the desert?’, 139.

⁹⁷ James Peck, *Ideal illusions: how the U.S. government co-opted human rights* (New York 2010) 47.

⁹⁸ Keys, *Reclaiming American virtue*, 216.

⁹⁹ Sargent, *A superpower transformed*, 221.

¹⁰⁰ Keys, *Reclaiming American virtue*, 221.

deemed it important to brush up his reputation of someone who is most comfortable in the company of dictators. At the Republican National Convention, Ford managed to secure the nomination of his party by a small margin, but had to accept major revisions in his foreign policy platform from Reagan's more conservative supporters. This included criticizing communist countries on their human rights record.¹⁰¹

In the Democratic camp, the rapid rise of Jimmy Carter came as a surprise to most observers. Carter had been largely unknown as a national politician until then, but managed to beat high-profile candidates such as Henry Jackson, George Wallace, Morris Udall and Frank Church. Gaddis Smith has called Carter an internalist – a politician who generally stands outside of the establishment and holds the view that foreign policy is too often the result of irrelevant internal forces, such as diversion of attention from other issues, pursuit of power or personal gain.¹⁰² This view found resonance with voters who had become tired with scandals like Vietnam and Watergate. In a political climate that favoured an outsider, Carter seized the moment and prided himself on his limited experience. The most important theme in his campaign was to bring trust and morality back in American politics, in order to make ordinary Americans feel proud of their country again. Virtually without any experience in foreign policy, his international agenda reflected this notion, but it remained vague and lacked an outspoken human rights component until late in his campaign.¹⁰³

Before Kissinger swallowed his disdain and publicly accepted human rights, they had not played a prominent role in the election campaign. The only contender that was outspoken on human rights was Henry Jackson, the personification of the conservative human rights faction. His exit in April left the issue available for anyone else to pick it up. Other Democratic candidates with a more liberal agenda left the issue alone, including Morris Udall and Frank Church. Udall had a strong voting record on human rights and had links to human rights advocates. Church had led the Senate hearings on the scandals that surrounded the intelligence services. Both had also criticized the Vietnam War, but their campaigns focussed on limiting the role of American power in the world and ignored the issue of human rights.¹⁰⁴ In comparison with them, Carter had been an unlikely candidate to raise it. He had been a stranger to many of the currents that put the issue on the agenda in Washington: he had spoken out against McGovern in 1972, he had opposed the Jackson-Vanik amendment, he had not spoken out against Vietnam until 1971 and he had not been part of the human rights-insurgency

¹⁰¹ Carl J. Bon Tempo, 'Human rights in the U.S. Republican Party in the late 1970s' in: Eckel and Moyn, *The breakthrough* 146-165, 158.

¹⁰² Gaddis Smith, *Morality, reason and power: American diplomacy in the Carter years* (New York 1986), 13, 27-28.

¹⁰³ Keys, *Reclaiming American virtue*, 232.

¹⁰⁴ *Ibidem*, 227-229.

in Congress.¹⁰⁵ Instead, Keys calls his conversion to international human rights “both late and serendipitous, a product of lobbying from a key aide and the resonance the issue turned out to have among the public once it had been broached.”¹⁰⁶ Muravchik wrote that human rights had resonance both in his soul and in his polls.¹⁰⁷ This is not to say that his adoption was insincere, but the pragmatic considerations that lay beneath it help to explain why he had no clear conception of a human rights agenda himself during his campaign. Unlike some of his colleagues in the Democratic Party, he had indicated no clear preference for the liberal or the conservative version of international human rights. When it was time to establish the party platform at the Democratic National Convention in June, both wings came to a compromise. In the words of Moynihan, it came down to this: “We’ll be against the dictators you don’t like the most, if you’ll be against the dictators we don’t like the most.”¹⁰⁸ As an outsider, Carter could become the carrier of such a compromise at no political cost.

The breakthrough of human rights in Carter’s campaign came in a speech to a B’nai B’rith convention in September, just two months before the presidential election. The speech was a fusion of both liberal and conservative notions of international human rights, singling out the Soviet Union as well as strategic allies like Chile and South Korea for violating them.¹⁰⁹ In a series of televised debates with Ford he continued his critique of the amorality of American foreign policy with appeals to international human rights. Carter pushed Ford on his refusal to receive Solzhenitsyn in the White House in 1975, and the acquiescence of his government in the occupation of Eastern Europe through the Helsinki Accords. This also exemplifies that at the time, Carter neither saw the potential of its human right provisions as a standard to hold the Soviet Union to account. It also led to the Ford’s biggest gaffe in his campaign, when he insisted that “there is no Soviet domination of Eastern Europe and there never will be under a Ford Administration.”¹¹⁰

One month later, Carter won the elections with a small margin of 2.1% of the popular vote. His campaign to restore public faith in the government and reclaim American pride through morality had worked; human rights were one aspect of the means to secure this. Human rights were a no-lose issue: they were popular across the whole political spectrum and could be used to reunite the Democratic Party again after the 1972 debacle. Carter had sold human rights to the public as a return to an American tradition.¹¹¹ Bringing morality back would make the government represent the American people again, without having to resort to the introspection or guilt that McGovern had represented. Ford had tried to respond to the same feelings of restoration, but could not claim this

¹⁰⁵ Ibidem, 230.

¹⁰⁶ Ibidem, 215.

¹⁰⁷ Muravchik, *The uncertain crusade*, 7.

¹⁰⁸ Moyn, *The last utopia*, 153.

¹⁰⁹ FRUS 1977-1980 vol. I, doc. 9: ‘Address by Jimmy Carter’ (8 September 1976).

¹¹⁰ Mieczkowski, *Gerald Ford*, 298.

¹¹¹ Keys, *Reclaiming American virtue*, 238-239.

with the same credibility as Carter did. With his ties to Nixon and Kissinger, Carter could easily make Ford look like someone who was out of step with that tradition

Conclusion

1977 was a landmark year for human rights internationally. It was the year that Amnesty International received the Nobel Prize, that Charter 77 was published in Czechoslovakia and the Carter Administration came into office.¹¹² But the breakthrough of human rights into the sphere of American politics had deep roots and Carter was only a recent convert. As roots tend to do, they split and intertwine until it becomes harder and harder to trace them. The largest common denominator was that for a large part of the 1970s, America was facing a crisis about its role in the world and the way it could gain domestic confidence in its foreign policy again. The Vietnam War and Watergate had firmly challenged the political status quo of a strong president with a relative free hand in foreign policy. This executive privilege had led to abuse and weakening of American power, and consequently required checks and balances that were put in place by Congress. By adopting human rights as a foreign policy objective, trust in the presidency could be restored and a new sense of purpose could be given to America's role in the world.

The benefits of embracing human rights were not lost on Carter, who could give them a good place within his campaign of being a trustworthy, open, humble and moral choice for president. The question whether the purpose of America lay in a renewed confrontation with the Soviet Union or a more benevolent attitude to other parts of the world was still unresolved by 1977, but human rights could be claimed by both sides. However, liberals seemed to have enjoyed some advantages: the budgetary powers of Congress made recipients of American aid easy targets, and the political climate after Watergate seemed to favour them – especially now Congress was carving out a bigger role for itself on foreign policy. At the start of his term, Carter could be made to fit with both currents and was consequently acceptable to both conceptions. The unclear human rights-conception of his Administration however, made it tough to develop a consistent human rights policy without alienating supporters from both sides as well as Cold War allies. The assertiveness of Congress ensured that ultimately, Carter would have to deal with intensive oversight over his foreign policy as well.

¹¹² Moyn, *The last utopia*, 129.

2 The Nixon and Ford Administrations and South Africa (1973-1976)

The following chapter will trace the foreign policy of the Nixon and Ford Administrations towards South Africa and the influence of human rights initiatives through Congressional subcommittees on the policy options that they chose. A large part of historiography on the Nixon Administration and South Africa is very critical on its performance regarding human rights, arguing that its policy was a setback in the development towards racial equality in South Africa, and aligned the United States more closely with the white regime.¹ More favourable interpretations argue that Nixon and Kissinger were genuinely concerned with pushing the South African regime in the direction of racial equality by providing it with incentives to move away from apartheid, but that this policy ended in failure because it was never seriously implemented due to a lack of attention.² Others have argued that such a policy was simply a façade that enabled the United States to hold on to its economic and strategic interests in South Africa.³

For anti-apartheid activists, the doors to power remained carefully locked under the Nixon Administration. However, activists were claiming their first victories by targeting the ties between private institutions instead, such as companies, universities and churches in what has been called the 'divestment movement'.⁴ With increased political representation for blacks, it also succeeded in having its voice more clearly heard in Congress and its subcommittees, but remained rather ineffective in obtaining its goals. Nevertheless, dissent to Nixon's South African policy "would serve as an inspiration for larger and more successful American protests against apartheid in the 1970s and 1980s" according to Morgan.⁵ If the political climate did not seem to change much with Kissinger still firmly in control of foreign policy under President Ford, major events in Southern Africa ensured that simply ignoring the situation there had become untenable. The unexpected coup d'état in Portugal in April 1974 and the subsequent independence of Angola and Mozambique under Marxist regimes put the region high on Kissinger's political agenda. With the white government in Pretoria feeling increasingly threatened, repression of blacks and political opponents within South Africa was increasing, culminating in the Soweto Uprising of June 1976. The outrage with the apartheid regime put the human rights situation in South Africa under a magnifying glass for activists in and out of Congress and in the United Nations. In a transition document from the Ford to the Carter

¹ Borstelmann, *The Cold War and the color line*, 234.

² Thomson, *U.S. foreign policy towards apartheid South Africa*, 63-64; Coker, *The United States and South Africa*, 58-61.

³ Kema Irogbe, *The roots of United States foreign policy toward apartheid South Africa, 1969-1985* (Lewiston 1997), 71-72.

⁴ Massie, *Loosing the bonds*, 307.

⁵ Eric J. Morgan, 'Our own interests: Nixon, South Africa, and dissent at home and abroad', *Diplomacy and Statecraft* 17 (2006) 475-495, 475.

Administration, apartheid was marked as the foremost human rights issue that would be confronting the United States at the United Nations in the years to come.⁶

This chapter seeks to answer the question how Congress influenced the foreign policy towards South Africa of the Nixon/Ford Administration from 1973 onwards through its human rights initiatives. To answer this question, a number of things have to be established. First, we have to establish the state that the foreign policy of the Nixon Administration towards South Africa was in at the beginning of 1973. Since the contours of this policy were already established in the first term of the Nixon Administration, we will have to go back briefly to 1969 in order to understand the interests and objectives that it was trying to pursue. Second, we have to establish where Congressional opposition came from, what the main friction points were with the government, the alternative policies it proposed and why. Subsequently, the evolution of Congressional opposition and its impact on American foreign policy towards South Africa will be traced until the end of the Ford Administration.

NSSM 39 and the foundation of U.S. foreign policy towards South Africa under Nixon

In April 1969, Kissinger had issued a National Security Study Memorandum on behalf of Nixon that directed a study of the policy options of the United States in Southern Africa.⁷ This policy review was not exclusively reserved to Southern Africa, but was part of a larger effort to evaluate issues related to the national security of the United States in general at the beginning of a new administration. In the case of Southern Africa, this was seen as all the more necessary because according to a memorandum from Kissinger, there had not been “a full, high-level review of U.S. interests and objectives since the early Kennedy years.”⁸ The study was carried out by the National Security Council’s Interdepartmental Group for Africa, which consisted of representatives from various government bodies in order to encompass the whole range of American relations with South Africa. The document in which this resulted became known as NSSM 39 and was intended to become the foundation of Nixon’s foreign policy towards South Africa.

The final document discussed six different policy options which ranged from closer association with the white government of South Africa to supporting black nationalists, or disengaging from both sides entirely. Although there is no documentary evidence of a choice for one of the options, it is widely assumed that the Nixon Administration opted for option 2: closer

⁶ FRUS 1969-1976 vol. E-3, doc. 264: ‘Briefing paper on human rights’ (undated).

⁷ FRUS 1969-1976 vol. XXVIII, doc. 17: ‘Paper Prepared by the National Security Council Interdepartmental Group for Africa’ (9 December 1969).

⁸ FRUS 1969-1976 vol. XXVIII, doc. 5: ‘Memorandum From the President’s Assistant for National Security Affairs (Kissinger) to President Nixon’ (3 April 1969).

association with the white regime in an effort to persuade it to reform its political system.⁹ The rationale behind this option was that black opposition in South Africa was not yet strong enough to pose a serious threat to the white minority in the foreseeable future, leaving a peaceful negotiated solution as the only alternative route to majority rule. The United States could give some incentives to bring black and white together by supplying neighbouring black countries with economic aid and selectively relaxing its attitude towards Pretoria. In the meantime, the United States would maintain its rhetorical opposition to apartheid in international fora to avoid political damage. Option 2 was a bit of a gamble that, not unlike détente with the Soviet Union, hoped to achieve change through contact instead of coercion.¹⁰ Moreover, it did not require the United States to give up its economic and strategic interests in South Africa.

The first part of the NSSM gives us an overview of these interests. The United States enjoyed profitable economic ties with South Africa, consisting of nearly 1 billion dollars in investments. Since these investments yielded a higher rate of return than elsewhere, they were likely to grow, provided that the investment climate would remain stable. The strategic interest of the United States in South Africa stemmed foremost from its location along the Cape Sea Route. With the closing of the Suez Canal in 1967, this had become the primary shipping lane for oil from the Middle East. Additionally, there had recently been an increase in Soviet activity in the Indian Ocean. South Africa was home to the only sophisticated repair and fuel facilities in the region for large ships and might be crucial in the event of a major naval operation in the Indian Ocean. However, the practice of port calls by the US Navy had been discontinued under the Johnson Administration, after Pretoria failed to assure that black American sailors would not be subject to apartheid legislation.¹¹ Furthermore, the Department of Defense had a missile tracking station in South Africa under a classified agreement, but the document indicated that the station was becoming obsolete, and the agreement would most likely not have to be renewed. At the dawn of the 1970s, strategic relations between the United States and the South Africa were already on a lower level than before. NSSM 39 made no mention of South Africa's own military capabilities or role as a regional hegemon. In addition, South Africa had been a nuclear partner of the United States since the 1950s and was an important source of uranium and other strategic materials. The study concluded that although some American interests in South Africa were substantial, "it has none that could be classified as vital security interests."¹²

The study also observed that American ties with South Africa could be a liability. A too friendly relationship would have adverse effects on the image of the United States in black Africa, the United Nations and African-Americans at home, because they tended to see relations with the white

⁹ Thomson, *U.S. foreign policy towards apartheid South Africa*, 63.

¹⁰ Coker, *The United States and South Africa*, 18.

¹¹ Thomson, *U.S. foreign policy towards apartheid South Africa*, 52.

¹² FRUS 1969-1976 vol. XXVIII, doc. 17.

regime “as at least tacit acceptance of racism.” This implied that the United States could not openly relax its attitude towards the white South African government and that any positive incentives had to remain secret. But since the National Security Council assumed that the continuity of white rule was not under serious threat, it sought a way to continue profiting from its vested interests while simultaneously promoting a dialogue between black and white states in the region.

NSSM 39 did not remain secret, and reactions to it in the press were almost entirely negative when parts of it leaked in the summer of 1972. The document was seen as exemplary for a government that was devoid of morality.¹³ Especially the phrase “the whites are here to stay and the only way that constructive change can come about is through them” seemed to suggest that the Nixon Administration had no intention to do anything to push the white regime to extend political participation for all South Africans. The outrage later even led government officials to deny that option 2 was selected, arguing instead that none of the options were ever adopted.¹⁴ An explanation for this inconsistency is that there was little sustained attention from the higher levels of the State Department or the government for Southern Africa until the start of the Angolan Civil War. After his first year, Nixon had decided that he and Kissinger had been spreading their time too thin and this came at the expense of more important issues such as East-West relations and China. African issues were given the lowest priority by Nixon.¹⁵ Nixon’s disdain for Africa and Africans is almost legendary. He opened the NSC meeting on NSSM 39 in December 1969 by saying that “this is a peripheral issue” that was more about establishing a general posture than about making policy.¹⁶ The responsibility for American foreign policy to South Africa was consequently delegated to lower officials, which were more likely to choose from policy suggestions on a case to case basis. Nevertheless, the description of option 2 corresponded most closely to reality to nearly every observer.

Of course, NSSM 39 was never intended for public consumption. Instead, the policy to expand ties with South Africa was publicly called ‘communication’ by the Nixon Administration. In March 1973, it was defended by Assistant Secretary of State for African Affairs David Newsom in a speech for the Royal Commonwealth Society in London. The point of departure for communication was the notion that the United States did not have the ability to influence the domestic situation in South Africa. “The idea that the United States – including the use of economic or military force, if that were realistic - could bring about fundamental changes in another society is without foundation.

¹³ Thomson, *U.S. foreign policy towards apartheid South Africa*, 63.

¹⁴ Hearings before the Senate Subcommittee on African Affairs, 94th Congress, 1st session: ‘Overview of U.S. relations with Southern Africa’ (24 July 1975), 347. This statement came from Nathaniel Davis, the incumbent Assistant Secretary for Africa at that time.

¹⁵ FRUS 1969-1976 vol. E-5, doc. 10: ‘Memorandum From President Nixon to the President’s Assistants (Haldeman), (Ehrlichman) and (Kissinger)’ (2 March 1970).

¹⁶ Quote: FRUS 1969-1976 vol. XXVIII, doc. 20: ‘Minutes of a National Security Council Meeting’ (17 December 1969). For Nixon’s attitude towards Africa, see Borstelmann, *The Cold War and the color line*, 234.

We certainly cannot do it in southern Africa. If change comes, it must come primarily from within”, Newsom stated. He added: “If we are to contribute meaningfully to change, it is not through the pressure of isolation but through keeping open the doors of communication with all elements of the population”.¹⁷ In his view, the economic ties that existed between the two countries could be used as a vehicle for change. This echoed the point made by Nixon in December 1969 that “economics are the most important foreign influence on South Africa and Rhodesia. I think we should come down on the side of permitting more trade and investment.”¹⁸ Consequently, the Nixon Administration extended the possibility for American companies to apply for insurances and export guarantees from the Ex-Im Bank for trade with South Africa.¹⁹ By encouraging American companies to upgrade work and social conditions of non-whites, American economic activity could be used to fight inequality. The programme to extend economic ties was a success, and American investments grew from \$864 million in 1970 to \$1.4 billion in 1973.²⁰

Nevertheless, the criticism that the Nixon Administration was more serious about expanding ties with the whites than with the blacks was justified. At the United Nations, the United States rhetorically denounced apartheid but opposed resolutions that would have imposed economic sanctions and an arms embargo on South Africa in 1971.²¹ It continued its own arms embargo that had existed since 1963, but loosened restrictions on ‘grey area sales’ of non-lethal material to the South African military. Simultaneously, it did not want to actively encourage American companies to the emancipation of black workers, in order to “avoid the impression of a concerted attack on the racial system as such, for that could stimulate strong South African reaction and damage U.S. business interests.”²² The Nixon Administration neither put much energy in assisting neighbouring states to “draw the two groups together,” as was promised in NSSM 39. When the State Department tried to illuminate the policy of communication to its African posts in a telegram, it stated that while “improved atmosphere between South Africa and black Africa is desirable from standpoint stability and peace continent”, “U.S. however endorses no particular initiatives, believing that African nations themselves must judge conditions under which such improvement is possible as well as form and

¹⁷ DNSA South Africa, ‘Statements by Assistant Secretary of State for African Affairs David D. Newsom concerning U.S. policy toward Southern Africa’ (14 March 1973).

¹⁸ FRUS 1969-1976 vol. XXVIII, doc. 20.

¹⁹ Thomson, *U.S. foreign policy towards apartheid South Africa*, 78.

²⁰ Morgan, ‘Our own interests’, 481.

²¹ FRUS 1969-1976 vol. XXVIII, doc. 44: ‘Memorandum From the Executive Secretary of the Department of State (Eliot) to the President’s Assistant for National Security Affairs (Kissinger)’ (6 February 1971).

²² FRUS 1969-1976 vol. XXVIII, doc. 45: ‘Memorandum From the Assistant Secretary of State for African Affairs (Newsom) and the Department of State Legal Adviser (Stevenson) to Secretary of State Rogers’ (17 February 1971).

timing of contacts.”²³ This statement also points to the fact that while the Nixon Administration was in favour of progress in the direction of racial equality, this hope was primarily motivated not on the basis of morality or human rights, but on the fear of violence and instability – which might lead to intervention from outside. In conclusion, by underplaying its own influence on South Africa, the Nixon Administration tried to detach itself as much as possible politically from the domestic situation in South Africa as its economic and strategic interests allowed.

Early Congressional opposition to Nixon’s South Africa policy and its impact

In the previous chapter, the internationalist concerns of parts of the civil rights movement in the 1960s have been discussed briefly. The main point was that international human rights were not more than a peripheral issue before domestic equality was attained, although anti-apartheid was somewhat of an exception.²⁴ The civil rights legislation of the mid-1960s did not only prove an opportunity for civil rights activist to redirect their attention to racial inequality abroad, but also worked as a vehicle for increased political participation for blacks at all levels. Nationally, the representation of blacks in Congress rose from four in 1960 to thirteen in 1971.²⁵ According to Thomson, this had the consequence that “as the 1970s progressed, antiapartheid arguments began to be aired closer to, or actually in, state and federal decision-making-fora.”²⁶ While anti-apartheid activism was by no means reserved exclusively to blacks, the influx of politicians with ties to the civil rights movement in Congress made it easier to put racial issues such as apartheid on the political agenda. The most visible representative of this movement was Charles Diggs jr. (D.-MI). Diggs became the chairman of the Subcommittee on African Affairs in 1969 of the House Committee on Foreign Relations. He also founded the Congressional Black Caucus in 1971, the representative organization for African-American Congressmen. Until his departure in 1978, Diggs would use his influence to become “apartheid’s most powerful opponent in the U.S. Congress.”²⁷

Diggs used his chairmanship of the Subcommittee on Africa to initiate hearings on several aspects of the foreign policy of the United States towards Southern Africa. Like Nixon, Diggs also thought that American economic relations with South Africa could bring about change – but in a different way. In the summer of 1971, his Subcommittee organized a number of hearings to inform itself on the involvement of U.S. business in South Africa, especially on the ‘implications of the

²³ FRUS 1969-1976 vol. XXVIII, doc. 48: ‘Telegram From the Department of State to All African Diplomatic and Consular Posts’ (2 April 1971).

²⁴ Keys, *Reclaiming American virtue*, 33.

²⁵ Donald Culverson, ‘The politics of the anti-apartheid movement in the United States, 1969-1986’, *Political Science Quarterly* 111 (1996), pp. 127-149, 134.

²⁶ Thomson, *U.S. foreign policy towards apartheid South Africa*, 65.

²⁷ Nesbitt, *Race for sanctions*, 74.

presence of American corporations'.²⁸ The attention of the Subcommittee was caught by the growth of American investment in South Africa, and the rising concern that this caused in the black community. A recent incident at the Polaroid Corporation had indicated that doing business in South Africa could have a dark side, when employees found out that equipment supplied by Polaroid was used for the production of 'pass books' – booklets that were used to restrict the movement of black workers in South Africa. When this was found out, the Polaroid Revolutionary Workers Movement (PRWM) argued that this made Polaroid complicit in the exercise of apartheid, and organized a campaign that demanded that the company would cease its operations in South Africa.²⁹ Two of the PRWM organizers were fired, but the mounting pressure compelled Polaroid to conduct an inquiry into its operations in South Africa. Subsequently, the company started a one year-experiment in which it raised wages and increased educational opportunities for its non-white workers in South Africa. Now that collective action had led a big American company to act, the likelihood of similar action from workers in other companies and similar programmes increased.

The central objective of the Subcommittee was "to find out what business firms can do to improve conditions for black Africans from within the system, and, if such approach is not feasible, should American business leave South Africa?"³⁰ Proponents argued that education and wage improvement would improve the position of blacks, while moving out would mean the loss of employment. But their opponents did not buy it: they argued that the presence of American business only strengthened the white regime, and that experiments such as the one by Polaroid were just an attempt to deflect negative publicity without sacrificing profits.³¹ A lot of the disagreement on whether it was better to withdraw related to predictions about the future of South Africa. Witnesses who preached withdrawal argued that racial violence was inevitable and that American companies should get out before they would be found on the wrong side of such a conflict. A parallel with Vietnam was drawn by another witness.³² Withdrawing would also make sense commercially, because war would mean the loss of investments in South Africa. Supporters of a more constructive role for American business pointed to a more positive development that sanctioned the presence of American companies: the lack of skilled labour in South Africa. Training of black workers for skilled positions was restricted under apartheid law, but the combination of economic development and the numeral minority of whites had led to a scarcity of people that were qualified to perform skilled jobs.

²⁸ Hearings before the House Subcommittee on African Affairs, 92nd Congress, 1st session: 'U.S. business involvement in South Africa' (4 May 1971), 1.

²⁹ Nesbitt, *Race for sanctions*, 90.

³⁰ Hearings: 'U.S. business involvement in South Africa', 2.

³¹ *Ibidem*, 25-27, 34.

³² *Ibidem*, 61.

By educating blacks and training them for higher positions, American companies could forward their business interests while simultaneously supporting black leadership.

This was also the official position of the Nixon Administration: the position of whites in South Africa was not under pressure, so the United States should use its economic ties to stimulate a peaceful transition to majority rule. But when a representative of the Department of Commerce was pushed on the question of what the department was actually doing to promote this, he said that it was simply urging companies to have a “deep awareness of the difficulties under which the blacks are employed”.³³ When the possibility of legislative action was considered to stimulate companies to conduct workplace reform, this was dismissed as unrealistic in the present political conditions.³⁴ According to a witness from the African-American Institute, “at this juncture, it may be easier to get U.S. business to act than the U.S. government.”³⁵ In 1971, small steps by companies such as the Polaroid experiment seemed to be a more viable route for social change than action through the American government. Lacking any prospect of influencing the ‘official’ American foreign policy towards South Africa as long as Nixon occupied the White House, the activism of Diggs and his allies shifted their focus on private parties such as corporations and investors, according to Massie. Between 1971 and 1973, activists managed to persuade the boards of hundreds of institutions to divest large amounts of capital from South Africa.³⁶ This included universities like Harvard, philanthropic organizations like the Ford Foundation, trade unions and church organizations. Nevertheless, Diggs would continue to use his Subcommittee in the following years to draw attention to American political involvement in apartheid in South Africa and to speak out against it.

The attitude of the witnesses on the probability of federal initiatives for a more human rights oriented policy towards South Africa is not only revealing of the climate in government, but also in Congress as a whole. For his 1968 election campaign, Nixon had developed a ‘Southern strategy’ that was intended to appeal to conservative white voters in the South that were incensed with much of the progressive legislation on welfare and civil rights that had been adopted under Johnson.³⁷ This ‘white backlash’ was also present in Congress and found its way to the sphere of foreign policy, indicating that the racial progressivism of much of the members and witnesses of the Africa Subcommittee were not representative for Congress as a whole.³⁸ An example of this Congressional conservatism on foreign policy was the Byrd Amendment from 1971. Named after its author Senator Harry Byrd (R.-VA), it was attached to the Strategic and Critical Materials Stockpiling Act and allowed

³³ Ibidem, 251.

³⁴ Ibidem, 61.

³⁵ Ibidem, 55.

³⁶ Robert Massie, *Loosing the bonds: the United States and South Africa in the apartheid years* (New York 1997), 266, 307.

³⁷ Borstelmann, *The Cold War and the color line*, 235-237.

³⁸ Nesbitt, *Race for sanctions*, 71-72.

the United States to import chrome from Rhodesia, even though Rhodesia was subject to a mandatory trade embargo since 1966. Chrome was an essential resource for the steel and defence industry that was only mined in a few places in the world – the Soviet Union being the principle alternative to Rhodesia. Proponents of the Byrd Amendment argued that it was better to defy international law in this particular case than to be dependent on the Soviet Union, although the amendment was also the product of heavy lobbying from the American steel industry.³⁹ To opponents, the Byrd Amendment became a symbol for American disregard for the position of blacks in Africa and international law.

The State Department was alarmed over the damage that the Byrd Amendment could cause for the international image of the United States and vigorously opposed its adoption.⁴⁰ Resuming the import of chrome was a formal defiance of international law and not even a strategic necessity, because the current stockpile would suffice for years to come. That was also the official viewpoint of the Nixon Administration – although records of a private conversation between Kissinger and Nixon show that they were in favour of the amendment.⁴¹ It was an opportunity for Nixon to hide behind the backs of conservative Congressmen and allow American businesses to continue the import of chrome, while publicly opposing it. In fact, Nixon did not want to take domestic opposition or international outrage with the Byrd Amendment into consideration at all, and people who suggested otherwise within the State Department irritated him. He told Kissinger: “My view has come down to this, my view is: that the domestic American political situation should be completely taken out of their feeling on this. I make that decision and this position is not to be made on that basis.”⁴² This echoes the observation from the previous chapter that Nixon and Kissinger regarded foreign policy as an executive privilege, and did not want to be bothered with the views of other people – even if these views came from persons within their own administration or bureaucracy.

South Africa: a new Vietnam?

The Nixon Administration hoped that small positive incentives to the South African government would make it more susceptible to international demands to change its racial system. Option 2 of NSSM 39 had proposed several concrete actions that the United States could undertake to do so,

³⁹ Gerald Horne, *From the barrel of a gun: the United States and the war against Zimbabwe, 1965-1980* (Chapel Hill 2001), 150-153.

⁴⁰ FRUS 1969-1976 vol. XXVIII, doc. 55: ‘Telegram From the Mission to the United Nations to the Department of State’ (24 September 1971).

⁴¹ FRUS 1969-1976 vol. XXVIII, doc. 57: ‘Conversation Between President Nixon and the President’s Assistant for National Security Affairs (Kissinger)’ (28 September 1971). Nixon told Kissinger: “Don’t let State pucker out of this and sink the goddamn – we want to continue to buy this chrome.”

⁴² FRUS 1969-1976 vol. XXVIII, doc. 59: ‘Conversation Between President Nixon and the President’s Assistant for National Security Affairs (Kissinger)’ (6 October 1971).

such as relaxing the treatment of the arms embargo on South Africa (and Portuguese Africa) by resuming the sale of items that could serve either military or civilian purposes. As with the Byrd Amendment, economic considerations also played a role in this decision.⁴³ Of course, this relaxation needed to remain a secret in order to prevent political fallout, but reports that the United States government was circumventing the arms embargo had started to appear in the press. Such rumours suggested that military ties between South Africa and the United States were deeper than the Administration wanted to admit. With guerrilla violence escalating in Southern Africa, Diggs' Subcommittee became concerned that the United States might be implicated in its repression and initiated hearings in March 1973. Their suspicions were reinforced by the uncooperative attitude of the government in preparation of the hearings. Diggs stressed that he had to spend excessive time and energy to get government officials to appear, as well as having "the greatest difficulty in obtaining the necessary information regarding the guidelines on the arms embargo." Apparently, the government felt that it had something to hide. Only two months after the conclusion of the Vietnam War, the fear of being sucked into a new war was obvious. "In order to try to prevent any more Vietnam tragedies which could be disastrous to this country, it is vital that any involvement by the U.S. military personnel with the Portuguese forces in particular and with the other minority regimes in the region should be exposed to public opinion and rigorously examined in terms of our own long range national interest."⁴⁴ The purpose of the hearings was therefore not only to get a clearer view on the realities of the military relations of the United States with Portugal and South Africa, but also to rally the public opinion against any possible American involvement in 'colonial' violence.

Several witnesses from NGOs and the press presented the Subcommittee with accounts of situations in which the United States had assisted the minority government militarily. Examples included the sale of 'civilian' aircrafts and helicopters which were later reequipped to be used for reconnaissance or troop transport, as well as the sale of agricultural herbicides that were used as defoliants in counter-guerrilla operations.⁴⁵ Not all of these sales were explicitly forbidden under the embargo, but witnesses claimed that this represented a change of policy with earlier administrations. Even if the Nixon Administration was following the letter of the law, it was not acting in its spirit. The fear was that "the administration may be toying with defining the embargoes nearly out of existence" to the point that it was not effective anymore, according to the journalist Bruce Oudes.⁴⁶ However, Rauer Meyer from the Department of Commerce argued that there were safeguards in place to prevent that American exported goods would be used by the military. Sellers had to show an

⁴³ Morgan, 'Our own interests', 479.

⁴⁴ Hearings before the House Subcommittee on African Affairs, 93rd Congress, 1st session: 'Implementation of the U.S. arms embargo (against Portugal and South Africa and related issues) (20 March 1973), 1-3.

⁴⁵ Ibidem, 7, 79-80, 83.

⁴⁶ Ibidem, 10.

indication of end-use in order to obtain an export license, and this was subsequently monitored by his Department through its sources in business, intelligence and the foreign service.⁴⁷ But upon questioning by the Subcommittee, Meyer admitted that it was hard to track the follow up, that there was no systematic way of checking where products ended and that there was no cooperation with other countries. His explanation certainly did not impress Diggs, who already had on record that all kinds of American equipment had fallen in the hands of the South African military. "It looks like, Mr. Meyer, we have before us a change in policy", he said. "You certainly have not made a case that this is not for or could not be used for internal defense. It is simply frightening."⁴⁸ For Diggs, the circumvention of the arms embargo was not an incident, but the deliberate result of government policy to keep the white government in the saddle.

The hearings showed how deep economic concerns were tied up with the arms embargo. On the final hearing day, Newsom denied that the United States was supplying South Africa with military equipment, but also explained the leniency of the government in assessing export licenses from an economic perspective: "I do argue that in the face of problems in our own aerospace industry, in the light of balance-of-payments problems, and in the face of severe competition from others the question of whether restraint shall be put on the sale of civilian items because of their possible use in support of a military effort is not an easy one."⁴⁹ This came back to the Nixon Administration's policy to foster trade and investment in South Africa. But while Newsom saw the grey-area sales as a way to ease domestic economic hardship, his opponents saw it as a symptom of a foreign policy that was based on greed and realpolitik. Echoing the argument from the previous hearings, several witnesses argued that it was better for the United States not to conduct business with South Africa at all, in fear of having supported the wrong side if war would break out.⁵⁰ To these witnesses, the observation of the arms embargo was a moral issue that left no room for a grey area. But to the Nixon Administration, the observation of the arms embargo was strictly a political move that left some leeway for American economic interests if this was necessary. The government policy did not change as a result of the hearings, and three months after the hearings, Kissinger informed the South African ambassador that the principle objective of the administration remained "continued profitable trade with South Africa and maintenance of US investments and access to key resources."⁵¹

The issue of the arms embargo shows how hard it was for Congress to influence aspects of foreign policy where a substantial amount of interpretation was involved. As long as the government

⁴⁷ Ibidem, 27, 31.

⁴⁸ Ibidem, 42.

⁴⁹ Ibidem, 147-148.

⁵⁰ Ibidem, 82.

⁵¹ FRUS 1969-1976 vol. XXVIII, doc. 76: 'Memorandum From the President's Assistant for National Security Affairs (Kissinger) to the President's Special Assistant (Flanigan)' (14 July 1973).

claimed that it was working within the limits of its own arms embargo, there was little that Congress could realistically do. It is more likely that Diggs wanted to use the hearings as a way to increase political and public pressure on the government to improve its performance in implementing the arms embargo, rather than use it as a starting point for more stringent legislation.

The United Nations, South Africa and the image of the United States

Despite the relaxation of the Nixon Administration's stance towards South Africa, it continued to speak out forcefully against apartheid in public statements. This was especially the case at the United Nations, the foremost international human rights body.⁵² But rumours that the American government was circumventing the arms embargo, as well as the breach of international sanctions on Rhodesia through the Byrd Amendment, fuelled the impression that there was a substantial gap between American rhetoric and action. In the polarized atmosphere of the United Nations in the 1970s, other countries cast doubt on the sincerity of American anti-apartheid rhetoric and made sure that new South African issues that surfaced at the UN would be regarded as test cases for the commitment of the United States to human rights in Africa. In turn, the repercussions that American actions had for the international image of the United States would also be used to call American foreign policy into question in Congress. Progressive Congressmen feared that being too lenient with the white regimes in Southern Africa could jeopardize American relations with the rest of Africa – and with possible multiracial regimes in Rhodesia and South Africa in the future. The Byrd Amendment was widely seen as proof that the United States favoured white over black interests in Africa, and Fraser and Diggs organized a joint hearing of their Subcommittees in October 1973 to get it repealed. During this hearing, the Congressional representative to the United Nations John Buchanan (R.-AL) argued that it was “the biggest roadblock at the present time” for good American relations with black Africa.⁵³ Being more sensitive to the feelings of other African countries and adopting a more cooperative attitude at the United Nations would therefore be not only morally right, but also serve the American interest better in the long run.

If the image of the United States was suffering from the shifts in power at the United Nations in the early 1970s, it was relegating South Africa to the status of international pariah. There were two major issues related to South Africa that particularly angered its adversaries: the status of Namibia and apartheid. Both issues represented a violation of the collective conception of human rights that most non-Western nations were keen on, namely self-determination and racial equality. Without making any meaningful concessions, the South African government tried to respond with creative

⁵² Thomson, *U.S. foreign policy towards apartheid South Africa*, 71.

⁵³ Hearings before the House Subcommittee on African Affairs and the Subcommittee on International Organizations and Movements, 93rd Congress, 1st session: ‘The Repeal of the Rhodesian Chrome Amendment’ (5 & 17 October 1973), 150-156.

gestures to heed off any punitive measures that could harm its economy or security. After a ruling of the International Court of Justice had declared the South African administration of Namibia illegal in 1971, it had announced to organize a referendum on the self-determination of Namibia instead. Since the South African government would not allow international observation nor commit itself to the result of the referendum beforehand, it was widely seen as a distraction manoeuvre.⁵⁴ In the sphere of race relations, it had devised a programme that was euphemistically called 'separate development'. The South African government had invented a number of 'homelands' or Bantustans to which every black South African (and Namibian) was assigned in 1970. These homelands would be prepared for nominal independence from South Africa, but in reality they were small, scattered, overpopulated and economically unviable on their own.⁵⁵ This programme was accompanied by the relaxation of 'petty apartheid' laws, which regulated contacts between the different South African racial groups and were reminiscent of racial segregation in America. The purpose of these reforms was to show that South Africa was on its way to solve its human rights problems, and deserved to be treated respectfully in the international community.

The United States had long opposed the occupation of Namibia and the practice of apartheid, but was optimistic that the South African government could be persuaded to change its ways. The State Department saw evidence for this in the start of consultations with UN Secretary-General Kurt Waldheim on Namibia, and was even prepared to give South Africa a chance to demonstrate the sincerity of its policy of separate development.⁵⁶ Other countries, however, were not so patient with South Africa and advocated punitive measures instead to force the white regime to change its ways. One of the most far-reaching measures that was proposed was the expulsion of South Africa from the UN. A first attempt to ban the South African delegation from the General Assembly had been made in 1973 by Senegal, Mauritius and Tanzania, but vice-president Ford later reported to Congress that this effort had failed on technical grounds.⁵⁷ The next year, a draft resolution was submitted to the Security Council by Cameroon, Kenya, Mauritania and Iraq that proposed to remove South Africa from the UN entirely because of its apartheid policy. It also received the support of the Soviet Union, but it stranded on a veto from the United States, the United Kingdom and France. In his explanation of the veto, Ambassador John Scali argued that the international community ought to prefer communication over isolation. "My delegation believes that South Africa should continue to be

⁵⁴ FRUS 1969-1976 vol. XXVIII, doc. 46: 'Intelligence Note Prepared in the Bureau of Intelligence and Research' (9 March 1971).

⁵⁵ Sue Onslow, 'The Cold War in Southern Africa: white power, black nationalism and external intervention' in: Idem (ed.), *Cold War in Southern Africa: white power, black liberation* (New York 2009) 9-34, 15.

⁵⁶ Thomson, *U.S. foreign policy towards apartheid South Africa*, 72-74.

⁵⁷ DNSA South Africa, 'Report by President Gerald R. Ford to the Congress for the Year 1973 concerning U.N. Consideration of the Question of Apartheid in South Africa' (undated, December 1973).

exposed, over and over again, to the blunt expressions of the abhorrence of apartheid”, he said, adding that “history holds no example of a pariah state that reformed itself in exile.”⁵⁸

Scali felt that his reasoning was vindicated by recent events in Southern Africa. Six months earlier, the military regime of Marcelo Caetano in Portugal had collapsed, followed by the announcement that Angola and Mozambique were to obtain their independence by January 1975. This would mean an important shift in the power balance between black and white states in the region. He argued that “South Africa has no alternative but to reassess its position in light of these events.” The implied reasoning here was that the end of white minority rule in Southern Africa was inevitable, and that it was best for South Africa (and Rhodesia) to face reality, and move towards majority rule peacefully. The collapse of the Portuguese colonial empire was an important breach in the ‘racial’ status quo that had existed in the region for centuries, but in late 1974 it was still unclear how this would play out. Moreover, there was disagreement within the United States about what the implications should be for American foreign policy towards South Africa. In order to get a clearer view on this, the new Assistant Secretary of State for African Affairs Donald Easum conducted a trip through Southern Africa in October and November 1974.⁵⁹ After his return, Easum was invited by Diggs to share his impressions and exchange thoughts on what the consequences of the Portuguese coup should be for American foreign policy. This time Diggs was joined by Andrew Young (D. -GA) – technically not a member of the Subcommittee, but invited by Charles Diggs in his capacity as member of the House of Representatives with an extraordinary interest in the region.

During the hearing, Diggs opposed the American veto against the expulsion of South Africa. He argued that the Administration was presenting the efforts of the South African government in a too favourable light: “A major part of the rationale of our government was that change may be coming to South Africa. However, recent events in South Africa, including the banning of a pro-FRELIMO [the Mozambique Liberation Front] rally and the subsequent detention of black leaders, moves toward increasing restrictions on freedom of expression and freedom of the press, as well as [South African Prime Minister] Mr. Vorster’s own words indicate that such internal change is not forthcoming.”⁶⁰ Diggs interpreted the signals of conciliation that were recently coming from South Africa exactly in the opposite way – that South Africa only reacts to strong pressures like expulsion, “and that the continued pressure is necessary if South Africa’s words are to be converted into action.” The State Department had already replied to him in telegram that “we believe that the

⁵⁸ DNSA South Africa, ‘Statement by U.S. Representative to the United Nations John Scali Explaining the U.S. Veto of a Draft Security Council Resolution Expelling South Africa from the United Nations’ (30 October 1974).

⁵⁹ Donald Easum was a former ambassador to several African countries, and had replaced David Newsom in March 1974.

⁶⁰ Hearings before the House Subcommittee on African Affairs, 93rd Congress, 2nd session: ‘Review of the State Department trip through Southern and Central Africa’ (12 December 1974), 2.

expulsion of South Africa from the United Nations would have worked against such [positive] change.”⁶¹ Contrary to the State Department, Diggs thought that a more confrontational stance towards South Africa would be justified on the basis of effectiveness.

Diggs went on to cover the issue of priority. He observed that for the last ten years, Africa had not received the priority that was required from American policymakers. Easum pointed out that, since the attention that the bureaucracy gives to a certain issue is largely a reflection of public concern; the awareness at the State Department was rapidly increasing over the last period.⁶² Three months earlier, the State Department had complained of scandalous reports in the press that had suggested close ties between Washington and Pretoria.⁶³ Moreover, Easum had also detected a soaring interest in political developments in Africa during his trip, reporting that “South Africa and its policies on Rhodesia, Namibia and apartheid were the dominant issues put to me in virtually every capital I visited.”⁶⁴ Consequently, the United States was now under increasing domestic and international pressure to take a stand on these issues. However, the question remained whether the government would now revise its policy of communication. The Subcommittee and Young tried to push Easum to adopt a more pro-active stance towards Southern Africa, proposing measures ranging from repealing the Byrd Amendment to supporting a peacekeeping force for Namibia.⁶⁵ The general consensus seemed to be that the concern of the government was not being translated into action; even now the opportunity for change seemed greater than ever. But Easum did not yield. It appeared as if the Administration had not made up its mind about what its future policy should look like. Easum acknowledged that “it seems to me, that in the aftermath of this spectacular change in geopolitical relationships in southern Africa, our priorities might indeed require review.”⁶⁶ But the hearings show no indication that the Administration was considering any new initiatives or suggestions to put pressure on South Africa to mend its ways. The policy of communication remained intact, and the viability of more confrontational routes was played down.

The occupation of Namibia continued to haunt South Africa and the United States at the United Nations. In November 1974, the United States had been able to avoid a vote on a draft resolution that would have imposed a mandatory arms embargo on South Africa over the continued illegal occupation of Namibia.⁶⁷ But it could not avert it again when the draft resolution resurfaced at

⁶¹ Ibidem, 80.

⁶² Hearings, ‘Review of the State Department trip’, 15.

⁶³ DNSA South Africa, ‘South Africa [Tad Szulz in October Issue of Esquire Magazine Claims That the United States Is Selling Helicopters, Reconnaissance Aircraft, and Defoliants to South Africa for Military Purposes]’ (25 September 1974).

⁶⁴ Hearings, ‘Review of the State Department trip’, 5.

⁶⁵ Ibidem, 10.

⁶⁶ Ibidem, 19.

⁶⁷ DNSA South Africa, ‘Draft Resolution on Apartheid [Guidance for U.S. Delegate to Vote against Draft Resolution on Arms Embargo]’ (26 November 1974).

the Security Council in June 1975. The draft resolution was vetoed again by the same three countries. In an explanation of the veto, Scali conceded that progress on Namibia had been slow, but the situation there did not constitute a threat to international peace and security and consequently did not justify coercive measure under Chapter VII of the Charter.⁶⁸ This was a move that was more puzzling for international observers than the veto on expulsion. That had clearly been a political move – nobody doubted that the South African delegation was the legitimate representative of the South African government. Moreover, it would have set a dangerous precedent to expel a country from the United Nations over political differences. But principled opposition against a mandatory arms embargo seemed out of place and hypocritical. Why would the United States support Chapter VII action against Rhodesia (even though it had partially breached sanctions since 1971) and not against South Africa? And most of all, why would the United States veto a mandatory arms embargo that it was already observing voluntarily?

Reactions to the American veto were scathing. To many African countries, the technical arguments that the United States gave for opposing both draft resolutions were a thinly veiled cover for its support of apartheid. The Secretary-General of the OAU noted in a press release that “it was a strange way to forge relations with Africa”, and warning that national liberation groups had no other choice than to intensify their armed struggle if peaceful collective action failed.⁶⁹ Others implied that the veto had something to do with rumours of clandestine arms supplies from the United States and other military links with South Africa, such as the Nigerian ambassador to the UN Special Committee on Apartheid, Edwin Ogbu.⁷⁰ For a number of years, there had been rumours about the supply of American weapons through ‘third countries’ that did not have a similar arms embargo.⁷¹ The implication was that the United States opposed a mandatory embargo because it would have cut alternative routes of supply to South Africa. Particularly France – which had also cast its veto against the mandatory arms embargo – was known as a major arms supplier to South Africa.

The continued efforts of Second and Third World countries to ‘expose’ the United States as the tacit supporter behind the South African regime irritated American policymakers. Since 1969, the United States had played down its leverage and influence on the South African government. It objected to the tactic of African countries that submitted draft resolution that were impractical and unenforceable, and then looking to the United States as a spoiler after it had vetoed them. Critique on the United States for opposing such measures was seen as unjust and misdirected by American

⁶⁸ DNSA South Africa, ‘Statements by U.S. Representative to the United Nations John Scali Opposing a Draft Resolution Imposing Mandatory Sanctions against South Africa’ (3 & 6 June 1975).

⁶⁹ DNSA South Africa, ‘OAU Denounces Western UNSC Veto on Namibia’ (11 June 1975).

⁷⁰ DNSA South Africa, ‘Call by Ambassador Edwin Ogbu’ (23 June 1975).

⁷¹ This was touched upon in several Congressional hearings, for example on 20 March 1973 and 12 December 1974.

officials, and exemplary of the anti-American atmosphere in the United Nations. James Blake, the deputy of Easum, reminded Ogbu in a meeting that not the United States but South Africa itself was holding the key to the end of apartheid. “Unfortunately, members of the Third World think otherwise, as if an action by the United States could settle the issue”, he added. Blake also took the liberty to strike back: he reminded Ogbu of the fact that “apartheid is not the only form of oppression in the world. There are many forms - some of them tribal in character – on which the UN did not comment, claiming that to do so would constitute interference in the internal affairs of a member country. To some in the United States this reasoning was inexplicable.”⁷² The comments by Blake foreshadowed the actions of Moynihan four months later, when he would accuse the countries that chastised South Africa for human rights violations of hypocrisy. Especially his casual observation about the ‘tribal’ nature of the violations indicates that Blake was most likely singling out African countries in this regard.

Nevertheless, this did not mean that South Africa was excused for its human rights violations. As part of Moynihan’s counterattack in the General Assembly of October 1975 against countries that held political prisoners, Clarence Mitchell, a civil rights veteran and the American representative on the political committee of the Security Council gave a speech that targeted the South African government for holding political prisoners. He stated that “the United States deplores the detention of persons whose only act is outspoken opposition to the system of apartheid. The South African government is courting disaster when such repressive measures have the effect of closing off all avenues for peaceful change.”⁷³ When Prime Minister Vorster reacted by calling this a “downright lie”, Mitchell published a detailed report that examined the South African laws that facilitated the enforcement of apartheid, with a list of political prisoners in the annex.

While the report by Mitchell can be seen as an attempt to forestall accusations of selective indignation during Moynihan’s counterattack or as an outcome of Fraser’s presence on the America delegation to the UN, it also highlighted some of the problems that the American policy of communication faced. The premise of this was that by maintaining contacts with all elements of the South African population, the United States could bring both sides closer together. The prevalent wisdom in the United States since the Kennedy Administration had been that the increased economic participation of blacks would be followed by political participation. But an elaborate system of laws and regulations had turned any sort of political opposition into a criminal offense in South Africa. According to Coker, the South African government “had created a political environment in which participation could have had no meaning for the participants other than the role-playing in which the

⁷² DNSA South Africa, ‘Call by Ambassador Edwin Ogbu’.

⁷³ DNSA South Africa, ‘Report by President Gerald Ford to the Congress for the Year 1975 concerning U.N. Consideration of South African Policies of Apartheid’ (misdated by the DNSA as 8 September 1975, in reality the publication of the full report was dated October 1976).

government liked to indulge.”⁷⁴ Without the prospect of legal reform in South Africa, no meaningful change in the political participation of blacks could be expected. The United States had misread the progress in the economic participation and South African rhetoric for meaningful change, but this optimism was unsubstantiated by the legal reality. The speech and report from Mitchell could have served as a starting point for a dialogue about political participation, but it was not followed up in the remainder the Ford Administration.

The Clark Subcommittee and involvement by the Senate

Although the events in Portugal and Southern Africa in 1974 and 1975 had assisted Diggs and other anti-apartheid activists in putting the region higher on the political agenda, the Congressional initiatives to influence American foreign policy towards South Africa had not resulted in any legislative measures yet. The human rights legislation that was created since 1973 had left the Ford Administration’s South African policy untouched so far, because it focussed on countries that were recipients of American economic or military aid – a category of which South Africa was officially not a part. For the same reason, the State Department also did not monitor the human rights situation in South Africa until 1977; nor report it to Congress. Charles Diggs’ work on South Africa was even made more difficult when Thomas Morgan (D.-PA), the chairman of the House Committee on Foreign Affairs, decided to reshuffle its subcommittees as part of post-Watergate reforms. The regional subcommittees disappeared, and Diggs now became the head of the Subcommittee on International Resources, Food and Energy – which still allowed him to conduct hearings on Africa, but also forced him to devote his time to other issues.⁷⁵ However, the shift that had occurred in the attitude of Congress to Kissinger’s *realpolitik* after the end of the Vietnam War and Watergate had not escaped African diplomats, who saw an opportunity to pressure the United States government into a more confrontational position against South Africa through Congressional action.

After his meeting with Blake, ambassador Ogbu had planned to meet with several members of Congress to discuss apartheid. This was a prospect that was a bit unsettling for some officials in the Ford Administration, who already had to cope with much more Congressional interference in its international relations than before. Blake had warned Ogbu however, that “Congressional support for the UN had been soured by a series of recent UN actions.” He noted the heavy involvement of Congress in foreign policy recently, and added that it would have been difficult to take a tougher policy on apartheid at the United Nations because “the Department of State is not a free agent in foreign affairs. We must take the Congressional and public sentiment into account.”⁷⁶ Blake

⁷⁴ Coker, *The United States and South Africa*, 65.

⁷⁵ Massie, *Loosing the bonds*, 385.

⁷⁶ DNSA South Africa, ‘Call by Ambassador Edwin Ogbu’ (23 June 1975).

insinuated that Ogbu's efforts to reach out from the United Nations to Congress would be fruitless because of the anti-American reputation of the international body. To be sure, there was some merit to this point: even after the post-Watergate elections, the repeal of the Byrd Amendment failed in the House after passing the Senate, continuing the violation of UN sanctions.⁷⁷ However, Blake either misread or misrepresented the support of influential parts of Congress for a tougher stand against apartheid to Ogbu. The gap between the picture that Blake sketched and reality became clear to him quickly. At the press conference at the end of his visit, Ogbu noted that "we came away with the distinct impression that the executive branch of the United States government, while reiterating its opposition against apartheid, feels that further action against South Africa is difficult because of sentiments in Congress and the public." However, he added "the consultations in Congress have convinced us that there is a great amount of goodwill."⁷⁸ Despite Blake's warnings, Ogbu left Washington encouraged about the possibility of influencing American policy through Congress.

It does not become clear from the report with whom Ogbu had met during his visit, although he did refer to the hearings that were conducted by Senator Dick Clark (D.-IA) over the summer in his press conference. Clark was a first term senator from Iowa who had taken up the chairmanship of the Senate Subcommittee on African Affairs. Before his election, he had worked as an assistant to Representative John Culver (D.-IA), who was a member of House Subcommittee on Africa. However, he later recalled that he "knew nothing about Africa. I had not been there, had not studied it and wasn't particularly interested in it."⁷⁹ His chairmanship stemmed from the seniority system of the Senate, in which the chairmanships of subcommittees that no one else wanted were left to the junior senators. All in all, it seemed that there was not much interest in Africa in the Senate before 1975. Part of the explanation for this was that the Congressional Black Caucus, which had dominated the debate on South Africa in the House Subcommittee on Africa, was unrepresented in the Senate.⁸⁰ When Clark organized the extensive series of hearings in June and July on American policy towards southern Africa, it appeared that the subcommittee had been dormant for quite some time. In his opening remarks, Senator James Pearson (R.-KS) noted that "I have been on this Africa Subcommittee several years. I think this is the first time that we have ever had hearings that I can remember."⁸¹ This was not entirely true, but it had been only the second time that the Subcommittee convened since 1969 – indicating that attention in the Senate for the region had also

⁷⁷ Mitchell, *Jimmy Carter in Africa*, 39-40.

⁷⁸ DNSA South Africa, 'UN Apartheid Committee: Mission to Washington' (27 June 1975).

⁷⁹ Piero Gleijeses, *Conflicting missions: Havana, Washington, and Africa, 1959-1976* (Chapel Hill 2002), 331.

⁸⁰ The only African-American Senator at that time, Edward Brooke (R.-MA), had refused to join the Caucus.

⁸¹ Hearings before the Senate Subcommittee on African Affairs, 94th Congress, 1st session: 'Overview of U.S. relations with Southern Africa' (11 June 1975), 6.

been lacking over the last years.⁸² The leadership of Clark and the presence of another young Senator, Joe Biden (D.–DE), ensured that the Subcommittee would be a lot more active in exercising oversight on the Administration’s African policy than before. This corresponds with David Forsythe’s observation that there was a strong personality factor to the Congressional subcommittees; their impact depending largely on the energy and political skill that was put in by its members.⁸³

Clark opened his first hearing by stating that the United States must support human rights, equality and majority rule in South Africa. “However, sincere and well-informed people disagree on how these principles could be most effectively furthered in U.S. policy toward South Africa.”⁸⁴ Suggestions for a new, post-1975 Southern African policy generally took the shape of either confrontation or isolation. The purpose of the hearing was to hear arguments from both sides. Moreover, the hearings also prepared Clark for the investigative trip to Africa that he was going to make later that summer. Most of the witnesses that appeared before the Clark Committee had already testified before the Diggs Committee in the past, suggesting that Clark might have benefited from Diggs’ existing network. They included representatives of NGOs, members of the Ford Administration, academics and also a number of ‘insider activists’ – people who had previous experience working in government but had resigned and turned against its policies.

The most scathing account of American policy towards South Africa under the Ford Administration was given by such an insider, Goler T. Butcher. She had previously worked as a legal assistant to the African Affairs Bureau of the State Department, but had left in 1971 to work as a counsel to the Diggs Committee until the previous year. Butcher argued that the Ford Administration could not be counted upon to make good on its anti-apartheid rhetoric. Therefore, “it is Congress that must take the lead to end what is essentially a cover-up of U.S. policy on southern Africa.”⁸⁵ Butcher insisted that holding on to the status quo was not only morally wrong, but also counterproductive from a self-interested point of view – especially since the coup d’état in Portugal had shown that the whites were not here to stay: “The first imperative here is that we realize that our interests in cold, hard practical terms are coterminous with our interest with respect to human rights.” Holding on to the white regime “jeopardizes our substantially greater interest in black Africa: economically, in access to raw materials, oil, minerals, commodities, and in markets; and strategically, with respect to Africa as a whole.”⁸⁶ Another insider, the former diplomat Donald McHenry, concurred with this observation and added that under this government “policy decisions

⁸² U.S. Government Publishing Office, search results. The first hearing was in September 1973 and concerned the repeal of the Byrd Amendment. Pearson did not attend.

⁸³ Forsythe, *Human rights and U.S. foreign policy*, 143.

⁸⁴ Hearings, ‘Overview of U.S. relations with Southern Africa’, 260.

⁸⁵ *Ibidem*, 262.

⁸⁶ *Ibidem*, 275.

tended to reflect narrow and short-term interest interests rather than the broader and long-term interests of the United States.”⁸⁷ If the rest of Africa would have the impression that the United States was hostile to change in South Africa, it would pay the price later in its dealings with the rest of Africa and with an inclusive South African majority government in the future.

The witnesses later went on to describe what a sensible Southern African policy would look like according to them. Butcher argued that the fundamentals of such a policy should be “(1) To oppose not only the system of apartheid but the government which institutes such a system; and (2) be supportive of the majority and liberal elements in their struggle to rid their country of the evil of apartheid.”⁸⁸ In theory, this was not even that far removed from the policy of ‘communication’ that the Ford Administration was claiming to follow; although it required the administration to make good on its promise to extend contacts to some sort of South African opposition, and suggested a more confrontational attitude towards the South African government. This certainly became clear from the concrete policy proposals that Butcher introduced, which included supporting collective action through the United Nations, an end to the sale of enriched uranium, advocating the withdrawal of investment, and downgrading the American diplomatic representation to the level of a chargé d’affaires. McHenry agreed with Butcher that “the United States ought to distance itself as Government from South Africa and from that Government’s policies.” However, he added a second major point which related to the possibility of violence: “if the United States has itself no other positive recommendations, we ought at least to refrain from telling people what they ought to do to relieve themselves of the oppression from which they suffer.” This was critique that went to the heart of the matter: if the United States continued to oppose peaceful measures to hasten the downfall of apartheid, it would leave violence as the only alternative to achieve change.

On the second day of the hearings on South Africa, the Ford Administration had the opportunity to make a case for its foreign policy before the Clark Committee. It had sent two senior officials: William Buffum, the Assistant Secretary for International Organizations and Nathaniel Davis, the new Assistant Secretary for African Affairs. Easum had been sacked from his post by Kissinger in March, when he overstepped his mandate by telling African leaders that there might be circumstances in which the United States would support the expulsion of South Africa from the UN.⁸⁹ Davis was not exactly the dream candidate for the position in the mind of African leaders or domestic critics – he had been the Ambassador to Chile during the CIA-backed coup d’état in 1973. The replacement of the Assistant Secretary for Africa for being too conciliatory with a man who had been contaminated with Kissinger’s intrigue and secrecy was ‘appalling’, according to one of the other

⁸⁷ Ibidem, 323.

⁸⁸ Ibidem, 276.

⁸⁹ Thomson, *U.S. foreign policy towards apartheid South Africa*, 80.

witnesses.⁹⁰ Davis gave a brief overview of current policy regarding South Africa and Namibia, repeating the stated policy of communication and commitment to the self-determination of Namibia. Buffum covered the voting behaviour of the United States in the United Nations, arguing that the United States could not support coercive measures because of technical reasons and because sanctions would be ineffective. They did not bring any new arguments, or respond to the policy proposals of the other witnesses.

The continued insistence of the government representatives on verbally opposing apartheid while heeding off any attempts to put pressure on the South African government was incomprehensible to some of the witnesses. Their conclusion was that Western countries were actually empowering the white regime in South Africa, because it tended to see the blocking of coercive measures by the United States at the United Nations as an encouragement to continue its repression. Jennifer Davis from the American Committee on Africa (ACOA) argued that “South Africa really sees these alliances as critical for its survival. And it will work hard to build them.”⁹¹ Moreover, others argued that South Africa was deliberately misleading the United States government (and Congress) into the role of defender and apologist for the white regime – for instance through its cosmetic reforms. Leonard Thompson, a Yale professor from South Africa, pointed to the removal of petty apartheid laws as “a concession that is being made with an eye to this august body, the U.S. Congress, in the expectation that they will be deemed to be significant concessions.”⁹² But the reality was that there had been no significant reforms at all, certainly not in a direction that would lead whites to share their political monopoly with other groups. Clark summarized his findings in his final remarks after the hearing: “The U.S. policy in southern Africa will have a significant impact on the credibility of this country's commitment to human rights and self-determination throughout the world. The United States claims to base many of its foreign policy actions on its commitment to freedom and human rights. Yet these commitments will appear shallow indeed if this country opposes rather than supports the efforts of the African states or the international community to further these principles in southern Africa.”⁹³ By willing to believe that such reforms were underway and giving the South African the benefit of the doubt, the United States would pay the political price for the persistence of apartheid.

Clark was confident with the results of his first round of hearings, and left on his trip to Africa in August 1975 with a better insight in American foreign policy towards Southern Africa. At a press conference in Tanzania, he stated that the United States had previously followed two mistaken courses in Africa: first by taking the lead of the colonial powers, later by extending the Cold War into

⁹⁰ Hearings, ‘Overview of U.S. relations with Southern Africa’, 314.

⁹¹ *Ibidem*, 382

⁹² *Ibidem*, 312.

⁹³ *Ibidem*, 422.

Africa. "Our committee makes a beginning to change that", he added.⁹⁴ However, his hearings did not create much more clarity about specific steps that the United States should take to promote human rights in South Africa. The general consensus was that 'something' needed to change, and that any new initiative was to be preferred to the maintenance of the status quo. Nevertheless, the first Clark hearings broke a pattern of apathy on the Africa Subcommittee of the Senate, and ensured the continuity of Diggs' work on South Africa on a different platform.

The United States and the Angolan Civil War

What Clark did not yet know during his visit to Africa, was that Kissinger had followed exactly the Cold War-course since July by plunging the United States into the Angolan Civil War. Although the conflict is mostly beyond the scope of this paper, the complex chain of events will be discussed briefly here, because it has important consequences for the bilateral relations between the United States and South Africa as well as the domestic situation in South Africa. After the coup, the new Portuguese government had quickly committed itself to the independence of its colonies. Guinea-Bissau received independence in September 1974, and Mozambique was set to follow suit in June 1975. Angola was the most difficult case, because unlike the other colonies it lacked a unified national opposition to cede authority to.⁹⁵ In January 1975, the Alvor Agreement was signed, creating a power-sharing mechanism between the three major national liberation movements, followed by elections in November when the Portuguese troops would leave and Angola would officially become independent. However, fighting between the groups broke out within months after the agreement, with Portuguese troops unwilling and unable to suppress it.

The power vacuum that was created by the announcement of the departure of the Portuguese colonial government was an invitation for outside interference in Angola. In their pursuit for full government control, the different guerrilla groups began soliciting local and global powers for financial and military assistance to tip the balance of power in their favour. The Marxist MPLA had extended ties to Moscow and especially Havana, while the FNLA and UNITA sought the support of Zaire, Zambia and the United States. On 26 May, Kissinger requested a memorandum from the National Security Council on the American policy options regarding the civil war in Angola.⁹⁶ The resulting report, prepared under Davis, recommended against a clandestine operation to provide aid to the liberation groups: the probable gains of a desirable outcome were simply not worth the risk of jeopardizing American funds and prestige. Moreover, with public opinion and the Congressional atmosphere hostile to new military adventures in countries far away, the United States would not be

⁹⁴ DNSA South Africa, 'Transcript of Richard Clark's Press Conference in Dar Es Salaam of August 20 during his tour of Southern Africa' (22 August 1975).

⁹⁵ Gleijeses, *Conflicting missions*, 233.

⁹⁶ FRUS 1969-1976 vol. XXVIII, doc. 105: 'National Security Study Memorandum 224' (26 May 1975).

able to escalate the conflict if another country chose to do so. But as Zaire kept insisting that the Soviets were pouring arms and money into Angola, and with the MPLA gaining advantage on the battlefield, Kissinger dismissed the report and asked the CIA to prepare a plan for covert action. On 17 July, Ford authorized a 25 million dollar plan to fund and train UNITA and FNLA.⁹⁷ Davis resigned as Assistant Secretary in protest of the decision to approve the programme, making him the third person in two years to leave the post. His successor was William Schaufele.

The South African government decided that it could not afford to sit still either. Under the government of John Vorster (1966-1978), it had relied on a dual-track foreign policy to ensure the survival of its way of life. The first part of this was called its 'outward policy' or South African détente, which consisted of maintaining workable relations with moderate black African states by investing considerable amounts of money in their economies in order to make them dependent. The second part was to keep the forces of black nationalism as far away from its borders as possible, through military cooperation with the other white regimes in the region – Portugal and Rhodesia.⁹⁸ Both countries allowed South African security forces to conduct operations against liberation groups in their territories, to prevent them from creating a foothold for operations against South Africa. It was particularly concerned about the possibility that an independent Angola would become a safe haven for SWAPO, the Namibian liberation front. Moreover, it has recently been revealed that South Africa paid for a considerable amount of the Portuguese security forces – to the extent that it was 'outsourcing' the maintenance of regional security, according to Jamie Miller.⁹⁹ The departure of the Portuguese authorities consequently undercut the second pillar of South African foreign policy. And whereas it had enough economic leverage with Mozambique to establish a workable relationship with the new government there, it lacked similar ties with Angola.¹⁰⁰ Left with no alternatives, the South African government resorted to other means to get its way in Angola. It started supplying UNITA and FNLA with weapons and other equipment in July, and finally launched its own military operation on 14 October.¹⁰¹

The exposure of the South African invasion in the press in November sparked rumours that the United States might be implicated in it, and was a bad hit in the propaganda war that surrounded the Angolan conflict.¹⁰² By then, the fate of the American-backed guerrillas on the ground was also

⁹⁷ Gleijeses, *Conflicting missions*, 287-293.

⁹⁸ John Daniel, 'Racism, the Cold War and South Africa's regional security strategies 1948-1990' in: Onslow, *Cold War in Southern Africa* 35-54, 39-40.

⁹⁹ Jamie Miller, 'Things fall apart: South Africa and the collapse of the Portuguese Empire, 1973-74', *Cold War History* 12 (2012) 183-204, 186-189.

¹⁰⁰ Gleijeses, *Conflicting missions*, 275.

¹⁰¹ Jamie Miller, 'Yes, minister: reassessing South Africa's intervention in the Angolan Civil War, 1975-1976', *Journal of Cold War Studies* 15 (2013) 4-33, 17-29.

¹⁰² Gleijeses, *Conflicting missions*, 323-327, 332.

beginning to change: after a quick advance with South African help, resistance had increased when Cuban troops started arriving in Angola in November. Convinced that the Cubans were fighting in Angola as a proxy for the Soviet Union, Kissinger sought to increase the American support for UNITA and FNLA. However, the problem was that the latest package of aid had depleted the CIA Contingency Reserve Fund for the rest of the year – which meant that allocation of new funds had to be approved by Congress.¹⁰³ In a meeting with members of Congress, Kissinger warned that “if Congressional support is not forthcoming, we fear that the FNLA/UNITA forces will be demoralized and their means and will to resist the Cubans/MPLA advance will fatally erode.”¹⁰⁴ But his plea was to no avail: on 19 December the Senate refused to approve the extra funds; a decision that was endorsed by the House of Representatives on 27 January 1976.¹⁰⁵

The Clark Committee initiated hearings in early 1976 to discuss the possible allocation of military aid to Angolan groups in the future. The introductory statements by the committee members made it immediately clear that the atmosphere in Congress was hostile to a new foreign adventure. The parallel with the Vietnam War was easily made: American involvement started under dubious circumstances, nobody knew how far the executive was prepared to go, Congress and the public were kept in the dark, and it was unclear which American interests in Angola were at stake apart from the Cold War-rationale of countering the Soviets. Moreover, the United States was again seen to intervene on the ‘wrong’ side, according to Clark: “We must also examine what this commitment is costing us in terms of our relations with the rest of Africa. Our identification with South Africa’s intervention in Angola will not help our relations with the black African states, which regard racial domination in South Africa as the most serious problem on their continent.”¹⁰⁶ Angola, according to the members of the Committee that were present, was simply not worth putting American prestige and money on the line for – the same point as was taken by the National Security Council. The Clark Amendment to the Arms Export Control Act, signed into law on 9 February, subsequently banned the funding of paramilitary groups in Angola in the future.¹⁰⁷ Although the Clark Amendment was not directly related to the human rights situation in South Africa, its significance was that it was the first instance in the timeframe of this paper that a Congressional initiative resulted in legislation that successfully challenged the foreign policy of the executive towards Southern Africa.

¹⁰³ Ibidem, 330.

¹⁰⁴ DNSA South Africa, ‘Your Breakfast Meeting December 18 with Members of the House of Representatives – Angola’ (17 December 1975).

¹⁰⁵ Gleijeses, *Conflicting missions*, 332.

¹⁰⁶ Hearings before the Senate Subcommittee on African Affairs, 94th Congress, 2nd session: ‘U.S. involvement in civil war in Angola’ (29 January – 6 February 1976), 1-4.

¹⁰⁷ Thomson, *U.S. foreign policy towards apartheid South Africa*, 84, note 136.

The Kissinger initiative: from passivity to diplomatic engagement

The degree to which the South African participation in the Angolan Civil War was the result of cooperation with or pressure from the United States has been shrouded in secrecy. Kissinger and Ford publicly denied having any involvement in or knowledge of the South African invasion. Senior South African officials, including Vorster and defence minister P.W. Botha, have insisted that they only acted after an American request and on the assurance that the South African military would be resupplied by the United States if it were to suffer heavy losses.¹⁰⁸ Several American officials have testified that there was intensive cooperation between American and South African intelligence on covert operations in Angola.¹⁰⁹ The truth is that, presently, there is no declassified documentary evidence of an American request to South Africa to intervene militarily. But there are indications that the United States was seeking to 'reward' South Africa shortly after the intervention: a memorandum from the executive oversight committee on covert operations shows that Ford approved the sale of an ocean surveillance system "to keep the South Africans in the game", despite the fact that nearly the entire bureaucracy opposed it, and the CIA reckoned that its value to the United States would be marginal.¹¹⁰ Statements from South African politicians also indicate that they forcefully believed that they had full American support in carrying out the military operation. Consequently, when the American covert aid programme was terminated, the South African leadership felt betrayed and withdrew its forces. Adding insult to injury, the United States abstained from voting on a Security Council resolution that branded South Africa the aggressor in the Angolan Civil War, requiring it to pay reparations. This left the South Africans in a "particularly bruised mood", according to the embassy in Cape Town.¹¹¹

Bilateral relations with South Africa soured, but the United States could not afford to completely drop the South African government either. With 30,000 Cuban soldiers present in Angola and an MPLA government that was favourable to other liberation movements elsewhere, the strategic balance in the region was turning rapidly.¹¹² This new calculus prompted a policy review at the State Department. The crucial puzzle that needed to be solved was how to oppose the Soviets and Cubans in Africa, but avoid being caught backing the 'wrong' side. The Policy Planning Staff (PPS) recommended the following: "By working to generate momentum towards majority rule and self-determination in Southern Africa, we have at least a chance of mitigating, if not foreclosing, the grounds for Soviet/Cuban intervention – though we have to be pessimistic about how much we can

¹⁰⁸ Matthew Graham, 'Covert collusion? American and South African relations in the Angolan Civil War, 1974-76', *African Historical Review* 43 (2011) 28-47, 33.

¹⁰⁹ Gleijeses, *Conflicting missions*, 298.

¹¹⁰ FRUS 1969-1976 vol. XXXVIII, doc. 79: 'Memorandum From Secretary of State Kissinger to President Ford' (8 November 1975) and doc. 137: 'Memorandum for the Record' (14 November 1975).

¹¹¹ DNSA South Africa, 'Secretary's Visit to Zambia: Meeting with American Ambassadors' (21 April 1976).

¹¹² Gleijeses, *Conflicting missions*, 9.

really do, for example, to move [Rhodesian Prime Minister Ian] Smith.”¹¹³ The new policy consisted of a pre-emptive initiative to break down the white minority regimes in the region, in order to prevent the situation from escalating in a direction that might give the Communist bloc an excuse to intervene. The comments about self-determination and Smith already indicated that this initiative was focussed on Rhodesia and Namibia, while the internal situation in South Africa was largely left alone. Nine days after the memorandum of the PPS, Ford ordered a complete policy review for Southern Africa.¹¹⁴ It asked to deal with scenarios for self-determination for Namibia and majority rule in Rhodesia – but not for South Africa. The study was never completed.

South Africa had a crucial role to play in Kissinger’s new plans. The United States was dependent on the leverage of South Africa with Smith to persuade him to move forward on majority rule, as well as on their own acceptance of Namibian independence. This was a very difficult diplomatic balancing act for the United States: it needed to enlist South Africa to break down its own white buffer zone, while it could not afford to let South Africa off the hook on their own human rights situation. Perhaps surprisingly, American officials found it easy to get the South Africans to pressure Smith. Schaufele wrote to Kissinger in April that “the South Africans are anxious for a peaceful settlement and have concluded that there must be majority rule for long.”¹¹⁵ The American objective to keep the Cubans out was obviously shared by the South Africans, and as guerrilla violence increased in Rhodesia, Smith could no longer be counted on to provide stability and was turning into a liability. Moreover, the South Africans regarded their situation as fundamentally different from Rhodesia: South Africa considered itself an African state that had freed itself from British colonialism and was on the way to solve its racial problems through separate development. This was considerably different from Rhodesia, which regarded itself as an heir to the British Empire and was internationally unrecognized.¹¹⁶ By helping to bring along majority rule in Rhodesia, South Africa could show that its own system was not incompatible with a post-colonial African state system. In addition to activating some of the goodwill that already existed in South Africa, the United States also seemed to have given South Africa some small incentives to ‘deliver’ Smith.¹¹⁷ Examples include the sale of aircraft engines, and considering the relaxation of Ex-Im Bank provisions and the sale of two nuclear power plants and enriched uranium to South Africa.

The consternation that some of these encouragement caused showed how difficult it had become for the administration to create a holistic Southern African policy that involved a distant but

¹¹³ FRUS 1969-1976 vol. XXXVIII, doc. 74: ‘Briefing Memorandum From the Director of the Policy Planning Staff (Lord) to Secretary of State Kissinger’ (12 April 1976).

¹¹⁴ FRUS 1969-1976 vol. XXVIII, doc. 84: ‘National Security Study Memorandum 241’ (21 April 1976).

¹¹⁵ DNSA South Africa: ‘Rhodesia--A Proposed Course of Action’ (1 April 1976).

¹¹⁶ Onslow, *Cold War in Southern Africa*, 11-13.

¹¹⁷ Thomson, *U.S. foreign policy towards apartheid South Africa*, 85.

constructive relationship with South Africa without harming its domestic and international reputation. Kissinger had decided that it was in the national interest to pre-emptively dismantle the white regimes in Rhodesia and Namibia –but the consensus of the Clark hearings was that it would be even better for the national interest to dispose of the white government of South Africa altogether. The relaxation of Ex-Im Bank provisions was the first target for Congressional initiatives. Already in February, Diggs warned in a telegram that “at a time when many view U.S. intervention in Angola as an unholy alliance with S.A., the adverse political implications of U.S. Govt. direct financial support for SAG [South African Government] are staggering.” Another letter addressed to President Ford with the same message was signed by 16 Congressmen, including Fraser and Edwards.¹¹⁸ Ford finally decided that the relaxation was not worth the political damage.¹¹⁹

More worrisome to Congress was the proposed sale of two nuclear reactors and 1.4 million pounds of enriched uranium by General Electrics to South Africa. Nuclear cooperation between the United States and South Africa went back to the Atoms for Peace -programme of the 1950s, but recently South Africa had accelerated its development of nuclear technology as part of a larger transition in its energy policy to decrease its dependency on oil after the crisis of 1973. The United States government had always regarded nuclear relations with South Africa as mutually profitable and isolated from political differences. However, as rumours spread that South Africa was developing the capacity to produce nuclear weapons, the nuclear relationship between the two countries came under close scrutiny. South Africa had been fuelling such rumours itself, by refusing to sign the Non-Proliferation Treaty (NPT) and announcing that it had the capability (although not the intention) to build nuclear weapons in May 1974.¹²⁰ The revelation of the proposed sale prompted both the Diggs and the Clark Committee to conduct hearings in May 1976. Blake testified in the Senate hearing that the sale would be important for achieving South African cooperation on Rhodesia and Namibia.¹²¹ This was much to the surprise of Clark and Senator Charles Percy (R.-IL), who opposed the granting of an export license because there were measures short of providing advanced nuclear technology to get South Africa to cooperate. Ultimately, the situation did not reach the point where Congress had to interfere to block the export license. General Electric withdrew its application for the license under public pressure, and the contract was awarded to a supplier from France.¹²²

¹¹⁸ DNSA South Africa: ‘Regarding Eximbank’s Policy toward South Africa’ (9 February 1976); ‘Regarding Eximbank’s Policy toward South Africa’ (5 March 1976).

¹¹⁹ FRUS 1969-1976 vol. XXVIII, doc. 85: ‘National Security Decision Memorandum 330’ (6 May 1976).

¹²⁰ Anna-Mart van Wyk, ‘The USA and apartheid South Africa’s nuclear aspirations, 1949-1980’ in: Onslow, *Cold War in Southern Africa* 55-83, 62-65.

¹²¹ Hearings before the Senate Subcommittee on African Affairs and the Subcommittee on Arms Control, International Organizations and Security Agreements, 94th Congress, 2nd session: ‘Proposed nuclear reactor sales to South Africa’ (27 May 1976), 298-300.

¹²² DNSA South Africa, ‘Withdrawal of Application for Export of Special Nuclear Material to Republic of South Africa’ (1 June 1976).

By then, the contours of the new American policy towards Southern Africa had become clear to the general public. In the middle of his campaign to speak out on human rights, Kissinger officially proclaimed his policy change on 27 April 1976.¹²³ In the Zambian capital Lusaka, he announced that “We support self-determination, majority rule, equal rights, and human dignity for all the peoples of southern Africa—in the name of moral principle, international law, and world peace.”¹²⁴ Rhodesia was first on his list of places where this needed be achieved, stating that the United States would not come to the rescue in its battle against liberation movements and asking Congress for the repeal of the Byrd Amendment. Next on the list was Namibia, urging the South African government to put a time-table on its independence. Finally, he announced his expectations of South Africa, too: “Our policy toward South Africa is based upon the premise that within a reasonable time we shall see a clear evolution toward equality of opportunity and basic human rights for all South Africans. [...] In the immediate future, the Republic of South Africa can show its dedication to Africa—and its potential contribution to Africa—by using its influence in [the Rhodesian capital] Salisbury to promote a rapid negotiated settlement for majority rule in Rhodesia.” The message to South Africa was clear: if you cooperate with us in Rhodesia and Namibia, you can win some time for your own human rights situation.

The message to Congress was also clear: we are now taking the problems in the region seriously and ready to become actively involved at the highest level. And while Congress had become extra vigilant for any relaxations in foreign policy towards South Africa after Angola, it was mostly supportive of the general direction that Kissinger’s new policy was heading into. His proclaimed dedication to majority rule in Rhodesia angered some in the conservative wing of the Republican Party and Ronald Reagan, who told a campaign rally that Kissinger’s ‘abandonment’ of white Rhodesians could lead to a massacre.¹²⁵ But when Kissinger appeared in a hearing from the entire Senate Committee for Foreign Relations, the members were nothing short of laudatory. George McGovern called the speech “superb”, and Charles Javits even said that “the President and the Secretary have done a legendary service to their country.”¹²⁶ Clark also complimented Kissinger on his speech, although he was a little more sceptical of his sudden conversion to human rights. He noted that “Africans say, and I think accurately, we talk a good game but that we play a very different one.” Moreover, he attacked the strategy of tackling the different white ruled countries one by one that postponed solving apartheid in South Africa until later, arguing that “until we are prepared to face up to the core question, I doubt that we are really going to have much impact on Rhodesia [and]

¹²³ Keys, *Reclaiming American virtue*, 221-222.

¹²⁴ FRUS 1969-1976, vol. XXXVIII, doc. 77: ‘Address by Secretary of State Kissinger’ (27 April 1976).

¹²⁵ Borstelmann, *The Cold War and the color line*, 238.

¹²⁶ Hearings before the Senate Committee on Foreign Relations, 94th Congress, 2nd session: ‘Report of Secretary Kissinger on his trip to Africa’ (13 May 1976), 181, 200.

Namibia.”¹²⁷ But Kissinger did not agree: he stated that “South Africa is a problem that has a somewhat longer lifespan [that] will in part be affected by the manner in which the immediate issues are being settled”. If diplomacy could deliver a moderate, multi-racial government in Rhodesia, the likelihood of a similar outcome in South Africa would increase.

Ensured by the Congressional approval of his new initiative, Kissinger went on to initiate a settlement for the most immediate issue: Rhodesia. His strategy was to put pressure on Smith through Vorster to accept a British proposal for a settlement, while relying on the presidents of the Frontline States (Zambia, Mozambique, Botswana and Tanzania) to communicate with national liberation groups. Kissinger started meeting the South African ambassador in April, leading to a secret conference with Vorster in Germany in June. Kissinger found that they were eager enough to cooperate in order to restore some of the tolerance of the international community in the wake of their invasion of Angola.¹²⁸ His shuttle diplomacy proved fruitful. Feeling increasingly isolated after losing South African military and political support, Smith became convinced that something needed to be done. In September, he accepted a five point plan that would have to lead to a shared transitional government, full independence from Britain and an end to the sanctions. On 24 September, Smith announced his commitment to majority rule on the radio.¹²⁹ The negotiations eventually collapsed in late 1976 over a proposed timescale for independence and the composition of the transitional government. Nevertheless, as Onslow has argued, the Kissinger initiative started to tackle some of the most crucial elements of an ultimate Rhodesian settlement, and consequently was an important step forward towards the creation of an independent Zimbabwe.¹³⁰

Even though the Kissinger negotiations did not immediately deliver a settlement, they showed two important things about the United States and the region in the closing days of the Ford Administration. The first is that South Africa was very desperate not to be seen as a pariah but as an integral part of both Africa and the Western bloc. When it appeared to lose American covert support and diplomatic cover at the United Nations after the Angolan Civil War, it was prepared to sacrifice its white buffer zone in Rhodesia to avert isolation. The second is that exactly because of the threat of isolation, the United States had much more leverage with South Africa than it had wanted to acknowledge before. Within six months after the announcement of Kissinger’s diplomatic campaign, Smith had opened the door to majority rule. But in the wake of the Angolan Civil War, the silent agreement was that the United States would not be coming after South Africa until the rest of the

¹²⁷ Ibidem, 211, 214.

¹²⁸ Sue Onslow, ‘We must gain time: South Africa, Rhodesia and the Kissinger initiative of 1976’, *South African Historical Journal* 56 (2006) 123-153, 126.

¹²⁹ Martin Meredith, *The past is another country: Rhodesia 1890-1979* (London 1979), 256-261.

¹³⁰ Onslow, ‘We must gain time’, 152.

regional issues had been solved. Congress would continue to urge the White House to reduce its patience with South Africa –but after 1976, that was not Kissinger’s problem anymore.

‘Our own predicament’: the internal South African situation after Angola

The diplomatic attempts of the South African government to push Smith towards majority rule were made exclusively with the survival of the South African status quo in mind. According to Onslow, the Vorster government regarded the settlement of the Rhodesian crisis “as the key to South Africa’s own international predicament.”¹³¹ This initiative to restore some regional stability can be seen as an extreme demonstration of South African détente at a time when all other African states believed that it had collapsed. But it also had to find a way to reorganize the second part of its dual-track policy now that it could not rely on Portugal or Rhodesia to provide ‘hard’ security anymore –especially after Congress had made it clear that there could be no question of American intervention on the side of the white regimes in Southern Africa against Communist groups. South Africa consequently had to rely on its own security capabilities to resist encroachment from black or red insurgents, and the Angolan Civil War had indicated that these were presently inadequate if they were going to be supported by Cuba and/or the Soviet Union. In order to increase its security situation, the South African government invested heavily in its domestic armaments industry, accelerated its nuclear weapons programme and created special military units to operate far away from its own borders.¹³² Between 1974 and 1980, South African defence spending increased by 400%.¹³³

The substantial investments in national security in the wake of the Angolan Civil War were a symptom of a larger political shift that was occurring within the South African government. Elements within the South African Defence Force (SADF) and the Ministry of Defence had been warning for a ‘total onslaught’ of South Africa at the hands of communists and blacks for longer, but the coup in Portugal and the abandonment by the United States strengthened their position.¹³⁴ This came at the cost of moderates such as Vorster, who already had trouble explaining his ‘enlightened’ racial and foreign policies to the conservative wing of his own National Party. As a concession to the nationalist Afrikaner power base of his party, Vorster had appointed the hardliner Andries Treurnicht as Deputy Minister of Education early 1976. Treurnicht began implementing the use of Afrikaans as language of instruction on schools.¹³⁵ This led to protests in the black community, which generally spoke English and regarded Afrikaans as the language of the oppressor. Feeling reinforced by the humiliating

¹³¹ Ibidem.

¹³² Daniel, ‘South Africa’s regional security strategies’, 43.

¹³³ Miller, ‘Things fall apart’, 193.

¹³⁴ Chris Alden, *Apartheid’s last stand: the rise and fall of the South African security state* (London 1996), 39-41.

¹³⁵ Tom Lodge, ‘Resistance and reform, 1973–1994’, in: Robert Ross, Anne Kelk Mager and Bill Nasson (eds.), *The Cambridge History of South Africa* (Cambridge 2011) 409–491, 419.

withdrawal of the apartheid regime out of Angola, thousands of blacks took to the streets of Soweto on 16 June 1976 in response to the language policies of the apartheid regime. The police reacted by firing upon the protesters, which were mostly schoolchildren, sparking riots that lasted for three months.¹³⁶ By October, the New York Times was reporting that the official death toll had risen to 377 since the uprising began, although other estimates ranged much higher.¹³⁷

The Soweto Uprising and the rioting that followed did enormous damage to South Africa's attempts to appear as an acceptable member of the international community. To many observers, the fact that the police shot on unarmed schoolchildren exemplified the lengths that the apartheid regime was prepared to go to hold on to the status quo. Three days after the beginning of the riots, the Security Council adopted a resolution by consensus condemning the violence used against the protesters and urging the South African government to end discrimination – although it did not impose any sanctions.¹³⁸ The rioting also shocked the South African government: it appeared to indicate that the regional instability that had started with the collapse of the Portuguese colonies was already spilling into South Africa. This added new urgency to the efforts to broker a settlement for Rhodesia, in order to restore at least some stability over the border and to save itself from complete international isolation.¹³⁹ The South African government could especially not afford to lose support from the United States, which was probably the only country that was able and prepared to block international sanctions if it would come to a vote in the Security Council

The debate in the Security Council following the vote on Resolution 392 indicated that South Africa could still count on the United States for diplomatic cover. The American representative Albert Sherer called the events in Soweto “a sharp reminder that when a system deprives a people of human dignity and expression, only the bitterest results can be expected.” However, it only supported the resolution “on the clear understanding that the language [...] falls under Chapter VI and does not imply any Chapter VII determination.”¹⁴⁰ Moreover, Sherer disputed that the United Nations had any authority over matters that were “essentially within the domestic jurisdiction of any state.” When asked whether South Africa's domestic problems would affect the role of the United States in the Rhodesian peace negotiations at a press conference three months later, Schaufele answered that “Well, in essence the South African domestic problems are problems for the South African government.”¹⁴¹ Instead of standing up to them, the United States did its best to disassociate

¹³⁶ Dan O'Meara, *Forty lost years: the apartheid state and the politics of the National Party, 1948-1994* (Randburg 1996), 179-181.

¹³⁷ Nesbitt, *Race for sanctions*, 98.

¹³⁸ UN Security Council Resolution 392 (19 June 1976) S/RES/392 .

¹³⁹ Onslow, 'We must gain time', 138.

¹⁴⁰ DNSA South Africa, 'Statements by U.S. Representative Albert Sherer concerning the Situation in South Africa' (19 June 1976).

¹⁴¹ DNSA South Africa, 'Schaufele Lusaka Press Conference' (10 September 1976).

itself as much as it could from human rights problems within South Africa. The Soweto massacre was not a game changer for the United States government: it was simply an expression of a human rights deficit that was already there, and did not lead to any changes in existing policy towards South Africa. The events in Soweto were considered to be appalling, but they were not allowed to get in the way of more urgent issues such as Rhodesia. When Kissinger met Vorster in West Germany to discuss Rhodesia one week after the shooting, he did not even mention Soweto.¹⁴² The massacre did not change policy or timeframe: the United States would leave South Africa's internal situation alone at least until a settlement was reached for Rhodesia and Namibia.

Meanwhile, the concern of Congress with the human rights situation in South Africa was growing. Kissinger had left the last Senate hearings with a remarkable degree of support for his initiative on Rhodesia, although some feared that it implied that the United States would go soft on South Africa. The Soweto massacre and its aftermath seemed to confirm such suspicions, and cast doubt on the morality of cooperating with South Africa. Moreover, some Congressmen felt that they were not adequately informed of and consulted over the negotiations. Early September, Diggs announced that the Congressional Black Caucus would organize a black leadership conference over the "rapidly deteriorating situation in Southern Africa."¹⁴³ The purpose would be to forge a consensus over an appropriate South African policy. The fundamentals of such a policy would be the "dismantling of separate development and rapid transition to majority rule." South Africa had accelerated its homelands programme in 1976, and had already announced the independence of Transkei before the end of the year. Kissinger had not ruled out the possibility that the United States might recognize it.¹⁴⁴ To Diggs, the United States was only encouraging South Africa to realize its separate development programme by trading American reticence for South African cooperation in a regional settlement that was "bound to fail." But his frustration that Congress was not consulted showed how unable he was to persuade Kissinger to change his mind.

Immediate reactions to the Soweto massacre from Congress were somewhat delayed, presumably because it took place in the summer and because they were overshadowed by the presidential elections. In September, the Senate Committee resumed its interest in Southern Africa by organizing a hearing to follow up on the announcement of the Kissinger initiative in April. Clark summed up the discrepancy between his and Kissinger's views: "the Secretary is concerned about the possibility that tension in the area, if allowed to continue, will lead to direct intervention from outside forces, as happened in Angola." But: "We are concerned that in concentrating on developments in Namibia and Rhodesia, and in working with the South African Government to affect

¹⁴² FRUS 1969-1976 vol. XXVIII, doc. 196: 'Memorandum of Conversation' (24 June 1976).

¹⁴³ DNSA South Africa, 'Department Response to Diggs Charges' (2 September 1976).

¹⁴⁴ Thomson, *U.S. foreign policy towards apartheid South Africa*, 65, 85.

settlements there, the United States may ignore what we see as the heart of the problems in southern Africa – the racial policies of South Africa itself.”¹⁴⁵ The escalation of rioting and repression in South Africa since June had reinforced Clark’s belief that South Africa was part of the problem of regional instability; not part of the solution, as Kissinger seemed to think.

Clark speculated further about the underlying motives of the Administration to refrain from chastising South Africa for its internal policies. Echoing the sentiments of the early Diggs hearings, he mentioned that “some have expressed concern that our economic stake in South Africa affects our policy there.” In early 1976, Leon Sullivan, a civil rights activist and board member of General Motors, had invited business leaders to commit their companies to a ‘code of conduct’ for employment practices in South Africa. The reception had initially been disappointing, but it put the role of American business in South Africa back on the agenda again.¹⁴⁶ The hearings consequently focussed on the economic ties with South Africa and how they might be used to improve the situation there. But unlike Diggs, Clark stressed that the Subcommittee had no preconceived opinions about what government policy regarding economic links with South Africa should be.¹⁴⁷ The Subcommittee would hear a wide range of different witnesses to discuss policy options ranging from withdrawal to encouraging investments. Examples of concrete measures that the government could take included removing tax credits for companies operating in South Africa, encouraging or enforcing progressive employment practices, or promoting investment by removing current restrictions on Ex-Im Bank facilities. The purpose of the hearings was consequently for senators to create an opinion about what the government – either under a Ford or Carter Administration – could or must do economically to improve the situation in South Africa, and what senators could do to bring this about.

In eight hearing days, the Subcommittee heard testimonies from twenty-eight different witnesses from NGOs, universities, companies, religious organizations, trade unions, think-tanks and from Congress itself. Since their opinions differed as widely as their backgrounds, it is nearly impossible to summarize it here or to draw generalizations from it. At some point, two witnesses could not even agree on the question whether the black South African leadership supported the withdrawal of American investment or not, claiming simultaneously that there was “very considerable support” or “almost unanimous opposition against” it.¹⁴⁸ But with the elections coming up in a month, it might be more interesting to look at the statements of witnesses with ties to the prospective administrations. This is possible thanks to the presence of Andrew Young, who was acknowledged as an important advisor to Carter for his Africa policy during the hearings, and William

¹⁴⁵ Hearings before the Senate Subcommittee on African Affairs, 94th Congress, 2nd session: ‘South Africa: U.S. policy and the role of U.S. corporations’ (8 – 30 September 1976), 1-2.

¹⁴⁶ Massie, *Loosing the bonds*, 388-390.

¹⁴⁷ *Ibidem*, 4.

¹⁴⁸ *Ibidem*, 35, 67.

D. Rogers, the Under Secretary of State for Economic Affairs for the Ford Administration.¹⁴⁹ Their statements can be seen as a reflection of the contrasting perspective of both campaigns on the importance of economic incentives to further human rights in South Africa, and what role the government ought to play in bringing this about.

Rogers' summary of the government policy regarding American business in South Africa indicated that little had changed since the beginning of the Nixon Administration: it remained to "encourage nor discourage" investments in South Africa. The reasoning behind this was that the government did not consider American investment to be a decisive "engine for change" that would justify encouraging it; while discouraging it would have had negative side effects for the black population such as the loss of jobs. Consequently, the position of the Ford Administration on investment had been neutral. Instead, it had put its cards on stimulating American companies operating in South Africa to adopt enlightened employment practices. However, Clark confronted Rogers with a State Department report that stated that the encouragement of such practices had been "extremely low key, to say the least". Rogers did not wholeheartedly concur, but responded that "we are focusing on that question of the extent to which we can continue to improve it." When it was suggested that there might be legislative ways to force companies to adopt such practices, Rogers replied that "our basic feeling on that, Mr. Chairman, is that good corporate behaviour is probably not best insured by legislation."¹⁵⁰ The position of the Ford Administration was that as long as American corporations in South Africa were asked to behave properly, they should be allowed to flourish without any interference.

Young took a more confrontational position against American investment in his testimony, but seemed to be caught between his contradictory roles of activist, Congressman and designated official for a possible Carter Administration. He started out with stating that he would like to cut tax credits and tax incentives in order to discourage investment in South Africa, but later admitted that it was unrealistic that such measures would pass through Congress right now. Nevertheless, Young seemed to imply that he would actively encourage disinvestment when the political opportunity would arise. Until such a time, American corporations should be encouraged to influence the South African government. "If U.S. corporations didn't do anything but deal with the questions of torture and imprisonment of many of the legitimate leadership of black people in South Africa, that, for me, would be important", but this point was not elaborated on any further.¹⁵¹ Senator Biden later commented that "I don't see any indication that [American corporations] are likely to, short of some legislation." But Biden did not ask whether Young would support legislation – he asked whether

¹⁴⁹ Not to be confused with William P. Rogers, Secretary of State in the Nixon Administration until September 1973.

¹⁵⁰ Hearings, 'South Africa: U.S. policy and the role of U.S. corporations', 756-763.

¹⁵¹ *Ibidem*, 141.

Young thought whether there was any hope of pressure from the American black community in that direction. The focus of Biden seemed to be on creating support in the next Congress for creating legislation on progressive employment – not on support of the next administration. This was exemplary of the new Congressional self-confidence and the decreased role of the executive in foreign policy. Nevertheless, Biden supported the plans that Young sketched: “All you have to do is make sure that the future President’s foreign policy is as stated by you.”¹⁵²

The last hearings of the Africa Subcommittee of the Senate under the Ford Administration were clouded in a ‘sense of urgency’ regarding Southern Africa. Biden and Young saw the Soweto massacre as one of the first cracks in the cloak of invulnerability that had surrounded the white regime for so long. More tension was expected over the coming months, as government crackdowns continued and the Rhodesia negotiations were reaching a climax. Young expected that domestic interest in African affairs would also increase and create new momentum for legislative initiatives, irrespective of which candidate would win the elections.¹⁵³ The question what the role of American business in South Africa should be remained on the agenda, and the first legislative initiatives to curb their behaviour would start to materialize under Carter.

Conclusion

Looking back, we can draw up the balance of the preferred policy options of the Nixon and Ford Administrations to promote human rights in South Africa and the extent to which Congress managed to influence this through hearings. The Nixon Administration had decided to keep open the lines to Pretoria; exemplified both by their ‘private’ policy as formulated in NSSM 39 and their publicly proclaimed policy of communication. *Détente*, and its premise of non-interference in domestic affairs of other countries, allowed economic relations to flourish despite political differences. By fostering economic ties between the two countries, the Nixon Administration simultaneously hoped to encourage the emancipation of blacks as well as stimulate domestic business. At the United Nations, it opposed isolation and was prepared to heed off collective action in order to expose South Africa to world criticism and the ‘winds of change’ that were blowing through Southern Africa. However, the problem was that it was never clear what kind of concessions the United States was asking in return. It neither made a serious effort to reach out to opposition groups. In the great scheme of world events in the early 1970s, Southern Africa was still regarded in Washington as a region of marginal importance, but its lethargy made the United States look as the country that was keeping South Africa in the saddle. There is no indication that any of this changed when Nixon was replaced by Ford.

¹⁵² Ibidem, 146.

¹⁵³ Ibidem, 147-149.

Much like Nixon, Diggs was also focused on the economy as an instrument of change. But they differed in their conception of how this mechanism worked. Diggs was confrontational and wanted to remove American business from South Africa, or at least regulate its behaviour, in order to undermine the white regime – but primarily to avoid being caught on ‘the wrong side’ if racial war would break out. His hearings were mostly of an activist nature, designed to mobilize his own base of support against government policy. But Diggs lacked Congressional influence to create enough political impact for his activism, and his legislative initiatives such as the repeal of the Byrd Amendment stranded in a largely disinterested Congress.

The coup d’état in Portugal and the outbreak of civil war in Angola ensured that Southern Africa would capture more lasting and widespread attention from 1974 onwards. Kissinger became persuaded that diplomatic action would not suffice to forestall a Soviet advance in Angola and overruled his advisors in order to launch a joint operation with the SADF. But he also opened the door to a Congressional intervention in his foreign policy by depleting the available funds, at a time of soaring domestic opposition to American interventionism. Because Kissinger was generally unreceptive for suggestions or criticism on his foreign policy, this was an opportunity that Congress could not afford to miss. Kissinger did not regard Congress as a constructive partner in creating policy, but as a nuisance. When his policy finally changed, it was not because Congress suggested it, but because it blocked other ways. And although the termination of the CIA operation was not a direct consequence of human rights activism, it did force Kissinger to pursue a diplomatic settlement for Southern Africa, and prepared the way for his public embrace of human rights – not as something of intrinsic value, but in the service of Cold War stability.

This delivered the ironic situation that Kissinger was now cooperating with South Africa to break down majority rule in Rhodesia. Congress generally seemed to support this as an important step in the right direction after years of passivity, but grew uneasy as the riots in Soweto cast doubt on the morality of putting progress on the racial situation in South Africa on hold at the time that it was exploding. The violence revived the idea that the United States was now indeed ending up on the wrong side, and also gave new credence to claims that it was jeopardizing its interests with the black population of Africa. This left Congress looking for new legislative ways to adapt America’s exposure in South Africa to bring about rapid and peaceful change - or pull out before it was too late. Unable to influence the more intangible political and strategical aspects of bilateral relations, the focus of Congressional initiatives returned to the role of business for human rights in the last days of the Ford Administration.

3 The Carter Administration and South Africa (1977-1978)

The following chapter will trace the foreign policy of the Carter Administration towards South Africa in its first two years and the influence of human rights initiatives through Congressional subcommittees on the policy options that it chose. Generally, the Carter Administration is regarded as the administration that confronted the white minority government in South Africa to the greatest extent—at least in its style and its ambitions.¹ With its outspoken commitment to human rights, sustained attention for black Africa and large electoral base of support of African-Americans at home, the expectations for a confrontational stance against South Africa were high. Yet it was hesitant in bringing to bear the full range of its ties with South Africa to force the government in the direction of majority rule, especially in the sphere of economic relations. This led some historians to conclude somewhat disappointedly that “there was little substantive change in U.S. policy toward the white regimes of southern Africa during his tenure.”² Others, however, argued that the Carter Administration’s human rights initiative failed because it was recklessly applied and overestimated the possibilities for change.³ Regardless whether the Carter Administration’s policy was too confrontational or not confrontational enough, the results did not live up to its ambitions. Pretoria remained unreceptive to American pressure, and the State Department admitted in its human rights report on 1980 that “there had been little change in the basic patterns of discrimination affecting black South Africans.”⁴ Nevertheless, the Carter Administration did manage to obtain a late victory for human rights in the region by negotiating a transfer to majority rule in Zimbabwe in 1980.

Congress also displayed a more widespread and thorough concern with the South African human rights situation in the Carter years than before. This was primarily a result of the deteriorating internal conditions in South Africa, exemplified by the death of activist Steve Biko in detention in September 1977 and the subsequent crackdown on South Africa’s political opposition. The number of subcommittee hearings increased, and focussed on more specific aspects of U.S. – South African relations than before. As the situation in South Africa worsened and the Carter Administration failed to deliver on the high expectations of activist Congressmen and –women, the number of legislative initiatives to disassociate the United States from South Africa soared. But the only one of these to be signed into law was the Evans Amendment that passed Congress in June 1978, which restricted Ex-Im Bank facilities to companies that committed themselves to fair employment principles. With Congress unable and the Administration unwilling to go further, the evolution of a more

¹ Thomson, *U.S. foreign policy towards apartheid South Africa*, 89.

² Nesbitt, *Race for sanctions*, 105.

³ Coker, *The United States and South Africa*, 138-141.

⁴ Department of State, ‘Country reports on human rights practices’ (1980), 239.

confrontational American foreign policy towards South Africa reached an impasse after that moment.⁵ Moreover, the House and Senate Subcommittees on Africa suffered setbacks as both Clark and Diggs disappeared from the political arena in late 1978. The following chapter will consequently focus on the period until the end of 1978.

PD-5: the initial policy formulation of the Carter Administration

Southern Africa became one of the first targets for policy review when the Carter Administration took office. The day after the inauguration, the new National Security Advisor Brzezinski directed a Presidential Review Memorandum (PRM) that had to deal with Namibia, Rhodesia and South Africa.⁶ The institutional setup of the National Security Council had changed somewhat under the Carter Administration in order to enhance Presidential control over policy, in which the PRMs replaced the National Security Study Memorandums of the previous administrations.⁷ The PRM on Southern Africa was the first one addressing a regional issue, and was finished by the end of January. The report observed that while the United States “cannot by itself shape the destiny of the people of Southern Africa”, it does have “influence which we can apply and which could have an important effect on the immediate and long-term future of that area consistent with U.S. interests.”⁸ For moral as well as strategic reasons, the United States wanted to see an end to apartheid. The rest of the paper discussed the policy options that the United States could adopt in order to use its influence to forward these interests in the region. When the report was discussed in a high-level meeting including Vance, Brzezinski and Vice-President Walter Mondale, all participants agreed on option 3: “According to this option we would advise Vorster privately that our relations with South Africa are reaching a watershed and keep pressuring him to change South Africa's apartheid policies.”⁹ This effectively meant that the Carter Administration wanted to depart from Kissinger's time schedule, and was going to demand simultaneous progress from South Africa on Rhodesia and Namibia as well as on apartheid. The meeting also concluded that this private demand should be supplemented with public steps against South Africa to show to the world that “we cannot conduct business as usual.”

The ultimate decisions on foreign policy towards South Africa were taken at a National Security Council meeting one month later, chaired by Carter himself. He opened this meeting by stating that “this could be one of the most important NSC meetings of the year” – a huge contrast

⁵ Alex Thomson, ‘The diplomacy of impasse: the Carter Administration and apartheid South Africa’, *Diplomacy & Statecraft* 21 (2010) 107-124, 107.

⁶ FRUS 1977-1980 vol. XVI, doc. 259: ‘Presidential Review Memorandum/NSC-4’ (21 January 1977).

⁷ Dumbrell, *The Carter presidency*, 194-195.

⁸ FRUS 1977-1980 vol. XVI, doc. 264: ‘Study Prepared by the National Security Council Policy Review Committee’ (undated).

⁹ FRUS 1977-1980 vol. XVI, doc. 265: ‘Summary of Conclusions of a Policy Review Committee Meeting’ (8 February 1977).

with Nixon's comments seven years earlier, and indicative of both the rising geopolitical importance of Africa as well as the Carter Administration's priorities.¹⁰ The participants decided first to continue the initiative started by Kissinger on Rhodesia and to take on a more active role in Namibia, before the discussion turned to South Africa. Remarkably enough, both Carter and Andrew Young advocated restraint in the American stance against the South African government. Carter argued that "if we keep talking about 'majority rule', it could be counterproductive and drive them into a closet", and favoured "intermediate steps that are acceptable to Vorster" instead. Young argued in favour of enlightened employment as a way to increase the political participation of blacks by pointing to the success of enlisting businesses in the desegregation of the South. Such statements confirm the observation that "although Carter and Young's experiences of Southern desegregation animated their commitment to ending apartheid, the specific lessons they drew from those same experiences led them to adopt a very cautious policy for promoting change."¹¹ According to Stevens, their experiences in Georgia taught them that change would come through cooperation rather than confrontation, and that American business could have a positive impact on South African race relations. Carter consequently asked his cabinet to work with him on a position "which is correct but as easy on them as possible." Such recently released sources certainly debunk the notion that it was Carter's intention to recklessly confront South Africa from the start.

The Presidential Directive (PD-5) that resulted from this meeting echoed this cautiousness as well as the important position of American business in the Carter Administration's policy. It established a policy that consisted of two parallel paths. First, it directed Vance and Young to draw up a plan with specific steps that the United States might make to promote the progressive transformation of South African society, and to consider when certain steps should be made and communicated to the South African government and the general public.¹² The plan that they submitted in April included steps such as supporting Chapter VII action at the UN or tightening nuclear relations.¹³ It also included a set of benchmarks to 'measure' South Africa's progressive transformation, which would not be communicated to the South African government. This allowed the Carter Administration to develop a measured policy of confrontation, by creating a flexible list of options that could be deployed depending on the behaviour of the South African government and world opinion. Keeping the benchmarks a secret would avoid the accusation that the United States was imposing an ultimatum on South Africa, which could make the South Africans even more intransigent. Second, PD-5 directed Secretary of the Treasury Michael Blumenthal to consult with the

¹⁰ FRUS 1977-1980 vol. XVI, doc. 267: 'Minutes of a National Security Council Meeting' (3 March 1977).

¹¹ Stevens, 'From the viewpoint of a Southern Governor', 845.

¹² FRUS 1977-1980 vol. XVI, doc. 268: 'Presidential Directive/NSC-5' (9 March 1977).

¹³ FRUS 1977-1980 vol. XVI, doc. 271: 'Memorandum From the President's Assistant for National Security Affairs (Brzezinski) to President Carter' (13 April 1977).

companies that had signed up for the enlightened employment code developed by Leon Sullivan in 1976. His task was to extend that number further and to oversee its implementation. Although the United States government had been supportive of enlightened employment for a long time, this was the first time that it started to play an active role in promoting it.

Although Carter preached cautiousness with the South Africans in private, observers concluded that his Administration “opened up with an unprecedented tattoo of condemnation.”¹⁴ Three days after his inauguration, Carter said in an interview: “I believe firmly in majority rule, which means relinquishing the control of the government by the white minorities in the countries affected.”¹⁵ In order to make clear that it meant business, the new Administration staunchly supported the repeal of the Byrd Amendment, which it managed to lead through Congress in March.¹⁶ In April, it announced that it would not recognize the Homelands, effectively denouncing South Africa’s own plan for progressive transformation.¹⁷ The message to the world was clear: there is a new wind blowing through the White House, and the patience of the United States with racist regimes in Southern Africa is running out.

In early March, the Diggs Committee undertook a hearing to inform itself on developments in the policy formulation of the new Administration. The Subcommittee was going through bright days: its regional focus on Africa had been restored after two years, and it had welcomed several new members, most notably Don Bonker (D.-CO) and Stephen Solarz (D.-NY), who had both entered the House after Watergate and would make name for themselves as passionate advocates for human rights.¹⁸ The reactions of the Subcommittee to the testimony of Under Secretary of State for Political Affairs Philip Habib were hopeful. Whalen said that “I am certainly delighted with the approach that the new Administration has taken to the issue of human rights and the outspokenness in favour of majority rule”, while Buchanan called the statement “music to my ears.”¹⁹ As the new South African policy was still under review, the Administration’s witnesses explored several aspects of policy with the Subcommittee, ranging from enlightened employment to the strategic relationship with South Africa. Overall, the new Administration seemed a lot more susceptible to input from the Subcommittee than its predecessors, and even asked for policy suggestions.²⁰ At the same time, Schaufele (who remained in his position until July) was already playing down hopes for a purely

¹⁴ Smith, *Morality, reason and power*, 144.

¹⁵ Department of State bulletin: ‘President Carter interviewed by AP and UPI correspondents’ (14 February 1977), 125.

¹⁶ Mitchell, *Jimmy Carter in Africa*, 158-163.

¹⁷ Thomson, *U.S. foreign policy towards apartheid South Africa*, 96.

¹⁸ Forsythe, *Human rights and U.S. foreign policy*, 143.

¹⁹ Hearing before the House Subcommittee on African Affairs, 95th Congress, 1st session: ‘United States policy toward Southern Africa’ (3 March 1977), 8, 16

²⁰ *Ibidem*, 25.

confrontational stance, stating that “it is very easy to make statements and model a policy which is very direct and confrontational. But it is not necessarily effective.”²¹ Nevertheless, while the Carter Administration made clear that it was weary of overly confrontational measures, the Subcommittee members must have left with the impression that their relationship with the White House was now on a more equal footing than in the past.

The Vienna Summit: no more business as usual

While the contours of the new policy were becoming clear to Congress and the general public, the Carter Administration took a number of steps to privately inform the South African government of its views. In the first month, foreign minister Roelof Frederik ‘Pik’ Botha had already consulted with Vance, Brzezinski and Schauffele on different occasions to get acquainted with the new officials. The atmosphere in which these meetings took place was far from hostile, but must have indicated to Botha that the relationship with the United States was heading in a more confrontational direction. Vance informed Botha that the United States was reviewing its policy of sanctions against South Africa, while Schauffele clarified that the Carter Administration’s support for majority rule was not limited to Rhodesia and Namibia but also extended to South Africa.²² Increasingly nervous for further isolation of his country, Vorster sent Carter a note in March asking him for a high-level meeting to “sort out our differences.”²³ After some consultation, Carter agreed to send Vice-President Mondale to a meeting with Vorster that would take place in Vienna on 19 and 20 May. The purpose of the summit was not to engage in negotiations, but rather to exchange views on the future of the region. Before departure, Mondale agreed with Carter that his objective was to “convey to Prime Minister Vorster your policy toward Southern Africa including the United States’ views on the role South Africa must play in current efforts to resolve the Rhodesian and Namibian problems, and on the approach South Africa must take within its society if our relations are not to suffer.”²⁴ The time to inform Vorster that their relationship was reaching a watershed had come.

Mondale went to Vienna with a delegation that also included Donald McHenry, the African-American diplomat who had appeared frequently in Diggs’ hearings and who had been appointed deputy ambassador to the UN. Together, they dictated the agenda and spoke forcefully to Vorster from the beginning. When Vorster suggested beginning with an off-the-record meeting, as had been customary with Kissinger, Mondale replied: “This is not business as usual. We are not going to talk

²¹ Ibidem, 19.

²² FRUS 1977-1980 vol. XVI, doc. 260: ‘Memorandum of Conversation [between Botha and Vance]’ (25 January 1977), doc. 262: ‘Memorandum From Secretary of State Vance to President Carter’ (3 February 1977).

²³ FRUS 1977-1980 vol. XVI, doc. 270: ‘Message From South African Prime Minister Vorster to President Carter’ (23 March 1977).

²⁴ FRUS 1977-1980 vol. XVI, doc. 274: ‘Memorandum From Vice President Mondale to President Carter’ (10 May 1977).

one way in public and another way in private.”²⁵ The tone for the meeting was set. On the first day, Mondale and Vorster exchanged positions on Rhodesia and Namibia, before turning to the heart of the matter on the second day: apartheid. Mondale made it clear the United States was now expecting progressive transformation on all three fronts. “Basic elements of that transformation are an elimination of discrimination—for us, this includes separateness.”²⁶ Anticipating the argument that majority rule would send an invitation to communism, he argued that “while we regret this communist opportunism, [...] it would not be there were the opportunity not being created for it.” He lectured Vorster at length on the desegregation experience of the United States, and all the benefits that had flowed from it. Mondale also tried, poorly, to avoid the impression that the United States was dictating solutions to the South Africans. He said: “I don't want to list specific legislation, but the repeal of laws such as the Pass Laws will be helpful. Further, the banishment of Winnie Mandela was harmful to the relations existing between us.” Nevertheless, Mondale made an attempt to end positively by stating that bilateral relations would improve once progress was started.

The South African delegation did not take it well. Vorster replied: “What you have said causes me enormous suffering. Yesterday, I told you of our progress. You mustn't equate the situation in America to that in South Africa, since they are totally different, as I will try again to tell you.” He argued that the American delegation did not appreciate the South African position. Their viewpoint was that Africans regarded themselves as part of separate nations, and that South Africa was improving their position by bringing economic progress and independence to the Homelands. Abandoning separate development in favour of a multiracial society would mean the end of South Africa: “How can we accept a solution that means our own destruction?” With that dramatic comment from Pik Botha, the exchange of positions had been completed, and the meeting ended with little prospect of reconciliation. Vorster concluded that “There is nothing better I would like than improved relations with the U.S. but it cannot all come from one side.” The South Africans simply decided to await what the suffering of bilateral relations would entail. At the press conference afterwards, Mondale said that the meeting was “non-confrontational” and took place in a “constructive spirit”. But he also stated his position that “without evident progress that provides full political participation and an end to discrimination, the press of international events would require us to take actions based on our policy.”²⁷ When asked whether full participation meant “one man, one vote”, the Vice-President replied affirmatively. The threat of American sanctions on South Africa if such progress was not forthcoming was now on the public record.

²⁵ Mitchell, *Jimmy Carter in Africa*, 226.

²⁶ FRUS 1977-1980, vol. XVI, doc. 276 & 278: ‘Memorandum of Conversation’ (19 & 20 May 1977).

²⁷ DNSA South Africa, ‘Vice President Press Conference, Vienna, May 20’ (26 May 1977).

In the months following the Vienna Summit, both the Administration and Congress pondered on the question of how to give shape to the deterioration of bilateral relations with South Africa. The ill-fated meeting certainly provided an opportunity for Congressmen who advocated more punitive measures, and Diggs welcomed it as “an important new departure in United States – South Africa relations.”²⁸ Back in February, Bonker had requested the Congressional Research Service to outline a range of options that the United States government could adopt to pressure or punish South Africa, which had resulted in a list of twenty-two possible measures.²⁹ Between May and July, the House Subcommittee on Africa organized no less than four different hearings, addressing some of the options that were included on the list. The first hearing discussed the possibility of a retaliatory visa policy against South Africans. In the past, the South African government had denied visas to American nationals who they expected to cause trouble – including Diggs, back in 1969. More recently, an official visit from Andy Young had been postponed by South Africa after his “continued insults and derogatory remarks” about South Africa.³⁰ Some members of the Subcommittee wanted to see a retaliatory visa policy for South Africans visiting the United States, but the Carter Administration opposed this on the grounds that it was unlikely to foster any change in South Africa’s racial policies.³¹ Another hearing discussed the termination of nuclear relations with South Africa. Joseph Nye of the NSC testified against such a proposition, arguing that cutting these ties would lead to further isolation and could simultaneously defeat two of the Administration’s principle objectives: non-proliferation and promoting human rights.³² Both measures were thus dismissed by the government because they would be ineffective or counterproductive. The current state of U.S. – South African relations simply did not warrant measures that were strictly punitive yet.

The streak of four successive hearings ended with an evaluation of the observance of the American arms embargo on South Africa. The hearing started out uneventful, with an examination of the arms that had reached South Africa under the previous Administrations despite the embargo. But then something surprising happened: a witness appeared who disagreed with the imposition of the embargo in principle. Lewis Gann, a public policy researcher at the Hoover Institution of Stanford University, attacked what he regarded the prevailing ‘liberal’ interpretation of South Africa’s place in the world of the Subcommittee. He argued that South Africa had a much better human rights record

²⁸ Hearing before the House Subcommittee on African Affairs, 95th Congress, 1st session: ‘United States – South Africa relations: internal change in South Africa’ (3 June 1977), 1.

²⁹ Hearing, ‘United States policy toward Southern Africa’, 20-22.

³⁰ FRUS 1977-1980, vol. XVI, doc. 275: ‘Telegram From the Department of State to Secretary of State Vance’ (10 May 1977).

³¹ Hearing before the House Subcommittees on African Affairs and International Organizations and Movements, 95th Congress, 1st session: ‘United States – South Africa relations: South Africa’s visa policy’ (26 May 1977), 3.

³² Hearings before the House Subcommittee on African Affairs, 95th Congress, 1st session: ‘United States – South Africa relations: nuclear cooperation’ (30 June & 12 July 1977), 55-56.

than other countries that were receiving American military aid, such as Haiti and Iran. Blacks were better off in the Homelands than elsewhere on the continent, and the chances of revolution were very small. Moreover, the strategic significance of South Africa in the Cold War was still high and likely to grow. Finally, the arms embargo had done nothing to improve the South African political system.³³ It would consequently be in the American interest to get rid of it. During the questioning, Gann disqualified himself somewhat by openly voicing his contempt for liberal African “self-pity” and “rinky-dink terrorist states like Equatorial Guinea”, but the significance of his testimony was different. Gann represented a current of political thinking that felt solidarity with the white minorities in Southern Africa as loyal and developed allies of the West, and placed American self-interest in fighting the Cold War above human rights.³⁴ Similar reasoning had obstructed the repeal of the Byrd Amendment in the House for years, and was also present in the presidential primary campaign of Ronald Reagan in 1976 that had nearly snatched the Republican nomination from Ford. There was a substantial part of American voters and representatives that sympathized with this worldview, and yet very few witnesses appeared in the Subcommittee hearings who questioned the logic of punishing countries that were eager to be a strategic partner to the United States. With the caveat that there is no way of knowing who were invited to the hearings and who declined, it therefore seems that there was a general tendency on behalf of the Subcommittee to invite witnesses who confirm the existing opinions of its members, which explains why the views of the Africa Subcommittee on American foreign policy could sometimes be so out of touch with the views of Congress as a whole.

The hearings coincided with a period in which the Carter Administration was considering its next moves against South Africa. The initial phase of communicating its position to the South African government had not produced the desired results. The South African delegation was outraged with the American position and had called the support for one man, one vote a “knife in the back.”³⁵ Moreover, the South Africans had attempted to discredit the American delegation by pointing to the young and liberal character of the current administration and suggesting that “the U.S. Government policy is not truly representative of the beliefs of the American people.” In light of this “categorical refusal to make changes”, the State Department drew up a paper with twelve possible actions that the United States government could take to back up the position that was brought over by Mondale in Vienna.³⁶ The steps that the Carter Administration was now going to take had to be significant

³³ Hearings before the House Subcommittee on African Affairs, 95th Congress, 1st session: ‘United States – South Africa relations: arms embargo implementation’ (14 & 20 July 1977), 23-27.

³⁴ Horne, *From the barrel of a gun*, 85-86.

³⁵ FRUS 1977-1980, vol. XVI, doc. 281: ‘Memorandum From Secretary of State Vance to President Carter’ (24 June 1977).

³⁶ FRUS 1977-1980, vol. XVI, doc. 284: ‘Paper Prepared in the Department of State’ (undated, early July 1977).

enough to show that they were serious about their commitment to majority rule, but acceptable enough to be widely supported within the United States to show that they were legitimate. For this reason, the report noted that economic sanctions “are not likely to be considered until we arrive at a later stage in a situation of SAG [South African Government] failure to move toward positive changes.” In a meeting of the Policy Review Committee chaired by Vance, it was therefore decided “that now was the time to begin taking smaller steps.”³⁷ First, the State Department had to recommend desirable ways to reduce its diplomatic representation in South Africa. Second, the United States prohibited the export of any equipment to the South African police and military, effectively ending any doubts about the sale of grey area items. The State Department report admitted that this “will not prevent South Africa from acquiring comparable items from other sources”, indicating that the objective of both steps was to disassociate the United States from South Africa rather than to tackle apartheid per se. The Carter Administration decided to stick to symbolic, non-confrontational steps in the beginning, and save the more confrontational options for later.

International ostracism: the Kalahari Desert nuclear test site and the death of Steve Biko

Events in South Africa in the second half of 1977 accelerated the gradual development of a more confrontational policy in the Carter Administration. The first shock came on 6 August, when the Soviet Union informed the United States government that its satellites had spotted a nuclear test site in the Kalahari Desert; a discovery that was later confirmed by U.S. intelligence.³⁸ The implication was clear: despite claims by the South African government and previous intelligence estimates, South Africa had the intention to become a nuclear power. This threatened to fatally discredit the international non-proliferation system, especially since India had only fairly recently become the first overt nuclear power outside of the P-5 of the Security Council in 1974. The Carter Administration regarded the spread of nuclear weapons capabilities as a major threat to international security, and had designated non-proliferation as one of its highest foreign policy priorities.³⁹ If South Africa went on with its nuclear test, the Carter Administration’s might be forced to react with punitive measures that it was not yet prepared to take, in order to back up its own commitment and to discourage other countries from developing nuclear weapons. Consequently, the prospect of a nuclear South Africa further complicated the development of a measured policy to promote the progressive transformation of South African society.

³⁷ FRUS 1977-1980, vol. XVI, doc. 285: ‘Summary of Conclusions of a Policy Review Committee Meeting’ (22 July 1977).

³⁸ FRUS 1977-1980, vol. XVI, doc. 287: ‘Telegram From the Department of State to the Embassy in South Africa’ (10 August 1977).

³⁹ FRUS 1977-1980, vol. I, doc. 47: ‘Memorandum From the Executive Secretary of the Department of State (Tarnoff) to the President’s Assistant for National Security Affairs (Brzezinski)’ (28 June 1977).

The discovery of the Kalahari test site put the United States government in a very difficult position. For years, it had defended its nuclear arrangements with South Africa on the grounds that the United States would retain some control over the nuclear programme by requiring South Africa to place its facilities under international safeguards and inspections. This argument had even been repeated by an official of the Energy Research and Development Administration in the Africa Subcommittee hearings less than a month ago; and yet it had not prevented South Africa from developing nuclear weapons.⁴⁰ An interagency assessment on what was to be done was bleak about the prospects of persuading South Africa not to go ahead with the test. It argued that conducting a nuclear test would be fully in line with the Afrikaner siege mentality, and that “threats would, in our judgment, be more likely to harden South African determination.”⁴¹ The Carter Administration consequently tried to persuade South Africa not to test by using a carrot-and-stick approach. It hinted that it would support international sanctions if South Africa went ahead, but offered to continue shipments of enriched uranium for its power plants if South Africa resumed negotiations on joining the NPT and placed all their nuclear facilities under international safeguards; including the secret reactor that had been used to produce weapons-grade uranium.

The South Africans reacted outraged: Pik Botha blatantly denied that South Africa was planning a nuclear test, and told Ambassador Bowdler that this was another instance of the Carter Administration “trying to strangle South Africa.”⁴² South African officials tried to frame the allegations as part of a deliberate campaign by Western countries to discredit South Africa. They rejected the proposals from Carter as unfair, because “this is a superpower telling a small power what to do.”⁴³ Vorster gave Carter his assurance that South Africa had no intention of testing or developing nuclear weapons, but also threatened in a letter that this hostility might jeopardize progress on Namibia and Rhodesia, and made it “extremely difficult, if not altogether impossible, for my country to continue the constructive role it has accepted.”⁴⁴ The eagerness of the South Africans to link it to the question of the majority rule and to blow up what was left of the formal relations with the United States, combined with the near certainty that a test site would be discovered sooner or later, led some intelligence analysts to suspect that it might all have been a clever plot to scale down foreign involvement in the region.⁴⁵ Given the conventional military superiority of South Africa

⁴⁰ Hearings, ‘United States – South Africa relations: nuclear cooperation’, 38.

⁴¹ FRUS 1977-1980, vol. XVI, doc. 293: ‘Interagency Assessment’ (18 August 1977).

⁴² FRUS 1977-1980, vol. XVI, doc. 294: ‘Telegram From the Department of State to the Embassies in the United Kingdom and France and the White House’ (18 August 1977).

⁴³ FRUS 1977-1980, vol. XVI, doc. 308: ‘Telegram From the Department of State to the White House’ (15 September 1977).

⁴⁴ FRUS 1977-1980, vol. XVI, doc. 311: ‘Telegram From the Department of State to the White House’ (13 October 1977).

⁴⁵ Van Wyk, ‘South Africa’s nuclear aspirations’, 70-71.

over the rest of the continent, and the futility of using a nuclear weapon in an asymmetrical conflict, it seemed plausible that the South Africans hoped to use a nuclear arsenal as diplomatic blackmail to heed off extreme pressures for majority rule.⁴⁶ However, this was at the risk of inviting far-reaching international sanctions, but domestic and international political considerations made it worthwhile enough to go ahead. The South African political elite saw its racial policies as a precondition for the survival of the South African state, and seemed to have accepted isolation as an inevitable by-product of apartheid. But it did not go so far as to actively invite sanctions. Now that the world knew (or suspected) what it was capable of, it was unnecessary to actually go ahead with the nuclear test. Nevertheless, the South African nuclear weapon programme simply continued in spite of Vorster's assurances, and the Carter Administration would remain unable to push South Africa back in line with the international non-proliferation system for the rest of its term. The nuclear shipments to South Africa were never continued, and Congress ultimately prohibited the sale of nuclear material and technology to countries that were no party to the Non-Proliferation Treaty in February 1978.⁴⁷

One month after the discovery of the nuclear test site, a new incident added further to the isolation of South Africa and increased the international call for sanctions. Steve Biko, a leading black South African activist and founder of the Black Consciousness Movement, died in police custody on 12 September. Initially, the South African government declared that Biko had collapsed after a hunger strike, but his bruises indicated that he had been severely beaten and his body showed no signs of emaciation. The death of Steve Biko caused international outrage with the South African government, and his funeral was attended by representatives of thirteen foreign countries, including Ambassador Bowdler and Donald McHenry.⁴⁸ Within South Africa, the South African government used the consternation that followed Biko's death as an excuse to crack down on the opponents of apartheid. On 18 October, it detained at least seventy activists and banned eighteen anti-apartheid organizations under its stringent emergency legislation. Three newspapers, including the largest black newspaper, *The World*, were also banned.⁴⁹ The retaliatory measures now also extended to white critics of the apartheid system, including the president of the Christian Institute and Donald Woods, editor of an English-language newspaper and personal friend of Biko. With elections coming up in November, the National Party was flexing its muscles and disrupting the opposition. Instead of responding constructively to American pressures, the situation was now getting out of hand.

At the United Nations, the pressure on the Carter Administration to vote in favour of mandatory sanctions was now reaching new heights. Back in March, the United States had still

⁴⁶ Peter Libermann, 'The rise and fall of the South African bomb', *International Security* 26 (2001) pp. 45-86, 59-61.

⁴⁷ Thomson, *U.S. foreign policy towards apartheid South Africa*, 101-102.

⁴⁸ Massie, *Loosing the bonds*, 424.

⁴⁹ Mitchell, *Jimmy Carter in Africa*, 332.

managed to persuade the Africa Group to withdraw a draft resolution which would have invoked Chapter VII action against South Africa, but it was unlikely that they could be persuaded again in the upcoming Security Council session.⁵⁰ Congress was also building up the pressure for action. On 19 October, a House Concurrent Resolution was introduced by Cardiss Collins (D.-IL) which condemned the South African government's "massive violations of the civil liberties of the people of South Africa", and urged the President to "take the strongest possible diplomatic measures against South Africa." The resolution passed the House overwhelmingly with 347 Congressmen voting in favour. The Carter Administration now felt obliged to act. In a PRC meeting on 24 October, it was decided that the United States would support or initiate a resolution that imposed a mandatory arms embargo against South Africa under Chapter VII of the UN Charter.⁵¹ Furthermore, Ambassador Bowdler would stay in the United States for consultations as long as necessary, the naval attaché would be permanently withdrawn, and the plan of the Ford Administration to sell the ocean surveillance system to South Africa was finally scrapped. The PRC also recommended that Young and Assistant Secretary of State for African Affairs Richard Moose would consult with the Congressional Black Caucus as soon as possible to hear their views, and to adequately explain the steps that the government was going to take. In the face of mounting pressure from African countries at the United Nations for economic sanctions, and the predilection of the South African government for drama, the Carter Administration wanted to avert a confrontation within Congress and keep the ranks closed as much as possible.

Two days later, the Diggs Subcommittee organized a hearing on the subject of Biko's death and the subsequent roundup of political opponents by the South African government. Officially, the hearing was intended to discuss two Congressional resolutions: the Collins Resolution, and a resolution to urge for an investigation in the circumstances of Biko's death.⁵² But since there was already a broad consensus between the Subcommittee and the witnesses that both should be passed, the hearings focussed on the question of what measures the United States should now take against the South African government. Diggs opened the hearing by proposing a list of extreme measures against South Africa: a mandatory international arms and oil embargo, the termination of nuclear cooperation, denial of new American investment, and termination of all Ex-Im Bank guarantees. Thomas Downey (D.-NY), one of the four Congressmen who appeared as a witness,

⁵⁰ Ibidem.

⁵¹ FRUS 1977-1980, vol. XVI, doc. 313: 'Summary of Conclusions of a Policy Review Committee Meeting' (24 October 1977), doc. 312: Memorandum From the President's Assistant for National Security Affairs (Brzezinski) to Secretary of State Vance and Secretary of Defense Brown' (24 October 1977).

⁵² Hearing before the House Subcommittee on African Affairs, 95th Congress, 1st session: 'Resolutions to investigate Steve Biko's death and to condemn the Government of South Africa for massive violations of the civil liberties of the people of South Africa' (26 October 1977).

argued that the time was now ripe for economic sanctions.⁵³ Solarz also made a case for prohibiting new investment in South Africa, and furthermore asked whether the administration was prepared to consider terminating all nuclear, scientific and technological cooperation with South Africa. But Richard Moose, who represented the executive branch during the hearings, responded that while new steps were under consideration “we have not given up the hope of being able to engage the South African Government in a constructive dialogue or to encourage it to consider changes which it might make on its own accord.”⁵⁴ While the Carter Administration felt that new steps were justified at this point, it wanted to keep the channels with Pretoria open and avoid vindicating their allegation that the United States was trying to ‘strangle’ South Africa.

The hearings showed that Congress was taking a deep interest in the events in South Africa, and tried to carve out a bigger role for itself in the creation of foreign policy. Apart from making policy recommendations to the executive branch, several Congressmen also undertook their own initiatives to monitor and improve the human rights situation in South Africa. Most of these actions related to the fate of political prisoners in South Africa. The fact that Biko was only one of twenty political prisoners to have died in police custody since March 1976 showed that his death was not an incident.⁵⁵ Andrew Maguire (D.-NJ) wrote a letter to the South African Ambassador Donald Sole, requesting his government to allow an examination of detention practices in South Africa by an independent international body. The letter was signed by 128 members of the House of Representatives. Moreover, Downey announced that he was setting up an ad hoc monitoring group to observe and report on the fate of political prisoners in South Africa, together with 28 other Congressmen.⁵⁶ His initiative enjoyed the approval of the Administration. According to his own testimony, Downey had even been advised by Andrew Young to set up his group. Moose also commended the assertiveness of the legislative branch: “I believe it extremely important that the Congress, in reflecting the views of the American people, demonstrate to the South African Government the deep concern with which recent events are viewed.”⁵⁷ In turn, Congressmen appreciated the efforts of the Administration to consult with them, but were sometimes disappointed that more results were not forthcoming. Solarz concluded the hearings by stating: “I hope we could work closely together on this and come up with a joint strategy involving both the

⁵³ Ibidem, 2, 8.

⁵⁴ Ibidem, 39.

⁵⁵ DNSA South Africa, ‘Regarding Circumstances Surrounding the Death of Stephen Biko While in Detention’ (28 September 1977).

⁵⁶ Hearings, ‘Resolutions to investigate Steve Biko's death and to condemn the Government of South Africa’, 7, 14-15.

⁵⁷ Ibidem, 25.

executive branch as well as the Congressional actions because I do think that you really have to proceed in a more effective way in the future than we have in the past.”⁵⁸

The Carter Administration generally welcomed the initiatives that were taken by Congress vis-à-vis South Africa. Actions such as the Collins Resolution showed that there was wide support within the legislative branch for confrontational steps against South Africa, and rebuked the insinuations of the South African government that the actions by the White House were unrepresentative of the will of the American people. But Congressional assertiveness also had some possible pitfalls, and officials from the Carter Administration were eager to temper expectations for the more extreme steps. Congress might push the Administration into punitive measures that it was not prepared to support, at the risk of obstructing the development of its ‘measured’ policy or putting the United States at odds with its allies. However, the probability of such a situation was only small. A more likely scenario was that a far-reaching legislative proposal for sanctions would come out of the Subcommittee, but would subsequently be defeated on the floor. The South African government might feel encouraged by this, and the threat of more extreme measures coming from Congress would disappear. The Subcommittee on Africa and its closest supporters obviously felt that more sanctions should be applied to South Africa, but this view was not always shared by other parts of Congress. During the hearings, several witnesses made a sneer to the Armed Services Committee, which appeared to hold very different views on bilateral relations with South Africa. Diggs mentioned that “one of the greatest resistances to change with respect to relations between the two countries, South Africa and the United States, has been in the defense establishment.”⁵⁹ Other Congressional committees had other interests of the United States to take into account, which took precedence over the objective of the Africa Subcommittee to stimulate majority rule in South Africa and foster good relations with black African states. Finally, if a bill for sanctions against South Africa would be considered by the entire Congress, it would have to stand the test of comparison. If the Carter Administration made good relations contingent on the progressive transformation of South African society, would this also apply to American relations with other repressive regimes, like South Korea or China? Or was there something uniquely distressing about South Africa’s internal policies? Whether this could be justified on the basis of racial discrimination remained an open question. The Carter Administration would have to balance its actions against South Africa with its foreign policy as a whole, and continued to work closely with Congress to keep everybody on the same page.

On 4 November, the Security Council unanimously adopted Resolution 418, imposing a mandatory arms embargo on South Africa.⁶⁰ This was already an unprecedented step: South Africa

⁵⁸ Ibidem, 43.

⁵⁹ Ibidem, 10.

⁶⁰ UN Security Council Resolution 418 (4 November 1977) S/RES/418 .

was the first country ever to become the subject of a mandatory arms embargo under Chapter VII of the UN Charter. In a television statement, Pik Botha was already trying to take advantage of this fact, and stated that “if the United States was sincere about human rights, it would be taking action against half of the countries of the world, including the rest of Africa.”⁶¹ Young, on his part, hoped that this would be the final punitive step against South Africa before change was going to come. “Let us hope that our resolution will not mark the beginning of a process of increasing international sanctions against South Africa, but rather the end of a period of growing confrontation between South Africa and the rest of the world.”⁶² It was imperative that the Carter Administration supported punitive measures after the violation of human rights and international norms by the South African government, but it was passionately hoping to avert further isolation, which could lead the South African government to do even more unacceptable things. Carter wrote Vorster a letter on 3 November condemning the October arrests, but was at pains to stress his good intentions: “The spirit in which I have written the foregoing, Mr. Prime Minister, is a constructive one. We do not seek the destruction or punishment of any group in South Africa, but rather we hope for a way to bring all groups into full participation in your rich society.”⁶³ He added that it was “particularly important that we continue to be able to communicate with candor and understanding. I feel certain that we can do so.” But the reply to his letter must have worried him. Vorster wrote that while he also valued good relations with the United States, currently “the creation of a climate of mutual confidence might be the first priority. A pre-requisite to this might be a cooling-off period to enable the highly emotional tensions which have been generated on either side to be relaxed.”⁶⁴ One month earlier, Ambassador Bowler had predicted that “the Vorster government also may believe that the major trends in the world are politically conservative and wish to buy time until they can gain advantage from them.”⁶⁵ Vorster’s letter indicated that this prediction was coming true. The South African government appeared to have decided to wait until the storm had passed, and keep its contacts to a minimum until a more friendly administration arrived in The White House.

The Carter Administration and economic sanctions

The imposition of the mandatory arms embargo against South Africa was a milestone. For supporters of the embargo, it had been a long time coming: the Ford Administration had vetoed similar

⁶¹ DNSA South Africa, ‘FONMIN Botha Terms USG Arms Embargo Decision “Unacceptable” (28 October 1977).

⁶² DNSA South Africa, ‘Amb. Young’s Security Council Statement on Arms Embargo against South Africa’ (10 November 1977).

⁶³ FRUS 1977-1980, vol. XVI, doc. 317: ‘Letter From President Carter to South African Prime Minister Vorster’ (3 November 1977).

⁶⁴ FRUS 1977-1980, vol. XVI, doc. 323: ‘Letter From South African Prime Minister Vorster to President Carter’ (24 November 1977).

⁶⁵ FRUS 1977-1980, vol. XVI, doc. 313.

resolutions multiple times in 1975 and 1976, along with the United Kingdom and France. Yet observers concluded that this was not the bold move that advocates for punitive measures might have expected from the United States. After the announcement that the United States would support the embargo, the Washington Post wrote that this “limited U.S. move stops short of a far more damaging economic embargo on South Africa, leaving a door open for diplomacy.”⁶⁶ Just before introducing its own resolution, the Western permanent members of the Security Council had vetoed three other resolutions drafted by African countries that would have imposed far-reaching economic sanctions on South Africa. Instead, Resolution 418 included a phrase that called on the member states of the United Nations to review their economic relations with South Africa.⁶⁷ The resolution that was finally passed was the result of a compromise between the United States on the one hand, and the United Kingdom and France on the other, which were both very reluctant to support Chapter VII action in the first place, because they feared that it might pave the way for economic sanctions in the future.⁶⁸ This was ultimately solved by justifying the arms embargo on the basis that South Africa’s military build-up and aggression to its neighbours constituted a threat to international peace – not apartheid. The vetoing of the African resolutions did some damage to the credibility of the Carter Administration in the Third World, but their adoption would have led to sanctions that were too radical for the West to consider.

Pressure on the United States government to adopt economic sanctions against South Africa was also gathering momentum in Congress since the death of Steve Biko. During the last hearing of the Diggs Subcommittee, there appeared to be a general consensus that it was time to apply at least some economic pressures, although individual members did not always agree on what specific measures were most appropriate or effective. In a meeting between the Congressional Black Caucus and the President shortly after the American veto against economic sanctions, several Congressmen stated their case again.⁶⁹ Diggs attacked the notion that the United States must keep open the channels to South Africa: “Communication with South Africa has not led to change over the years. It must now be concluded that moving incrementally in this direction will not do.” Instead, he argued that “the United States needed to apply a set of gradually escalating economic pressures” to force the South African government to move away from apartheid, and presented Carter with a list of twelve measures.⁷⁰ Mondale defended the Administration’s decision to veto economic sanctions on the grounds that they were concerned that “there always be another credible step ahead of us”,

⁶⁶ DNSA South Africa: ‘Murray Marder Article in Washington Post’ (28 October 1977).

⁶⁷ DNSA South Africa: ‘West Vetoes African Resolutions on South Africa in Security Council October 31’ (1 November 1977).

⁶⁸ Mitchell, *Jimmy Carter in Africa*, 333-335.

⁶⁹ FRUS 1977-1980, vol. XVI, doc. 318: ‘Memorandum of Conversation’ (9 November 1977).

⁷⁰ Coker, *The United States & South Africa*, 149.

because “our policy is a measured policy.” This position was not at odds with the gradually escalating pressures that the Black Caucus proposed. The most fundamental disagreement between the Administration and the CBC was about the pace at which the pressure should be built up.

The Carter Administration had acknowledged the possibility of imposing economic sanctions since the Vienna Summit, but had discarded them as too punitive at the time. Back then, the list of steps that the United States could take to raise the pressure on South Africa included discouraging investment, discouraging banks from extending loans to South Africa, supporting mandatory economic sanctions at the United Nations and prohibiting the use of Ex-Im Bank facilities.⁷¹ But as the call for economic sanctions from other countries and from Congress was getting louder, and other policy options were being exhausted without any visible progress, the Carter Administration found itself forced to consider economic sanctions more seriously. The picture that emerged from these considerations, however, was very sceptical about the desirability of economic sanctions in general. Apart from the inclination of the Carter Administration to stay on speaking terms with Pretoria, there were four specific objections against imposing economic sanctions on South Africa. First of all, in order for sanctions to be effective in hurting the South African economy, they needed either to be mandatory or supported by the most important economic partners of South Africa: France, the United Kingdom and West Germany. That implied that they needed to be acceptable to all of them as well, and could consequently not go very far. Particularly the United Kingdom was in a difficult position, as it accounted for half of foreign investment in South Africa, but was also in a recession of its own and thus had little space for sacrifice.⁷² Second, intelligence showed that South Africa had been preparing for sanctions for a while in the contingency that they might be imposed. It had embarked on autarky programmes to reduce its dependency on imports in crucial sectors of its economy such as transportation and heavy industry, and had created a stockpile of oil and other strategic resources. For that reason, the intelligence community had already concluded in the summer of 1977 that “the impact of sanctions, even under the most optimistic assumptions about universality of application, would not be felt for at least a year.”⁷³ Thirdly, the United States government feared that South Africa would retaliate with sanctions of its own. It could refuse to repay outstanding loans (about 3.4 billion dollars), or cut off the sale of strategic minerals to the United States.⁷⁴ At best, this would cost the United States a lot of money, and jeopardize American national security at worst. Moreover, the CIA observed that the principle alternative source for these

⁷¹ FRUS 1977-1980, vol. XVI, doc. 284.

⁷² FRUS 1977-1980, vol. XVI, doc. 335: ‘Telegram From the Department of State to Multiple Diplomatic Posts’ (24 March 1978).

⁷³ FRUS 1977-1980, vol. XVI, doc. 293.

⁷⁴ FRUS 1977-1980, vol. XVI, doc. 334: ‘Memorandum From the Executive Secretary of the Department of State (Tarnoff) to the President's Assistant for National Security Affairs (Brzezinski)’ (20 March 1978)

minerals was the Soviet Union, and asked: “If we should have to move to sanctions, how can we prevent the Soviets from taking a windfall?”⁷⁵ And finally, despite all the efforts by Diggs and his allies, the Administration observed that “legislation which would adversely affect American business in a serious way—in either the investment or trade field—would be unlikely to pass, at least under present circumstances.”⁷⁶ Economic sanctions would inevitably lead to loss of American money and jobs. The more the Carter Administration went into the specifics of imposing economic sanctions, the less realistic they seemed. If sanctions were to have a real impact on the South African regime, they needed to go far. That meant that they would come at considerable sacrifice to American interests and those of its allies, which made them unlikely to pass through Congress—especially when they had to stand the test of comparison with American foreign policy to other unpleasant regimes. For all of those reasons, Brzezinski advised against imposing economic sanctions in April, and recommended that “we put this document on the shelf to be drawn on when the occasion arises. There is no reason to move forward on any of these fronts right now, especially when we may need all the ammunition that we can muster in the next few months.”⁷⁷ Within the development of measured policy, economic sanctions were still too big of a leap to take.

While the Carter Administration was subjecting its economic ties with South Africa to closer inspection, Senator Clark was doing the same. Unlike the House Subcommittee on Africa, the activities of the Senate Subcommittee were waning. It had just organized one single hearing devoted to the subject of South Africa in its first year, which was a review of Andy Young’s visit to the region. The record of that meeting gives a strong indication of why the Subcommittee was heading for obscurity again. Apart from Clark, the membership was now down to just two people: Pearson, who rarely attended the hearings, and former Vice-President Hubert Humphrey, who was terminally ill and passed away in January 1978.⁷⁸ Instead of organizing hearings in which he would most likely be the sole Senator present, Clark decided to use his chairmanship to conduct a thorough inquiry into the role of American corporations within American foreign policy towards South Africa. The result was a detailed and nuanced report, which he shared with the full Committee on Foreign Relations in January 1978. Clark concluded that American credit and capital had assisted the South African government in difficult times, without making a significant positive impact on South African society: “Rather, the net effect of American investment has been to strengthen the economic and military self-sufficiency of South Africa’s apartheid regime, undermining the fundamental goals and

⁷⁵ FRUS 1977-1980, vol. XVI, doc. 337: ‘Memorandum From Tom Thornton of the National Security Council Staff to the President’s Assistant for National Security Affairs (Brzezinski)’ (4 April 1978).

⁷⁶ FRUS 1977-1980, vol. XVI, doc. 334.

⁷⁷ FRUS 1977-1980, vol. XVI, doc. 337.

⁷⁸ Hearing before the Senate Subcommittee on African Affairs, 95th Congress, 1st session: ‘Ambassador Young’s African trip’ (6 June 1977).

objectives of U.S. foreign policy.”⁷⁹ The report made a number of recommendations to make American corporate behaviour compatible with the Administration’s foreign policy again. The United States should now actively discourage investment in South Africa in three ways: by withdrawing government support to investors, including Ex-Im Bank facilities and services from the commercial attaché, by denying tax credits to American companies that had operations that were inconsistent with American foreign policy objectives, and by withholding endorsement of private institutions that promote investment in South Africa unless they supported fair employment principles. The report acknowledged that these recommendations fell short of more extreme measures advocated by some that were strictly trying to hurt the South African economy, such as disinvestment or a trade embargo. Instead, it focussed on what the government could do to prevent facilitating American businesses that counteracted the promotion of progressive transformation. Although Clark’s recommendations would come at a cost to American business, their adoption was a lot more realistic than that of the punitive steps that were sometimes promoted in the Diggs Committee.

Several Congressmen endeavoured to turn one of Clark’s recommendations into law before he could even finish his report. Impatient with the Carter Administration’s slowly evolving policy against South Africa, Maguire had introduced an amendment to the Export-Import Act to terminate Ex-Im Bank activity in South Africa on 25 October 1977.⁸⁰ The amendment obtained the support of Paul Tsongas (D.-MA), who introduced it in the House Subcommittee on International Trade and triggered a hearing. There, the question whether it was appropriate to use the Ex-Im Bank for political or moral purposes became the subject of a heated debate, that roughly set Congressmen with an Africanist outlook against the generalists of the Subcommittee on International Trade. Proponents of Ex-Im Bank restrictions for South Africa, such as Tsongas, Maguire and Diggs, presented it as a necessary next step in the development of a confrontational policy against Pretoria. But opponents primarily saw Maguire’s amendment as an example of the impossible standards and hypocrisy of some human rights advocates. Henry Hyde (R.-IL) concluded that “if institutionalized repression is our main concern, then an appropriate response would be to suspend trade with the entire Communist bloc, and a very large part of the Third World, including many if not most states of Africa.”⁸¹ Les AuCoin (D.-OR) asked Maguire how he could vote in favour of granting most-favoured nation status to Romania and China, while trying to curtail trade with South Africa at the same time. The point of the opponents of Maguire’s amendment was that the United States did not have the

⁷⁹ Senator Dick Clark, ‘Report to the Committee on Foreign Relations: ‘U.S. corporate interests in Africa’ (January 1978), 13.

⁸⁰ Anthony N. Vance, ‘The Export-Import Bank of the United States and South Africa: the effects of the Evans Amendment’, *Vanderbilt Journal of Transnational Law* 17 (1984) pp. 802-883, 813.

⁸¹ Hearing before the House Subcommittee on International Trade, Investment and Monetary Policy, 95th Congress, 2nd session: ‘Export-Import Bank and trade with South Africa’ (9 February 1978), 3.

luxury to pick and choose among its trade partners, and that it would make a fool of itself if it tried to limit trade in the one place over human rights violations while extending it in the other. Within the entirety of American foreign trade, the Maguire Amendment would have been an anomaly.

Nevertheless, the Maguire Amendment passed the Subcommittee of International Trade and was expected to come to a vote in the House soon, although in a somewhat diminished form that suspended Ex-Im Bank facilities for South Africa unless and until the President determined that significant progress towards majority rule had been made. When asked for its opinion, the State Department reacted that while it shared the concerns of its supporters, it opposed the amendment on the grounds that it restricted executive flexibility.⁸² The Carter Administration had previously considered imposing Ex-Im Bank restrictions on its own authority, but had decided against it for multiple reasons. It feared that such action would undermine the traditional political neutrality of the Bank, opening the door for Congressional interference in all of its activities. Moreover, the State Department had discarded such a unilateral step as hurtful to American trade and ineffective, because its share would be lost to competitors that did not take similar steps.⁸³ However, the Carter Administration was not very adamant in its opposition to the amendment. Maguire later even recalled that he had received vital assistance from Young and McHenry behind the scenes to get his bill to the floor.⁸⁴ This suggests that the Carter Administration was double talking: it was trying to show to the South African government that more forceful action was not coming from the White House, but from Congress. Although there is no direct evidence that supports Maguire's claim, an internal memorandum from the State Department saw a clear advantage in Congressional steps. It noted that while the economic effects of Ex-Im Bank restriction on South Africa were negligible, "prohibition by Congressional action might well have a greater political and psychological impact upon the South African Government because of the belief widely held in South African Government circles that Administration policy vis-a-vis South Africa is not supported by the majority of the American people."⁸⁵ If the Carter Administration would have taken similar action on its own, it would have invited accusations of radicalism again, and might have jeopardized progress in ongoing negotiations on Rhodesia and Namibia. But if it came from Congress, the signal to Pretoria would be stronger, while the Carter Administration could maintain that it was not betraying South Africa for its constructive role on other issues. So even though the Carter Administration did not want to initiate Ex-Im Bank restrictions on its own, nor had it urged members of Congress to do so, it could seize the opportunity of the Maguire Amendment to take a new step in its gradually evolving policy.

⁸² DNSA South Africa, 'Neal Subcommittee Votes EXIMBANK Prohibition on South Africa' (14 April 1978).

⁸³ FRUS 1977-1980, vol. XVI, docs. 284 & 335.

⁸⁴ Vance, 'The Export-Import Bank of the United States and South Africa', 817.

⁸⁵ FRUS 1977-1980 vol. XVI, doc. 339: 'Paper Prepared in the Department of State' (undated, late April).

The Maguire Amendment reached the floor on 1 June, where it became clear in the debate that it could not count on a majority. The next day, the amendment was substituted with a different amendment from Thomas Evans (R.-DE) that restricted Ex-Im Bank facilities exclusively to companies that implemented fair employment principles as defined in the Sullivan Code of Conduct.⁸⁶ This lowered the standard for Ex-Im Bank exposure in South Africa substantially: the extension of insurances, credit or guarantees was no longer dependent on the performance of the South African government, but of the companies. The Evans Amendment passed Congress in July. Regardless of the role of Young and McHenry, this was the first time that the activism of the Carter Administration against apartheid was overtaken by Congress through legislation; and the first time that the involvement of the United States government in corporate affairs in South Africa was restricted by law.

Disintegration of Congressional opposition and stalemate

Although the Evans Amendment was an unprecedented victory for anti-apartheid activists in Congress, it left many of the hardliners unsatisfied. The original legislation as put forward by Maguire was significantly toned down in order to improve its chances to be turned into law. The Evans Amendment did not discourage investment in South Africa as Clark's report had recommended, but merely limited government support for companies rather than terminating it, which meant that the United States government continued to facilitate the influx of American capital into the South African economy.⁸⁷ Already before the Evans Amendment passed Congress, the question whether the United States should go further became the subject of a series of six hearings organized jointly by the House Subcommittees on Africa and International Trade. Several attendees criticized the Evans Amendment for falling short of inducing substantive change in South African society. Cardiss Collins, the initiator of the Collins Resolution, discarded it as tokenism, saying that "everyone felt that they would adopt the Evans principles, they would feel good within themselves because they had done something with South Africa but they were able to preserve, and able to go to their constituencies in effect and say, we did this, but we did not really do anything, quite frankly."⁸⁸ Not everybody had the same objections to the Evans Amendment: some opposed it because they did not believe in the effects of enlightened employment, others because they believed that the Sullivan principles did not capture all the essential aspects of fair employment standards, such as collective bargaining. The general sentiment, however, was that the Evans Amendment did not go far enough.

⁸⁶ Forsythe, *Human rights and U.S. foreign policy*, 78.

⁸⁷ Thomson, *U.S. foreign policy towards apartheid South Africa*, 105.

⁸⁸ Hearings before the House Subcommittees on African Affairs and International Economic Policy and Trade, 95th Congress, 2nd session: 'United States private investment in South Africa' (27 June – 7 September 1978), 22.

Three different members of the Subcommittees had initiated bills of their own that sought to curtail American economic relations with South Africa more severely. Solarz proposed an amendment that prohibited American persons and companies from investing money in South Africa other than earnings derived from existing enterprises. Jonathan Bingham (D.-NY), the chairman of the Subcommittee on International Trade, introduced a bill that prohibited investments in companies that did not engage in fair employment practices. And finally, Diggs introduced a bill that banned all investments in South Africa until the President decided that significant progress towards ending apartheid had been made.⁸⁹ All of these proposals went significantly further than the proposals put forward by Clark – they did not just discourage investment, but bluntly prohibited it to different extents. As commercial contacts with South Africa were still thriving under the Carter Administration and investments returned high returns, any restriction on investment would come at a significant cost for American businessmen, which made their adoption by Congress problematic.⁹⁰ Moreover, the withdrawal of the Maguire Amendment in favour of the Evans Amendment seemed to indicate that Congress was not ready yet to impose more extreme limits on trade and investment with South Africa. But instead of being discouraged by the need for compromise on the Export-Import Act less than one month ago, Solarz argued the other way, and said that “the adoption of the Evans Amendment [...] demonstrates very clearly that the political preconditions for meaningful Congressional action in this matter now exists [sic].”⁹¹ For supporters of economic measures against South Africa, the Evans Amendment was just the beginning.

Although the members displayed a thorough concern with apartheid in their initiatives, the scattering of all these different proposals also demonstrated the lack of a coherent legislative tactic. It was pointed out during the hearings that beside the three bills that were now before the Subcommittees, there were two other bills related to South Africa currently pending – meaning that there were at least five bills with more or less the same objective going through the legislative process, before the Evans Amendment had even been signed into law. This was also noted by Bonker, who asked: “I just wonder what other countries think when they see this kind of legislative history, whether we are moving in a rather sporadic, dramatic and, some might say, political way instead of proceeding in a more consistent and realistic manner.”⁹² The assertiveness that had characterized Congress after Vietnam and Watergate had undermined its traditional leadership structures, according to Dumbrell, leading to a Congress “where power had become atomised – distributed among junior members, proliferating subcommittees and staffers.”⁹³ The hearings on the

⁸⁹ Ibidem, 1, & Library of Congress search results: H.R.12463, H.R.13262 and H.R. 13273.

⁹⁰ Thomson, ‘The diplomacy of impasse’, 117-118.

⁹¹ Hearings, ‘United States private investment in South Africa’, 5.

⁹² Ibidem, 15.

⁹³ Dumbrell, *The Carter presidency*, 22.

three bills exemplified this fragmentation and individual proliferation, with different Congressmen outbidding each other with new bills even before the Evans Amendment had come into effect. Nor did they give any thought to the question of how this would fit in the wider context of American foreign policy. The retort by Assistant Secretary Moose during the hearings was therefore simple: “We do believe [...] that the best way to achieve our objectives in South Africa is by steady, resolute application of our stated policy.”⁹⁴ The steps that were already taken should be given some time to work, and more extreme steps will be stored until the occasion arises.

Ultimately, none of the bills that were discussed in the Subcommittees reached the floor. In fact, Congress would pass no new bills that restricted economic relations with or corporate practices in South Africa until 1983.⁹⁵ The Evans Amendment turned out to be the most that was realistically achievable for Congress under the political conditions of the 95th Congress. The rest of 1978 passed by relatively uneventful in South Africa, creating no new outrages that sparked new Congressional initiatives, as had previously happened in the case of the South African invasion of Angola and after the death of Biko. Moreover, other African issues were now competing with apartheid for Congressional attention. With Soviet support, Cuban troops had intervened once again in an African conflict in March 1978, when they assisted Ethiopia in a war against Somalia. This added urgency to the settlement of other simmering conflicts, such as in Rhodesia. After the collapse of the Anglo-American negotiations in late 1977, Smith was pursuing an internal settlement with moderates in the Rhodesian opposition. Conservatives in Congress saw this as the best alternative to communist intrusion in Southern Africa and attempted to lift American sanctions on Rhodesia as an early reward to Smith – an effort which was only defeated by a very small margin.⁹⁶ This initiative was part of a more general conservative trend in American politics after the first year of the Carter Administration, which Mitchell attributes to the perception of Congressmen and voters that the United States was losing ground to the Soviet Union. It materialized in the midterm Congressional elections in November 1978, which is generally regarded as a small victory for conservatives.⁹⁷

Another development that was obstructing effective advocacy for a more confrontational policy against South Africa was the disappearance of both chairmen of the House and Senate Subcommittees on Africa from the political stage in late 1978. In March, Diggs was charged with fraud for diverting Congressional funds to his personal account. He was convicted and sentenced to prison for three years in October, and was forced to give up his chairmanship of the Subcommittee

⁹⁴ Hearings, ‘United States private investment in South Africa’, 167.

⁹⁵ Kenneth A. Rodman, ‘Public and private sanctions against South Africa’, *Political Science Quarterly* 109 (1994) 313-334, 320.

⁹⁶ Andrew DeRoche, ‘Standing firm for principles: Jimmy Carter and Zimbabwe’, *Diplomatic History* 23 (1999) 657-685, 674.

⁹⁷ Mitchell, *Jimmy Carter in Africa*, 489-490.

on Africa and ultimately, his seat in Congress.⁹⁸ Clark lost his re-election in Iowa to his Republican opponent Roger Jepsen, despite his national profile and a comfortable lead in the polls. It was later revealed by a former official in the South African Information Department that his government had contributed up to \$ 250,000 to the campaign of Jepsen.⁹⁹ This was not the first instance in which the South African government had sought to influence the Congressional process of law-making: the State Department observed earlier that the South African government had hired attorneys to assist Congressmen that opposed the Maguire Amendment in the Banking and Finance Committee.¹⁰⁰ Although it is impossible to establish the impact that this donation had on the fate of Clark's re-election bid, the fact that the South African government was actively meddling in American elections was also an acknowledgement of the importance of Congress in the making of foreign policy towards South Africa. In his six year term, Clark had successfully led the opposition to Kissinger's secret pact with South Africa in Angola, and became one of the most loyal supporters of the Southern African policy shift under the Carter Administration. He was appointed to Ambassador at Large and U.S. Coordinator of Refugee Affairs by Carter after his loss, signalling his closeness to the Carter White House.¹⁰¹ In contrast, Diggs had been much less of an establishment figure. As representative since 1955, founder and chairman of the Congressional Black Caucus and early member of the civil rights movement, he was the voice of black opposition against all American involvement with racism in Africa. Through his network, he introduced most of the 'regulars' of the hearings, the witnesses and organizations that shaped the debate in the House Subcommittee on Africa and which were later largely borrowed for the Senate Subcommittee by Clark. His successor as chairman, Stephen Solarz, also held strong views on South Africa but brought with him a very different personality factor and constituency to the human rights activism of the Subcommittee on African affairs.

The Evans Amendment turned out to be the maximum that could be achieved by Congress to push the White House into a confrontational human rights policy against South Africa. In the last hearing under the chairmanship of Diggs, Moose admitted that "no specific actions are contemplated at this particular moment." Bonker therefore concluded that "we have reached an impasse between our policies and rhetoric on one hand, and our ineffectiveness to do anything on the other."¹⁰² The Congressional anti-apartheid activists reached the limit of what they were able to do, and the Carter Administration had reached the limit of what it wanted to do. The Administration continued to believe that change would come by keeping open the channels, not by closing them. But judging from the documents of FRUS and DNSA, it seemed that Vorster got the 'cooling down period' that he

⁹⁸ Massie, *Loosing the bonds*, 474.

⁹⁹ Mitchell, *Jimmy Carter in Africa*, 492.

¹⁰⁰ DNSA South Africa, 'House Banking Committee on EXIM' (22 April 1978).

¹⁰¹ Biographical Directory of the United States Congress, entry on Richard Clarence Clark (1928 -).

¹⁰² Hearings, 'United States private investment in South Africa', 179, 186.

wanted. Direct contacts between high officials of both governments on apartheid were rare after 1977, and mostly related to nuclear matters. Tellingly, in a letter from Carter to Vorster in March 1978, he failed to mention apartheid and limited himself to discussing the negotiations on Rhodesia and Namibia.¹⁰³ Several historians conclude that after a rowdy first year with South Africa, the Carter Administration re-established the regional priorities set by Kissinger and focused on resolving the crises in Rhodesia and Namibia. Moose later conceded in an interview that this “de facto, may have happened.”¹⁰⁴ In this light, the tactic of the South African government to buy time until a more conservative world opinion arrived can be regarded as relatively successful, and the Reagan Administration proved to be more openly sympathetic to the white minority government of South Africa. Vorster’s political career did not last long enough to see this come through, and he was replaced by P.W. Botha in October 1978.

Conclusion

This chapter set out to document the Carter Administration’s human rights policy towards South Africa, and the extent to which Congress managed to influence this through hearings in 1977 and 1978. The Carter Administration public statements and private communications with the South African government left little room for doubt about its views: if progressive transformation is not coming through in all of Southern Africa, there will be negative consequences for our bilateral relationship. But it never seriously considered breaking the ties with South Africa, because of its fundamental belief that change would come through cooperation, not isolation. Therefore, the Carter Administration sought to deploy the American economic presence against apartheid by promoting enlightened employment, in the hope of influencing the South African government by positive means. But it was forced to rapidly escalate its negative incentives to South Africa after the discovery of the nuclear test site in the Kalahari Desert and the death of Steve Biko. The development of a measured policy never got the time to work.

The Carter Administration had created high expectations for its South Africa policy with anti-apartheid activists in Congress, who generally supported its principles. The relationship between Congress and the White House was delicate, however. The Carter Administration was prepared to work closely with Congress if it suited its diplomatic tactics. It showed to the South Africans and the rest of the world that there was a broad base of support for a confrontational policy, while refuting the allegation of South African officials that the Carter Administrations were unrepresentative of American voters as a whole. The Carter Administrations supported and facilitated Congressional anti-

¹⁰³ FRUS 1977-1980 vol. XVI, doc. 336: ‘Letter from President Carter to South African Prime Minister Vorster’ (27 March 1978).

¹⁰⁴ Mitchell, *Jimmy Carter in Africa*, 229, Thomson, *U.S. foreign policy towards apartheid South Africa*, 106-109.

apartheid activism in multiple instances, such as the political prisoners monitoring group and possibly the Evans Amendment. By doing so, the White House could continue to appear constructive, while making Congress an additional source for pressure on the South African government to move away from apartheid. The fact that the South African government was attempting to interfere with the Congressional political process on at least two occasions indicates that this was a source of fear in Pretoria. But this tactic could only work as long as there was the impression that more stringent legislation could succeed, and the threat of sanctions remained realistic.

This prerequisite made the Carter Administration wary of the more extreme proposals coming out of the House Subcommittee on Africa. Government officials were always eager to play them down, but deliberately failed to rule out the possibility that they might be considered in the future. While the Carter Administration shared much of the considerations and grievances of those in the Subcommittee, their closeness also reveals one of their most fundamental differences. Whereas the Subcommittee on Africa was responsible for monitoring American foreign policy towards African countries and drafting specific legislation, the executive was responsible to formulate a long-term plan for South Africa within the context of its foreign policy as a whole. The proposals of the Subcommittee tended to be focussed on increasing the pressure on South Africa as quickly as possible, while failing to consider how this would compare to American foreign policy towards other places. It was hard to support trading restrictions on South Africa if you see it in the wider context of the Administration's trade agreement with communist countries. The Carter Administration rightfully feared that such selective indignation would discredit the entire human rights initiative; both to the governments that it was aimed at as well as to sceptics at home.

In retrospect, the Carter Administration exhausted the steps that it was willing to take by the end of 1977. Although it gave some thought to economic sanctions, it concluded that unilateral actions would be both costly and ineffective, while it was not feasible to impose multilateral economic sanctions under the present political conditions. The human rights activism of the Carter Administration in South Africa reached a stalemate, and it decided to focus on the more pressing issues in Rhodesia and Namibia instead. This could be seen as an attempt to cut its losses on South Africa and a return to the Kissinger scheme, but this overlooks the important fact that the image of United States policy had certainly changed. The actions of the Carter Administration certainly challenged the idea that the United States was the tacit supporter of white minority regimes in Southern Africa, which was a source of anger and frustration for Africans and Americans alike.

Conclusion

This thesis set out to establish to what extent Congress influenced American foreign policy towards South Africa between 1973 and 1978 through its hearings on human rights. The ascendancy of human rights in American foreign policy came at a time when the United States was forced to rethink its role in the world. The Vietnam War had confronted the United States with its own limits: limits about what American power can achieve in other parts of the world, limits to the amount of domestic support for foreign interventions, and limits in terms of economic resources. The Nixon and Ford Administration had pursued a policy of détente to cope with these limits, seeking to ease relations with hostile countries to avoid new conflicts. But as the Vietnam War came to an end, and the Watergate scandal reached its logical conclusion, détente seemed just another excuse for the United States to tolerate repression, and a symptom of the immorality that had surrounded the White House for so long. Human rights served as an antidote to this immorality, as well as a vehicle for Congress to reclaim its role as an equal partner in the creation of foreign policy. It unified both liberal and conservative opposition to the foreign policy of the Nixon and Ford Administrations, although this coalition soon proved to be both rickety and short.

Not only did liberals and conservatives have different political objectives in mind with their human rights initiatives, the selection of their targets also informed their tactics. The universalist human rights legislation that was passed by Congress between 1973 and 1976 set the tone for later. In order to target Cold War allies, liberals made use of perhaps the most powerful Congressional prerogative: the power of the purse. Legislation such as Section 502B and the Harkin Amendment ensured that cruel and repressive allies were simply defunded, unless there were overriding national security concerns. Conservatives, on the other hand, had to look for other leverages to promote human rights. Their desire to bring an end to détente with the Communist bloc ensured that their legislative initiatives would focus on the areas in which the relationship with the Soviet Union was improving, such as arms limitation and, as the Jackson-Vanik Amendment demonstrated, trade.

South Africa was a prime example of a target for liberal human rights activists. Its government was authoritarian, violent and consistently violated the human rights of the majority of its population on the basis of race. Its political elite regarded South Africa as a loyal member of the First World – but on closer inspection, it was not as firmly integrated in the West as it might have wanted. Its membership of the First World was primarily economic and psychological, stemming from its attractive investment climate and its loyalty to the United States in two World Wars. But since the establishment of the arms embargo in 1963, South Africa could not expect any American military support anymore – at least not openly. South Africa did not receive any military or economic aid, and was consequently unaffected by the liberal human rights legislation that curbed support to

allies that violated human rights. Whether the United States would have reconsidered its stance on military support if the South African regime really came under threat remains an open question – especially since the entire foreign policy of the Nixon and Ford Administrations until 1975 was predicated on the principle that the apartheid regime would hold out for the foreseeable future. The outbreak of the Angolan Civil War made clear that Cold War-reasoning did not suffice to come to the aid of South Africa if needed, and that any American military or financial support for white supremacy would not be tolerated by Congress. The United States was not going to end up on the wrong side again.

The Clark Amendment closed the door on any military adventures in Southern Africa. Although its passing should be seen in the light of widespread reluctance for interventionism in the wake of the Vietnam War and the low priority of Southern Africa for American national security, it also set the stage for a post-1975 foreign policy in which Cold War-strategy and human rights demanded the same thing: the end of apartheid and a rapid transfer to majority rule. This meant that the South African government lost its most important bargaining chip as communism's most dedicated and powerful opponent on the continent. But for Washington, it also meant the loss of leverage with the South Africans. The truth was that during the 1970s, the white regime did not need American economic and military support to survive. The level of economic and technological development of South Africa was much higher than any probable adversary or other country in the region. It was rich, powerful and had developed an economy that was able to operate relatively independent from outside pressures for a while. It had an extensive national security infrastructure, and had built up experience in counterinsurgency tactics in cooperation with the other white regimes in the region. In the long term, economic sanctions would have a decisive impact, but the reality was that all of the Western permanent members of the Security Council did not want to take it that far during the 1970s. There were simply too many unresolved questions on the implementation of sanctions, their impact on the domestic economy and its consequences for South Africa's role in the settlement of the Rhodesian and Namibian questions to go ahead with them already.

This lack of leverage with the South Africans was the background against which policymakers and Congressional human rights activists had to operate during the 1970s. Since there was no economic and military aid flowing from Washington to Pretoria, Congressional human rights activists had roughly two options. The first was to advocate a radical departure from maintaining relatively normal relations with South Africa, promoting extreme measures such as mandatory disinvestment or severing all economic and technological ties. Such proposals would have been largely symbolic, and the probability of having these measures turned into law was virtually nil. The second was to focus on more technical and obscure aspects of the bilateral relationship between the United States and South Africa, such as visa policy or nuclear cooperation. Under Nixon and Ford, the observance

of the arms embargo became a vital target for the House Subcommittee on African Affairs. The hearings did not seem to have any direct influence upon the sale of grey area items, but its aggressive oversight succeeded in putting it on the agenda and preventing the scale of the sales from growing out of hand under a secretive Nixon Administration. Carter would later use the termination of grey area sales as a small step within the build-up of his measured policy, although Congress did not seem to have played a large role in that decision. Nevertheless, the tendency of subcommittees to look deeper into the details of relations with South Africa can also be seen as exemplary for the increasing assertiveness of Congress in the field of foreign policy.

In the increasing absence of formal ties between the South African and American governments, human rights activists in Congress also started to focus on the private relations of American companies with South Africa. Anti-apartheid activists scored some initial successes by persuading individual corporations, universities and foundations to disinvest their capital from South Africa, but they failed to get Congress to enact any regulations on private economic ties with South Africa. A fundamental problem was that all the administrations during the 1970s, from Nixon to Carter, believed in the positive role of trade – not only with Cold War-allies, but also with enemies. Under Carter, this reasoning gained an extra impulse because of his personal conviction that the role of business had been crucial in the segregation of the American South. The free flow of trade and investment in South Africa were never under serious threat from Congress during the 1970s, and continued to grow during the entire period of this thesis. The only interference in corporate affairs in South Africa that Congress and all the successive administrations could agree on, was the promotion of enlightened employment practices. Its supporters hoped that the emancipation of the black labour force would lead to political change, and the American government could support its implementation at virtually no cost. But it also provided a cover under which economic relations with South Africa could flourish, and it left many in Congress longing for more confrontational measures.

The increasing assertiveness of Congress in foreign policy certainly had an influence on the development of anti-apartheid activism. When human rights started to become a tendentious issue after the Vietnam War, it tapped into an existing stream of activism that showed continuity with the civil rights movement. Charles Diggs had long lead the way for anti-apartheid activism in Congress, but the human rights revolution brought his work closer to the mainstream and made it more relevant to outsiders and newcomers to Congress, such as Dick Clark. Like other human rights initiatives, their proposals and ideas were opposed and ignored under the Nixon and Ford Administration, but the only time that it blew up in their faces was with the Clark Amendment. There were no successful legislative initiatives that were particular to the South African situation under Nixon and Ford, and its policy remained unaffected by new laws – although it was affected by new sentiments in Congress, as was manifest in Kissinger's Lusaka declaration that built on the principle

of human rights. Under Carter, human rights initiatives spread out to substantial parts of Congress, leading to more awareness, mobilization and legislative initiatives on its foreign policy towards South Africa. The Carter Administration was able to make use of this heightened interest in South Africa smartly, by making Congress part of its diplomatic toolbox and using it as an additional source of confrontational policy measures that the White House did not directly control. But the fundamentals of Carter's South Africa policy were never really under threat from Congress, and the pressure of new measures on Pretoria from both the White House and Capitol Hill receded as the end of his term came closer.

The widening of human rights activism in Congress under the Carter Administration revealed some of its problems, too. As the Congressional subcommittees became the most important source of legislation, the amount of proposals skyrocketed and the prospect of substantial political support for a specific proposal dampened. The membership of subcommittees was distributed on the basis of seniority and personal interest, and the most interested legislators tended to be the most active ones. This ensured that many activists and other witnesses that advocated strong measures were preaching to the choir. But when their proposals were spread out in Congress and considered by other subcommittees, they had a much harder time. The episode on the Maguire Amendment revealed this most clearly: while it may have been a logical next step in the development of a measured policy towards South Africa, it was completely at odds with the wider policy of the Carter Administration to promote international trade, even with countries that had social systems that were incompatible to American values. The members of the Subcommittee on African Affairs did not seem to realize that the United States already had quite confrontational policies against South Africa, if you compared it with other countries. This included the arms embargo and the moratorium on nuclear cooperation. By the end of 1978, there were simply not many viable and logical steps ahead in the development of a measured policy short of economic sanctions. This made the coordination of new legislation also difficult, particularly in the absence of a new event that could trigger new measures, as had happened with the discovery of the nuclear test site and the death of Steve Biko. Because Congress primarily influences foreign policy through legislation and the budget, its acts tend to be reactive: blocking certain courses of action. It does not actively make policy, as the executive does.

The legacy of the human rights initiatives of Congress and the Carter Administration on South Africa has been overshadowed by the observation that it was ineffective in working towards its stated objective: promoting the observation of human rights by ending apartheid. This may well be true – it is hard to believe that black South Africans were better off at the end of Carter's term than before – although it would be unfair to blame the Carter Administration's policies for that. But at least, the steps that the Carter Administration took removed the perception that the United States was tacitly supporting the apartheid regime, which was perceived as a grave injustice by many

Americans and others. In this sense, the human rights revolution may have been more relevant to the people in the United States than to the people that it intended to help. The idea that the human rights revolution under Carter was counterproductive and a failure has been strengthened by the fact that some of its exponents were turned back under the Reagan Administration. From 1981 onwards, the United States was more openly supportive of the apartheid regime and rolled back some of the steps that were taken under the Carter Administration, such as the termination of grey area sales. Nevertheless, the experience with Congressional human rights activism of the 1970s laid the foundation for the backlash to Reagan's South Africa policy later. In 1986, Congress passed the Comprehensive Anti-Apartheid Act (CAAA) that imposed economic sanctions on the apartheid regime, overruling the veto that President Reagan had cast. This legislative success would have been unthinkable without the work done by Congressmen in the 1970s, that laid the foundation for a confrontational position of the United States against South Africa. In the years that followed, apartheid crumbled apart and formally ended in 1994. If historians conclude that the human rights revolution in American foreign policy towards South Africa was a failure, it is because they have not traced its consequences long enough.

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