VISIONARY

INSPIRING

Human Rights Religious Liberties and the Growth of Democracy

by Michael K. Young

INQUISITIVE

The Henry M. Jackson/
William J. Van Ness
Lectures on Leadership

HONEST

The Henry M. Jackson Foundation was founded in 1983 to continue the unfinished work of the late Senator Henry M. "Scoop" Jackson in the fields in which he played a key leadership role: international affairs education, human rights, environment and natural resources management, and public service. Through its grantmaking and strategic initiatives, the Foundation seeks to make a lasting impact and perpetuate the Jackson legacy for the benefit of future generations.

The Henry M. Jackson/William J. Van Ness Lectures on Leadership was established to honor and link two men whose careers were interwoven for many decades. The series recognizes the remarkable qualities that its immediate past president, William J. Van Ness, Jr., and Senator Jackson demonstrated in their decades of service. Both exemplify the good judgment, integrity, and character inherent in true leadership. The Jackson / Van Ness Lectures on Leadership are designed to attract lecturers who showcase the qualities of leadership mentioned above and which are highlighted in the Foundation's 25th anniversary publication, *The Nature of Leadership: Lessons from an Exemplary Statesman*.

Human Rights Religious Liberties and the Growth of Democracy

by Michael K. Young

May 30, 2012
Seattle, Washington

Introduction

Craig Gannett: Good evening. Welcome everyone to the second annual Henry M. Jackson/William J. Van Ness Lecture on Leadership. My name is Craig Gannett and I'm a vice president of the Henry M. Jackson Foundation.

I'd like to begin by acknowledging Bill Van Ness, after whom the lecture series is named. Bill not only worked for Senator Jackson in the United States Senate, but also served for 20 years as the president of our Foundation. During that period he played an absolutely indispensable role in furthering the Jackson legacy. Thank you, Bill. We are also very pleased that his wife Pat and other family members are here with us this evening to enjoy the lecture.

Believe it or not, the Henry M. Jackson Foundation is almost 30 years old. In that 30-year period, it has given away over $22 million to entities committed to advancing the Senator's legacy in international affairs education, human rights, energy, natural resources and the environment, and public service. Not bad for an organization that started with a congressional grant of $10 million and today has a $15 million endowment.

The year 2012 is particularly important because it is the centennial of Senator Jackson's birth. To celebrate that, the Foundation is sponsoring a series of programs on both coasts that are focusing on the public policy issues he cared about. We are engaging in that series of programs with other leading institutions, including the University of Washington. That's why I'm particularly pleased that we have Michael Young, president of the University of Washington, here to deliver the second annual lecture. At this time, I'd like to introduce John Hempelmann, the president of the

Foundation, who will say a few words about Bill and introduce President Young.

John Hempelmann: Welcome to all. The Foundation created the Jackson/Van Ness Lecture series to advance the qualities of leadership that Bill Van Ness and "Scoop" Jackson personified. Bill worked for the Senator in the 1960s and 1970s. When I was there as a young staffer in the 1960s, Bill Van Ness was already a legend—not just among the staff, but also in the United States Senate, as a person who could take Scoop's ideas and get things accomplished in a very complex political arena, not only in the Senate, but also in the entire Congress and the country.

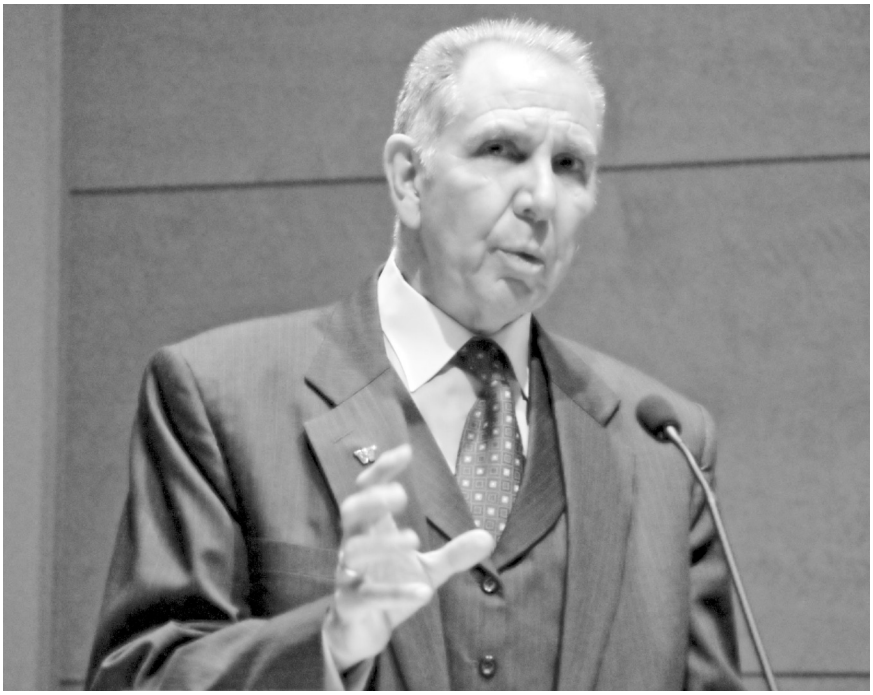
Bill was special counsel and then general counsel to the Senate Committee on Energy and Natural Resources when Senator Jackson was its chair. Some of the most important pieces of environmental and energy legislation in the history of this country bear the fingerprints of Bill Van Ness—like the National Environmental Policy Act, or NEPA, which is a critical piece of environmental legislation today; the TransAlaska Pipeline Act; the National Energy Policy and Conservation Act; and the Alaska Native Claims Settlement Act. These were put together and advanced with great skill by Bill on behalf of Scoop. And so it is particularly appropriate that we have linked Bill Van Ness and Senator Jackson in naming this lecture series.

Bill has a lot of the same qualities of leadership that the Senator exemplified. And as it says in *The Nature of Leadership*, those qualities include perseverance, doing one's homework, and diligence, to name a few.

So, Bill, thank you. And now I have the privilege of introducing President Michael Young of the University of Washington. I'm going to be very brief because if I told you

everything I know about this great man, he wouldn't have time to give his lecture.

President Young is a tenured professor of law with extensive experience in public service and diplomacy. People have come to know him as an easygoing, dynamic leader; someone you can easily talk to and visit. Yet, what an accomplished and impressive record he has. He came here from the University of Utah, where in his seven years there, he dramatically increased funding and made it into a top-tier research institution. He has served in many public roles. He was deputy undersecretary for economic and agriculture affairs and the ambassador for trade and environmental affairs for the U.S. State Department under President George H.W. Bush. He has taught and served in leadership positions at Columbia University Law School and at George Washington University in Washington, D.C., where he was the dean. He clerked for then Chief Justice William Rehnquist—the lawyers here know what a prestigious and valuable position that is. You can also appreciate a great lawyer who is also an academic leader. Of particular note is that he served as a member and for many years as the chairman of the United States Commission on International Religious Freedom. I also know he has led a program on human rights and religious freedom at the law school at Columbia University. So it is very timely that in this centennial year of the birth of Senator Jackson—a great advocate for human rights who understood the relationship between human rights, trade, and international affairs—that we have someone with the experience of President Young to deliver this Jackson/Van Ness Lecture. Please welcome President Michael Young.



MICHAEL K. YOUNG

Michael K. Young became President of the University of Washington on July 1, 2011. A tenured Professor of Law, President Young has a distinguished record as an academic leader with broad experience in public service and diplomacy. Prior to his appointment at the UW, he served as President and Distinguished Professor of Law at the University of Utah. Before assuming the presidency at Utah, he was Dean and Lobingier Professor of Comparative Law and Jurisprudence at the George Washington University Law School. He was also a professor at Columbia University for more than 20 years, and prior to joining the Columbia University faculty, he served as a law clerk to the late Chief (then Associate) Justice William H. Rehnquist of the United States Supreme Court. President Young has held numerous government positions, including Deputy Undersecretary for Economic and Agricultural Affairs and Ambassador for Trade and Environmental Affairs in the Department of State under President George H.W. Bush. He also served as a member of the U.S. Commission on International Religious Freedom from 1998 to 2005 and chaired the Commission on two occasions. He is a member of the Council on Foreign Relations and a fellow of the American Bar Foundation. He has published extensively on a wide range of topics. President Young is a graduate of Brigham Young University (B.A., 1973) and Harvard Law School (J.D., 1976), where he served as a note editor of the *Harvard Law Review*.

Human Rights, Religious Liberties and the Growth of Democracy

John, thank you for that kind introduction. Mr. Van Ness, it's a great honor to be here and give a lecture in your name. And as I hope you will all understand soon, I am particularly honored to have an opportunity to give a lecture in the name of Senator Jackson, because the Jackson-Vanik amendment, in particular, has shaped much of what has occurred in the field that I want to talk about tonight. He was a towering figure in ways that I'm not sure even he anticipated.

I would like to share some thoughts about why I think there is a deep and important relationship between human rights and our foreign policy, and then I would love to open it up for discussion. I see I have a lot of colleagues here who I'm sure will disagree with me in every way imaginable, and it will be a fun evening because of it.

To give you just 30 seconds of background as to how I got here—because it does shape what I think, as we're all shaped, to some degree, by how we arrived at where we arrived. I went to the State Department largely to do Asian-related and trade-related work, but the fortuity of timing was such that the Berlin Wall came down about three weeks after I arrived. They were searching for a relatively underemployed lawyer to work on German unification. They found me, and thus, I ended up as the lawyer advising the U.S. delegation on the Two-Plus-Four German unification negotiations. I had an opportunity to draft most of that treaty and work on that project, knowing virtually nothing about Germany, indeed having never been

to Germany. So it was a typical government assignment, meaning you take an Asian specialist and send him to Germany to work on something.

That led to a series of other opportunities, particularly in the context of the Conference on Security and Cooperation in Europe, which is, as many of you know, the foundation of the Helsinki Accords. It was also, in many ways, a transformative set of human rights developments because it was the first time in history in which a large number of countries came together and said it is appropriate for us to be concerned about how you treat your own citizens. In the past, human rights had been something to which countries aspired, but largely—even if you look at the human rights documents at the end of World War II, which were really the foundation of international human rights thinking—there were certain aspirations in there but no entitlement or mechanism for actually pointing fingers. The Helsinki Accords said it is legitimate for us to look at what happens to other countries and to criticize those countries.

When I came back to Columbia University after that time of service was over, I was proselytized by a professor named Lou Henkin who is, in many ways, one of founders of the international human rights law movement. Lou was always worried about his legacy. Would there be other professors who would teach human rights law? So, if he ever saw the slightest opening, he would try to draw you into this.

Lou was particularly interested in the relationship between the human rights community, which had grown up largely in the aftermath of World War II and was largely secular in orientation, and the religious liberties community, which formed a little later. He also was particularly interested in issues of freedom of religion and worship, and was largely sectarian in orientation. To be fair about it, the two communities did not get along very well and stood at a

certain divide.

The religious liberties community thought that the human rights community was a group of godless, secular heathens who simply wanted to keep the world safe from religion. And the secular human rights community tended to view the religious liberties community as a group of right-wing nuts who simply wanted to preserve the capacity to proselytize and convert everybody. They spit and snarled at each other across an intellectual and practical divide.

An observant Jew who had come to it from the perspective of the secular human rights community, Lou believed that these communities had a lot to offer each other and that what should bring them together was much more critical than what should divide them. He knew that I was an observant Mormon but that I also came from the human rights perspective.

Lou believed that if we put our minds to it, we might be able to develop a program at Columbia that could bring these two groups together, so we went to the Pew Foundation. They gave us a sizable grant, and we brought in a group of human rights activists who were mostly focused on religious liberties in Eastern Europe and Russia. We had a curriculum in human rights where we would not only teach them the intellectual rudiments of it, but also the practical things like how to write a grant application, how to organize a demonstration, and how to set up a website.

Although we didn't put this in our brochure, our goal was to take people who were irritating to their governments and make them more irritating. We were reasonably successful at that. It was a very successful program for a number of years, but we were somewhat less successful in terms of our goal to bring the two groups together.

After that, I went to Washington, D.C. Shortly after, the International Religious Freedom Act of 1998 was passed, and the Commission on International Religious Freedom was set up. I was

asked to serve on that commission and ultimately serve as its chair. Essentially, our job was to nag the government.

If you think about Congress and the Executive Branch, they have an interesting tension whereby the Executive Branch, in many ways, represents American interests, while Congress represents American values. Even though we do best when they align, we don't think about that alignment as carefully as we ought to, and sometimes there's a gulf there. We were, in part, designed to be a bridge, to give advice and counsel to the President, to the Secretary of State, and even to Congress, about ways in which the notion of freedom of thought, conscience, and belief—which is how the international human rights documents describe this particular right—could be woven into our foreign policy more effectively.

Well, the first question was, "Why should it be woven into our policy?" Before you can convince people how to do it, you really have to give a little counsel as to why it would be effective. I spent a lot of time thinking about that. I had studied a lot of Japanese and world history and was always struck by the fact that almost every time one turns around, one sees the effect of religion as significant in geopolitical affairs.

We all know about the role of Solidarity in the movement in Poland, which of course was entirely Catholic based. Less well known, but probably equally important, were the Thursday-night vigils in Leipzig, which were Protestant based. Our own civil rights movement of course is replete with religion. If you read Taylor Branch's *Parting the Waters*, you know that the role of the black churches in the civil rights movement was absolutely critical.

Every where you look, you see this. You see it in China right now, for example, in its ferocious oppression of Falun Gong. This seems curious because it seems like a harmless religion until you study a little Chinese history and consider the revolution of the White

Lotus, the Taiping Revolution, and the revolution of the Son of the Heavenly King. All of these were religious-based movements. Now, none brought down the particular dynasty, and they were oppressed with great ferocity. But upon the conclusion of that oppression, it demonstrated the bankruptcy of those dynasties so clearly that each one of them fell in succession. The Chinese government is not stupid. Its leaders see the role that religious movements have played even in their history.

Of course now you can't pick up the paper without reading about the Taliban, fanatical Islam, right-wing Christianity, and the list goes on and on. While the press periodically rediscovers religion and its force in the world, I find myself a little surprised when religion isn't there somewhere. That became really clear to me. It's one of those conclusions that you reach and then it seems so obvious, you know, "Why didn't we think of that before? Why didn't I think of that before?"

When you think about it, the vast majority of the world's population still professes that religion is very central to their self-identification and to all the important questions in their life, such as how to live a good life, why they're here, what to teach their children, how to organize society, and so forth. In many ways, larger and even modest social movements are often the amalgamation of different people bringing together their respective individual belief systems. So it's not surprising that religion is really quite powerful in terms of how it creates movements.

What is also very clear is how pervasive religious persecution is. Just to give you a small example, a recent study examined 143 countries with populations of 2 million or more during a period between 2000 and 2007 and found demonstrable instances of identifiable religious persecution in 123 of those countries. That's 86 percent! And in a fairly large number of those countries, you could

find 200-plus such incidents over the course of that time. This was true abuse, displacement, torture, and so forth—86 percent of the countries in the world experienced this during a period that we view as a fairly peaceful and enlightened one, and, indeed, in many ways it was.

Why is that the case? Why is this particular right something that you see oppressed so often? Some of the reasons are fairly obvious, I believe. One is that governments tend to fear religion for a number of reasons. One, it presents the possibility of a movement that the government has, at best, minimal control over. It's a counter-organizing force. Governments, particularly those that don't really generate adequate internal loyalty, worry about anything that can generate alternate patterns of loyalty. What is particularly problematic about religion from a government's perspective, especially one that is authoritarian, is that religion presupposes an allegiance to something higher than the state. It presupposes that it is appropriate to have a loyalty that transcends your loyalty to the state. And so you have both an organizational structure and a loyalty ideology that can be particularly problematic.

In other cases, governments find themselves—again, in part because of this incapacity to generate adequate loyalty on their own terms—either unable to control the dominant religion or trying to borrow the legitimacy of that dominant religion. Russia is a good example of where you see this in that the revanchist right is beginning to align in ways to the Orthodox Church to try and secure certain kinds of government legitimacy that otherwise isn't there.

So you see a whole spectrum of reasons why governments find they are either themselves inclined to restrict and control religion, or they allow one religion to control and restrict another religion. There is, therefore, both this sense that religion is powerful in geopolitical terms and that it is threatening, precisely because

of the nature of the power that it represents. Often, that results in religious persecution. But that doesn't answer the third question, which is, "So what? Why should the United States care about that?" There are a lot of terrible things happening in the world. Malaria is a terrible thing. Why should we worry about malaria in our foreign policy? Why do we worry about terrible things? Well, here is where the answers become increasingly interesting and critical. From the U.S. perspective, at one level, it has been important precisely because it does matter to people.

And here's where I want to say something very interesting about Senator Jackson. The Jackson Foundation's *Nature of Leadership* publication is a wonderful book. It's incomplete, however, and let me tell you why I think it's incomplete.

The Jackson-Vanik amendment is fascinating in two or three different ways. It's fascinating because, number one, it morphed into something entirely different than it was intended. As Bill Van Ness, I think, will acknowledge, it was designed to encourage movement on the part of Russia both to a market economy and to allow free immigration of Jews to Israel. It became ultimately a touchstone that created an occasion for an annual review of the human rights record of any country that wasn't a market economy, which includes principally China, Russia, and, of course, the eastern European countries.

It was not how it was drafted and not how it was essentially designed, but it had this wonderful capacity to morph into something different. And it morphed into something different, I believe, because of what's missing. I'm going to edit your book, if I may.

The thing to remember about the Jackson-Vanik amendment is its very interesting timing. It was pressed by Senator Jackson in the middle of the SALT talks. As you will remember, Senator Jackson was somewhat hawkish on Russia and very passionate about

concluding the SALT talks with the Reagan notion of "trust but verify." And he was very serious about the "verify" part. They were very difficult talks. Yet at the exact time that he was deeply concerned about this, he basically set up a law that systematically stuck a finger in the eye of the Russians. That's a remarkable thing for a politician to do. Here was something he cared passionately about, and he was very central, being consulted about this all the time. And at the same time, he turns around and says, nevertheless, we're not going to worry just about Russia limiting its arms; we're also going to press Russia on human rights.

What that reflects to me is an extraordinary capacity to say, no matter what, nothing gets in the way of looking at the moral and the ethical thing to do. That is a remarkable thing. I think because of that and the strength of Senator Jackson's passion on these issues, the Jackson-Vanik amendment transcends the fairly narrow way it was drafted and becomes something that, for decades—really until the Soviet Union broke up and until China became part of the World Trade Organization—defined our capacity to review the human rights records of these countries on an annual basis.

One important element of why the United States needs to think about religious freedom is that it's simply the right thing to do. It matters to people individually, and to many people, it is a central way of defining themselves as human beings. As we think about the world in which we want to live, the capacity for a government to respect and honor that becomes ethically and morally a very powerful compulsion on the part of the United States.

I believe there are very important theological reasons as well. Let me give you just a couple that I think are interesting. One is that if you go back to the notion of what is scary about freedom of religion, it is that it presupposes an allegiance to something higher than the government. That means if a country accepts religious

freedom, it automatically accepts the role of a limited government and accepts the notion that there are certain areas in which it is illegitimate for a government to intrude.

Now, if you think geopolitically about what kinds of notions we would like the rest of the world to be shaped by and do, it's exactly that. That's a very powerful set of characteristics. We would really like to see countries that respect the limitations on their own power, that understand that great Lockean principle that a country that allows people freedom of choice in intimate and personal matters garners the allegiance and turns loose the creative power of those people.

Subsequently, there is some evidence that this leads to the kind of countries and the kinds of geopolitical—but also the kinds of internal—developments within a country that we really admire. And this is not new. As I think about this a little bit, I'm struck by how old some of these notions are. Voltaire, who himself was actually persecuted out of France, in part because his brother was a Jansenist and somewhat critical of the Catholic church, became quite an outspoken critic of both the French government and the Catholic church and subsequently had the opportunity to spend his declining years in England. So he knew this firsthand. He said if there were only one religion, there would be a danger of despotism. If there were two, they would cut each other's throats. Does this sound familiar? But if there are 30, they live in peace and happiness.

His essential insight was almost an economic one, which is, if there's competition, then people keep breaking up into smaller and smaller units and ultimately whatever squabbles religions have among each other become basically simply that, minor societal disagreements and squabbles that really do not affect the individual capacity of people to define themselves and create their own lives.

In fact, Adam Smith picked up on that insight from an

economic perspective. He said, "The active zeal of religious teachers can be dangerous and troublesome only where there is either but one sect tolerated in society, or where the whole of a large society is divided into two or three great sects. Zeal must be altogether innocent," he continues, "where the society is divided into two or three hundred, or perhaps into as many thousand small sects, of which, no one could be considerable enough to disturb the public tranquility."

There is, then, this sense that the observance of the right to religious freedom has a certain capacity to create the kinds of societies we would like to see created around the world, as well as the kind with whom we can do business. It's a very practical matter. Amartya Sen made an interesting comment at one point, saying that no two democracies had ever fought a war against each other. Tom Friedman put it even better. He said no two countries with McDonald's had ever fought a war against each other.

Creating the kinds of countries that are less likely to throw the sharp elbows that have been thrown in much of the history of mankind is very much in our geopolitical interest in a profound way. There are some statistics that make this quite clear.

Freedom of religion is in many ways directly and highly correlated with political freedom in statistically significant ways: freedom of the press, civil liberties, and gender empowerment. There is also some correlation between freedom of religion and a lower percentage a country's GDP being spent on the military, the longevity of their democracy, a lower level of armed conflicts, and so forth. Allowing that freedom easily allows a range of other kinds of freedoms to follow in its wake. And, indeed, in some ways the reverse is also true. Freedom of religion is a sort of "canary in the coal mine." It is often the most threatening freedom and therefore one of the first to be repressed. It is, then, an interesting one on which to

focus because it is often a precursor to the elimination of other kinds of liberties.

Adam Smith may have had it right as well. Religious freedom also has a very high statistical correlation to economic indicators. Countries with higher levels of freedom of religion have much lower income inequality. Women not only have more political empowerment, but also economic empowerment. So gender and economic gaps are much narrower. Countries with higher levels of religious freedom also tend to score higher on livability indexes, with a much higher level of livability, a higher percentage of their GDP spent on public health, higher GDPs, and a lower poverty level. The list goes on and on.

So in a way, the idea of trying to create a society in which these rights are encouraged and fostered has very significant potential correlations to other things we want to see. I believe there are certainly profound and moral ethical reasons why U.S. foreign policy is profitably guided by these principles. In addition, I think there are some very practical reasons that are fairly easy to demonstrate at this point.

Let me conclude with a few comments. I think the lessons for the U.S. are simple—hard to implement, perhaps, but simple. One is internal protection within the United States. This is an area of some debate. I would be happy to talk about it. I do think, generally speaking, on a broad scale of things, we are very good in the United States, but I think we are less good than we used to be two decades ago, and I think that becomes problematic. It's very hard for us to lead if we don't lead by example.

One of the bedrock principles for me is that our capacity to be serious about advancing freedom of religion around the world in a way that is useful to us geopolitically turns on our capacity, in part, to make sure that we are ourselves observing these principles.

I also think we should not shy away from using the tools at our disposal. Jackson-Vanik was enormously powerful as a tool. Certainly it had exactly the effect that people had hoped in terms of Jewish immigration. Over time, it demonstrably shaped the behavior of a number of different countries. I think we still have tools.

The only policy prescription I would make is that we tend to think of foreign policy tools in a negative sense, which works. But I also believe we underutilize positive ones, such as capacity building, rewarding countries that seem to deal with human rights domestically in ways that we consider to be positive. If the Helsinki Accords stand for nothing else, they should stand for the proposition that we are entitled to look at how people treat their own citizens.

Two other modest points that I would like to make, which are obvious, but worth emphasizing. One is that we need to be very sensitive to the complexities of this. When one gives a talk as I have today, it's very easy to say, "So you would basically impose our First Amendment on everybody else." But we have a pretty idiosyncratic First Amendment, to be honest, and certain aspects of it are not shared by other countries. Those idiosyncratic parts of our First Amendment thinking and jurisprudence aren't really essential to creating the capacity to recognize this right. This is not a simple issue where there is an obvious, simple, straightforward answer. We need to be sensitive to and aware of those complexities as countries work this out, number one.

But second, I think we also need to ensure that we couch this in the context of the broad panoply of human rights as well. There are some governments that suppress religion at large because they view it as a threat. There are governments that for one reason or another—largely related to their own weakness—will either not be or aren't able to control a majority religion or will be disinclined to because it gives them a certain kind of derivative legitimacy. That's

less likely to happen if you also couch this right in the context of a broader set of rights. Religion can become oppressive, so couching it in the broader context of human rights gives you a bulwark against the prospect that religion itself becomes a vehicle for violations of human rights and human dignity.

This injunction to try to integrate religious freedom more robustly into our foreign policy is not without its caveats and notes of caution, but within that context, I think there is a powerful case for us to be attentive to this, to find ways to weave it robustly into our foreign policy. I believe ultimately it not only represents the best of Senator Jackson in an ideological, moral, and ethical sense, but also in a very pragmatic and practical way as well.

Thank you.

• • •

Questions & Answers

Craig Gannett: Thank you very much, President Young. That was fascinating. I think we do need to edit the book. Scoop had an incredible sense of right and wrong and, boy, did he stick to his guns when he knew what was right, and you gave a terrific example of it. I would like to take the liberty of asking the first question.

Q: *As many people know, with Russia's ascension to the World Trade Organization, there is a movement underway and a lot of debate in both Washington and Moscow about graduating Russia from the annual review under the Jackson-Vanik amendment. And yet there is a very strong voice being heard from the human rights community in Russia and in the United States Senate by a group of senators who say this was a very important symbol and we shouldn't just graduate Russia and not do something else to advance human rights there. What would your advice be to the Senate and the House on this issue?*

MY: It's a tough question because we have graduated China. When I was on the U.S. Commission on International Religious Freedom, we actually opposed that, and I appeared on the front page with targets on my back in Chinese newspapers for some weeks. I was not entirely welcome in China. But nevertheless, Congress passed it. In that context, we probably need to think about different vehicles. I think it's useful to have this sort of an annual review and have some consequences, but the problem you run into is once countries are in the trade organization, our capacity to use the prospect of withdrawing most favored nation (MFN) status is largely a loser, or at least we'll pay a very high penalty because Russia will take us to the World Trade Organization dispute resolution mechanisms, which

have basically not looked kindly on the introduction of ideological objections to trade. So it's hard to say whether it is, in fact, a fairly illusory mechanism at this point. What is relevant about Jackson-Vanik, I think, is that maybe we can take a principle from it. One of its effects was a finger-pointing exercise, and the International Religious Freedom Act of 1998 made an attempt to do that by requiring the President to designate certain countries as what's known in the statute as "countries of particular concern." Under the statute, if a country is named a "country of particular concern," the President has to do something. In most cases the country can simply call the ambassador and say, "We really are unhappy with your human rights behavior." As it turns out, most administrations have only named countries that are already under sanctions from a terrorist watch, so they just double dipped. For example, they named Sudan. We haven't had relations with Sudan for a decade, so that was kind of a cheap political opportunity. I was surprised, however, to find out how much countries struggled not to be named. There was no real consequence that I could discern that, in the broad scheme of things, mattered very much. But the countries really didn't like to be named, and they would come in and negotiate: "If we did X, if we release these prisoners, if we did this, if we allowed this church to register, would that avoid a designation?" What's surprising about international law is not that countries disobey it. It's the fact that they do obey it most of the time. One of the oddest elements of international law is that you have virtually no enforcement mechanism, and yet most countries want to be viewed as compliant with international law. And oddly enough, in my negotiations in the State Department, number one on that list was Russia. There are really only two countries that I think I ever negotiated with that I thought actually intended to keep their international agreements: Russia and the United States. The Europeans, for example, would

agree to anything. They didn't care because they had no intention of ever living up to any of it. But the Russians did, and they would negotiate like crazy. There is a certain kind of respect, a certain want, desire for dignity, and belonging in the international community. I think that gives us some opportunities to think of devices that may be drafted to back up international law. I think that through Jackson-Vanik we can continue to review, but, as I said, it's pretty illusory. If I were the Russians, I wouldn't even bother to show up anymore because you can't do anything about it.

Q: *You spoke about the strong moral and ethical sense that Senator Jackson had in terms of doing what was right. And yet that clashes, both in his time and in our time, with the concept of Realpolitik. And you touched upon the pragmatic issues and the difficulties of sometimes stepping into an issue that can be fraught with many complications. Can you talk about that balance a little bit?*

MY: The essence of the question is, was Henry Kissinger actually right, right? Isn't that the essence of the question? I don't know. Disraeli was asked by the queen, "Who are our friends?" And he looked at her and said, "Madam, England has no friends. We only have interests." And I think there is a perspective from which you can say we always have to figure out what our practical interests are. But I will be honest with you. I think when our interests and our values align, we tend to do a lot better. I'll give you a small example of that from when I was in the State Department during the first Gulf War. What came out of the war was this alleged mistake of our ambassador, who went in and talked to Saddam Hussein and was not clear enough that going in and snatching Kuwait was going to be annoying to the U.S. There was a lot of banter back and forth about whether she should have been stronger. I actually think that's one step removed from where our real mistake was. Our real mistake, I believe, was that we had a very bad relationship with Iran because of

the hostage situation. So when Iraq attacked Iran, we basically said, "We don't like either of them. The enemy of our enemy is our friend, so go do whatever you want." It was a gruesome, bloody war. What we should have said, I believe, is "No, nobody likes Iran less than we do, but you can't simply go in and try to snatch another country." We should have said it in the UN Security Council. We should have said it to Saddam Hussein. We should have said it to everybody. Our failure to say that, to stand on a certain principle despite the fact we felt a strong Iran wasn't in our interest, I think led very directly to Saddam Hussein's thinking, "Well, the U.S. won't really care if I go after them. Why the hell would they care about Kuwait, this little country over here that's run by Filipinos?" I do think when our interests and our values align, we do much better, practically speaking. I think we tend to do our worst when we don't align, and I think history is replete with examples of that. I get the point that sometimes you say, "Let's think of Realpolitik and let morality and values be damned." I think we do badly when we do that, and I think you can look at a large number of our failures and probably tie them pretty directly to that. That's an enormous judgment, and certainly it's debatable. Were Henry Kissinger here, I would be excoriated. While I understand that, I believe that history teaches a different lesson. I do believe it is very complex. I think what our moral values are in different situations is very tough to figure out. I don't mean to suggest that by simply saying we're true to our values, therefore it's obvious what the answers are in a lot of these cases.

Q: *There was a comment that Congress represents our values and the Executive Branch represents our interests. Can you elaborate a little bit on that?*

MY: I continually see it in the human rights field. If you look at all the human rights legislation, it is designed, frankly, to push the administration in the foreign policy area. And it is resisted by every

administration, Republican or Democrat. Every time this kind of legislation comes up, the State Department rolls its eyes, because they believe it restricts its scope of freedom in which they would like to operate—to be nice to dictators if that's what it takes to get the trade agreement through, and so forth. To have to beat them up over human rights when you're trying to get a SALT agreement or a trade agreement makes the State Department's role more complicated and more difficult. Congress, on the other hand, which does not have foreign affairs power, nevertheless wants to push the administration in that direction, so I think that's a continual tug of war. It's not the only tug of war, to be sure, but it's one that seems to be pretty consistent during the postwar period.

Q: *This is a question that seems to be relevant to the Jackson environmental legacy, and I'm wondering if you foresee any time in the future where, perhaps, environmental justice can be incorporated into the legal framework for this generation?*

MY: That's a great question. I was going to say I had the opportunity, but I would say I had the burden, of being one of the chief negotiators on the United Nations Conference on Sustainable Development in Rio. What was interesting about Rio is that when you really boiled it down, there was an interesting way of looking at it, which was, it was not accidentally called a Conference on Environment "and" Development. That was a very important element from the developing countries' perspective because what they were basically saying was, "Look, you used all this sort of environmentally absorptive capacity of the world to develop at your level and now you want us not to do that. You want us to slow our development so you can drive your SUVs and so forth." I remember one of the Pakistani delegates coming up to me at one point. We were talking about ozone depletion, and he said, "Mike,

look. You've got to understand. My people live from cave to grave." He said, "Nobody lives long enough to die of skin cancer from ozone depletion. I don't care." And it was hard to argue. He wanted refrigerators. That would change their lives in significant ways. He wanted ozone. It was pretty simple. Part of the tension was them saying, "Wait a minute." You know, "You have this life and we want it, and you ought to stop developing and using environmental capacity and let us do it for a while." The developed world had a somewhat different perspective: "Wait a minute. We did develop badly. We get it. We raped and pillaged the earth, and we get it. We now think we know a better developmental pattern that is more sustainable, and that's what we would like you to do." The response to that was, "That's expensive. Pay us for it." In the end, what it really came down to was if you want us to take this different path that is more expensive and time consuming, then you make up the difference. You benefited from not doing that; now you ought to pay to do that. That's where, when you pressed most of the negotiations, they broke down, because it requires a significant transfer of funds from the developed world to the developing. There was an interesting counter-argument to that, which came out of the United Nation's report that year on the environment and development. If you look at almost every element of environmental degradation and plot it against GDP growth, it goes like this. If you look at the eight or nine major pollutants, one of them—essentially, air pollution—keeps going up because you have more cars and so forth. Everything else drops off the cliff. That is to say, as your GDP reaches about $3,200 per person, all of a sudden your environmental protection in a country increases exponentially. So the other argument was, let's not even worry about the environmental part. Let's do the development part because if we can get everybody developed, then all the environmental problems will be solved. There are a lot of different kinds of competing

tensions with these theories. Almost all of them involve money—and significant amounts of money—that have to be transferred from one place to another. Until you see countries prepared to stand up and make those transfers, it's hard to see it happening. In my judgment, the likelihood of it getting woven deeply into the international legal fabric is probably minimal. That's a candid assessment, but that's what I suspect.

Q: *You've spoken about the tug of war and the tension between interest and values, and you also talked about how we never use our positive tools to enforce human rights. My question is about defense spending versus spending on development. How might the policy prescription shift over the next couple of years as we go into the presidential election? What would your recommendation be?*

MY: My recommendation would be—it's a little controversial, I suspect—but I would reduce defense spending quite a bit. Unless we really choose to be the policemen of the world, I don't believe there's a realistic perspective from which the size of military that both parties are sort of claiming we need, we really need. I don't get that at all. I find the arguments entirely fallacious. I would actually make significant cuts there, and I would begin to put the money into developmental capacity building aid, of which we are very low, comparatively speaking, compared to much of the rest of the developed world, but I would target it. I think there are examples of when we've done it well and examples of when we've done it badly. I think we ought to realize how we certainly have not enhanced certain countries' own capacity building, and in other countries where we have actually taken a somewhat slower, more moderate and targeted approach, we have actually done quite a bit of good. I would infuse into that some of these value-based issues as well. I believe, again, the correlation between rights and the other things we want to derive out of these policies are considerable. There's a very high correlation.

CG: I want to close with just one more comment. Those of you who know the Senator and his history know how much he valued rigorous intellectual review of policy and positions that he would take and how he reached out to academia and many others to give him a strong intellectual foundation for his decision-making. It is particularly appropriate to mark the centennial of his birth with this thoughtful and stimulating talk. Thank you again, President Young.

1501 4th Avenue,
Suite 1580
Seattle, WA 98101
Telephone: 206.682.8565
Facsimile: 206.682.8961
E-mail: foundation@hmjackson.org
Website: www.hmjackson.org