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HUMAN RIGHTS AND UNITED STATES FOREIGN POLICY:  
REALISM VERSUS STEREOTYPES

Margaret Crahan

Occidental College  
Los Angeles, California

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HUMAN RIGHTS AND UNITED STATES' FOREIGN POLICY:  
REALISM VERSUS STEREOTYPES

Margaret E. Crahan  
Occidental College

I. INTRODUCTION

A prime impediment to the utilization of human rights criteria to build a more effective United States foreign policy has been the prevalence of popular misconceptions in this area. One of the most common misconceptions is that a strong human rights posture is antithetical to the pursuit of national security interests. An alternative position is that these two priorities are mutually supportive, with the promotion of basic human rights being the key to long-term domestic and international stability. Recent developments in the Western hemisphere have highlighted the relationship between the international satisfaction of basic rights and the maintenance of United States' stability. For example, as the destabilizing effects of massive emigration become more apparent, the benefits of United States' assistance in meeting socio-economic needs in other countries has become more apparent. The case of Mexico is indicative. Since the 1920s, Mexico has been one of the most politically stable countries of Latin America. This is, in part, due to the fact that while substantial economic inequalities exist in Mexico, there has been improvement over time in meeting food, housing, sanitation, health care, and educational needs.<sup>1</sup> Recent Mexican economic reverses have led to a massive upsurge of immigrants to the United States and the growing realization of the need for increased United States assistance in fulfilling socio-economic needs in Mexico. The Caribbean Basin Initiative is another reflection of this growing belief.

There is also a growing sense that the meeting of basic needs is a prime weapon in dealing with guerrilla insurgencies. Although this linkage has been insisted upon in Central America, the impact in combatting the appeal of Marxism has been undercut by the United States' identification with governments which engage in gross violations of human rights. The Central American crisis, consequently, suggests that an effective United States' foreign policy must be based on the promotion of both socio-economic and civil/political rights.

Employing human rights as a foreign policy criterion is in no sense an assertion that the United States is without blemish in its own rights record. It does, however, reflect a belief that human rights are related to the legitimacy of the United States' political and economic system. Any competition with political and economic rivals such as the Soviet Union, will be determined in good measure

by demonstrating the superiority of Western liberal democracy and capitalism over the Communist state and socialist economy--not only in terms of material benefits, but also in terms of the values propounded. Human rights are an expression of those values which have universal appeal despite obvious historical and cultural differences.

Such differences have not obviated the growth of consensus concerning basic human rights. These include the right to life and the means to maintain it with dignity. The latter includes respect for the physical integrity of the person, freedom from arbitrary arrest and imprisonment, the physical requirements for life (food, clothing, housing, health care), as well as prerequisites for self-reliance (education and effective political and economic participation). Increasingly, basic human rights are accepted by specialists as priority claims on society and government that inhere in persons or groups of persons. The idea that human rights depend for their validity on legal recognition or social practice has been increasingly rejected.

However, human rights frequently do require positive government action. As a consequence, during the course of the 1960s and 1970s the enjoyment of human rights was increasingly seen to require that governments not only refrain from certain actions (for example, arbitrary arrest, torture, imprisonment, censorship, illegal search and seizure), but that they also take positive action to fulfill other rights, particularly economic and social ones. Although this concept was embodied in a declaration of the duties and responsibilities of states drafted at the time of the adoption of the Inter-American Declaration of human rights in the late 1940s, it did not gain much currency until recent years.<sup>2</sup> This change, and the growing realization that respect for civil/political rights is directly related to the fulfillment of social, economic, and cultural rights, are major developments in the building of a consensus on human rights issues in recent years.

The existence of some consensus in this area is further supported by the increasing internationalization of human rights documents and organizations. It was the desire to reach a consensus on a normative basis for peace, without ignoring the real differences between cultures and political and economic systems, that led to the drafting of the Universal Declaration of Human rights and the American Declaration of the Rights and Duties of Man in 1948. Affirmation of the principles expressed in these documents has been demonstrated by the approval of implementing covenants and conventions. In 1976 the United Nations' International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights came into force. As of December, 1979, seventy-five countries had ratified or signed these covenants.<sup>3</sup> The American Convention on Human Rights entered into force in 1978, and as of mid-1983 seventeen Western hemisphere nations had ratified it.<sup>4</sup> The creation of the Interamerican Commission of Human Rights (1960), the Interamerican Court of Human Rights (1979), and the Interamerican Institute of Human Rights (1980) by the member states of the Organization of American States (OAS) further indicates the extent of this consensus.<sup>5</sup>

The charge that organizations such as these tend to worry only about the rights of important politicians, rather than more general threats to society, is not upheld by an examination of their work. As the creations of the member states of the Organization of American States, both the Commission and Court are legally bound to focus in the actions of governments. The Commission has also concerned itself with some generalized threats to society.<sup>6</sup> The Commission, however, does not have the legal authority to investigate either terrorism or subversion.<sup>7</sup> The Interamerican Institute (which dedicates itself to the promotion of human rights through research, education, and publishing) has dealt with terrorism' most notably at a conference in September 1982. Admittedly, these and other human rights agencies--both governmental and non-governmental--are sometimes the object of political pressures, and they reflect ideological differences and other divisions. Nevertheless, their activities help promote respect for human rights, which legal scholars admit has increasingly become an international legal obligation of states.<sup>8</sup>

This is the case even though there are both sharp ideological differences and systemic variations which affect the conceptualization and enjoyment of human rights. Nevertheless, scholars and practitioners find some overlap between Western liberal and socialist views on this issue, as well as between industrialized and developing countries. This is not to gloss over differences in this regard, but rather to argue that treaties, international documents such as human rights covenants, and international law do reflect a degree of consensus. So, too, do the actions of international organizations and agencies constituted by states to deal with human rights. This consensus exists even though difficulties do arise "from the differing paradigms with which development and human rights are perceived in the capitalist, socialist, and Third World. These differing paradigms stem from different world views and, therefore, different conceptions of the nature of human rights and the priorities for action and change."<sup>9</sup>

Recognition of the existence of human rights does, then, cut across' cultures, ideologies, and national boundaries by virtue of shared humanity. Human rights are not defined in totally different fashion by virtue of such attributes as nationality, social position, or political and economic system. Although there is almost no survey research on the question of the extent of this consensus, the results of one study are illuminating. In an examination of nine groups in three different socio-economic categories in the Brazilian municipality of Nova Iguaçu, researchers found that--contrary to their expectations--there was considerable unanimity as to what constituted basic human rights. These were the right to life and the means to support it in a dignified fashion. Respondents gave higher priority to basic needs such as food, clothing, sanitation, and access to health care and education than to the right to property. Respondents also shared a sense that all individuals should enjoy equality of opportunity and economic security, and be allowed to participate in political decisions in order to influence the direction of society.<sup>10</sup>

These and other data indicate that to suggest that there is a degree of consensus on human rights issues is not to assert that all countries will have the same level of observance, but rather that there is a minimal level of human rights protection that should be strived for. Nor do human rights specialists argue for a single measure for all societies, particularly given differing levels of development.<sup>11</sup> However, a minimum standard of human rights would include the right to life and the means to sustain it with dignity, as well as freedom from torture and arbitrary arrest and imprisonment. The fact that some regimes violate these rights is not proof that there is no consensus on this question, but rather that there are rights violations.

Human rights violations themselves have contributed to the building of consensus in this area. This is attested to by the fact that an upsurge of human rights violations in the 1960s and 1970s produced a concomitant proliferation of efforts--local, national, and international--to combat them.<sup>12</sup> A principal result of the activities of human rights activists and organizations has been an increase in agreement concerning what basic human rights are, what relationships exist among them, and which rights should be given priority. Again, this is not to suggest that there is perfect agreement on these issues, but rather that crisis situations in countries such as Argentina, Bolivia, Brazil, Chile, El Salvador, Guatemala, Haiti, Nicaragua, Paraguay, and Uruguay--which contain more than half (54.6%) of Latin America's population--forced both individuals and institutions to rethink the role of rights in the maintenance of social concord and the promotion of political and economic development.<sup>13</sup> One concrete example of this focusing of attention on human rights issues is the fact that no other single topic received more attention from the press and publishers throughout Latin America in the 1970s.<sup>14</sup>

A principal argument used by international legal scholars in support of the existence of a consensus on basic rights has been the incorporation of articles relating to rights into the constitutions of over one hundred fifty countries. Admittedly, there is some variation in the rights included and the priorities given them. Virtually all of these constitutions focus on the right to life with dignity.<sup>15</sup> To argue that variations in culture, value, and historical experience obviate the possibility of some consensus flies in the face of this reality. It also suggests total cultural relativism, a concept disputed in most social science literature. Furthermore, analyses of the concept of human rights in the world's major religions indicate that there is a level of agreement on core rights.<sup>16</sup>

Variations in historical experience, culture, and values definitely affect conceptions of human rights, but primarily in terms of priorities and strategies for their fulfillment. To argue that it is impossible to have a consensus concerning basic rights because there is no agreement in the academic and political worlds on what is just, democratic, moral, and conducive to public order and the common good is to fall again into total relativism unsupported by reality. There is agreement, for example, that genocide is immoral. The fact that it occurs does not mean that there is no consensus that it is immoral, but rather that basic human rights can be violated.

It is even less convincing to argue that variations in the texts of human rights documents prove there is no consensus in this area. This is using textual analysis to deny that government officials representing a broad spectrum of peoples concurred sufficiently on basic principles to draft such documents as the Universal Declaration of Human Rights, as well as the American Declaration of the Rights and Duties of Man. Such actions were not utopian, but rather pragmatic efforts to achieve greater societal stability.

Another stereotype is that human rights organizations tend to condemn right-wing regimes for human rights violations while ignoring the abuses of left-wing governments. This charge was frequently levelled against the Carter administration. It has little basis in fact. The Soviet Union has been the most frequent object of reports concerning human rights violations by such organizations as Amnesty International and the International Commission of Jurists, as well as a variety of church groups and United States' and international governmental agencies. In Latin America, Cuba has been the most frequent object of attention by the nongovernmental and governmental rights agencies. Since the Sandinistas took power in 1979, Nicaragua has been the object of close scrutiny.<sup>17</sup>

An admitted danger of a strong human rights posture in United States' foreign policy is the charge that the United States is sitting in judgment of other countries and has assumed a position of unwarranted superiority. This problem has been recognized by United States' policy makers, even if it has not always been dealt with successfully.<sup>18</sup> A related charge is the allegation that the United States' government and human rights specialists in this country fail to recognize that the United States is part of the problem. This is particularly aggravating for Latin American countries which have been the objects of United States' imperialism, colonialism, interventionism, economic and nuclear arm-twisting. What this view does not recognize is that the recent United States' interest in human rights flows, in large measure, precisely from an agonizing reappraisal of the legitimacy of United States' foreign policy and the morality of the political leadership of this country.<sup>19</sup>

The roots of the current interest in human rights lie at the heart of a crisis of confidence in the United States' political system and leadership. In the aftermath of the Vietnam war and Watergate, there is a desire to reassert certain basic democratic values. Such efforts have admittedly been partial and occasionally counterproductive. This is partially the result of the fact that these values and their relationship to governmental policies are ill-defined. This has been particularly true of the role of human rights in informing United States' foreign policy. Hence, it has been relatively easy to stereotype these efforts and categorize them as utopian or cynical. This points up the critical need to rethink both the relationship between human rights and United States' interests and the best means to promote them over the long-term in a conflictual world.

This essay argues that a foreign policy supportive of greater national and international observance of human rights is likely to promote political stability. To accomplish this it is necessary to transcend popular stereotypes and incorporate human rights criteria into the making of United States' foreign policy. To stimulate this process--which is already underway, albeit haltingly-- this study will examine the nature of the human rights problem as it related to the Americas,<sup>20</sup> the consequences if rights violations for hemispheric stability, past United States foreign policy concerning human rights, the means developed (particularly in Latin America) to defend human rights, and the question of whether the United States can assist in these efforts while respecting the principle of non-intervention. The paper concludes with some specific recommendations for United States' human rights initiatives in the 1980s. These are derived from past experience and do not hold forth any guarantee of utopia. It is hoped that they might make United States' foreign policy more effective, and ultimately conducive to hemispheric stability rooted in social concord.

## II. CONSEQUENCES OF VIOLATIONS OF HUMAN RIGHTS FOR DEMOCRACY AND HEMISPHERIC STABILITY IN THE 1980s.

There are three commonly recognized contexts in which human rights violations occur in Latin America.<sup>21</sup> Countries which have experienced on-going political violence as a result of official repression of substantial and persistent political opposition constitute one group. This opposition was frequently strengthened by economic development, increases social mobility, and political differentiation in the 1960s and 1970s. El Salvador, Guatemala, and Colombia typify this category. A second category is composed of personalistic dictatorships confronted by relatively weak political opposition which is normally kept in check by the constant use of repression. Given the generalized internalization of fear in such societies, broad-based opposition does not normally exist. Haiti and Paraguay are exemplars of this type.

More recently, a new category has emerged consisting of several countries in South America (Argentina, Brazil, Chile, Uruguay) in which historically there was a certain degree of enjoyment of human rights. These countries underwent a process of polarization in the 1960s that had its roots in growing disenchantment with traditional politics and parties and established reformist, developmentalist economic models. Influential sectors of the national elite--intellectuals, for example--increasingly accepted Marxist critiques of capitalism, while others, including the military, turned to conservative solutions emphasizing centralization of power in the executive branch of government and the imposition of monetarist economic models. This led both groups to turn toward radical solutions, with progressive elements (including some church people) increasingly justifying Marxist revolutionary change. This contributed to the legitimization of guerrilla movements. The threat of armed revolution, together with the inefficacy, incompetence, and corruption of many civilian governments, convinced the increasingly professionalized military that they should act to "save" their countries. Strongly anti-Marxist, they viewed both violent and non-violent proponents



of class conflict and revolutionary change as disloyal and not deserving of civil or political rights. The spread of such governments in the 1960s and 1970s hence resulted in human rights violations on an unprecedented scale.<sup>22</sup> The greatest recent proliferation of human rights activities occurred in these countries.

In recent years in Latin America, differences over human rights have resulted from the prevalence of authoritarian definitions of the state. In Argentina, Brazil, Uruguay and Chile, for example, the state is regarded as an organism having natural rights that predominate over individual rights. The definition of the rights of a citizen is, therefore, a diminished one. Furthermore, individuals who challenge the state, either through violent or non-violent dissent, are categorized as non-citizens and, hence, have no claim to rights. Individuals whose racial/cultural identity or religious beliefs set them apart from the state's vision of a citizen can also suffer from a denial of rights. In personalistic dictatorships such as Paraguay and Haiti, power is concentrated in the hands of an individual and, hence, it is assumed that violations of human rights will subside once there is a transition to less autocratic rule. In polarized societies in which there is ongoing conflict (for example, El Salvador, Guatemala, and Colombia), violations tend to increase according to the seriousness of the challenge to the existing government. In these countries, there has been less generalized human rights activity and, hence, they are less illustrative of means for their defense. In order to better indicate effective strategies, this paper will, therefore, focus on countries in which human rights activities are more highly developed.

Human rights activists in Latin America generally regard the most serious long-term threat to human rights to be the growth of national security ideology.<sup>23</sup> Although elements of this ideology can be found throughout the Americas, it has reached its fullest expression in the Southern Cone. National security ideology has little to do with the right, recognized in international law, of a nation to protect itself from external or internal attack. Rather, it is a systematization of concepts of the state, nation, and war which gives absolute priority to national security. Because the state is considered to be an organism with its own needs, these supersede individual rights. In addition, the judgment of the ruling elite takes precedence over the rule of law. Because the nation, state, and armed forces are identified as one, a challenge to one is regarded as a threat to all. Criticism of the military is thus regarded as unpatriotic. Loyalty to the nation is confused with support for a particular government.

Control of the state by the armed forces is justified as the only means of realizing the nation's economic and political destiny. The enormity of this task helps explain why when the military took power in Brazil in 1964, Uruguay and Chile in 1973, and Argentina in 1976, it intended to retain power indefinitely, in contrast to the previous tendency to relinquish political power to civilians once order was thought to have been restored.<sup>24</sup>

payments is in surplus or deficit,

The consolidation of national security states in Latin America has resulted in the suspension of constitutional guarantees through declarations of states of emergency and/or siege and the expansion of operations by security forces and clandestine paramilitary groups. They, together with the armed forces, regard themselves as engaged in a total war against subversion in which no quarter is to be given. This results in the sanctioning of the use of torture, assassination, and other violations of the physical integrity of the person. Violations of legal rights, censorship, the dissolution of existing means of political and economic participation (for example, political parties, labor unions, urban and rural popular movements), and the suspension, reconstitution, or abolition of legislatures also occur. Governments often justify such actions on the basis of real or alleged guerrilla or terrorist activities, economic stagnation or decline, and the inefficiency, incompetence, and corruption of the previous government. Rights, it is argued, must be restricted in order to unleash national potential to meet the common good, as defined by a hegemonic elite and the requirements of particular political and economic models. These requirements emphasize a highly centralized state with power concentrated in the executive and the elimination or the subordination of the legislative and Judicial branches. Traditional means of popular participation are replaced by corporate mechanisms aimed at organizing and mobilizing the populace in support of the government, rather than allowing for the formation of groups representing competing interests. Economic policies give priority to the use of market forces to control and discipline the work force.

Dissent is not regarded as a legitimate exercise of one's rights. This contributes to violations of freedom of opinion and expression, of peaceful assembly and association, and of the right to participate in government either directly or through representatives. Furthermore, in this context the rights of political prisoners are not recognized, for they are not considered deserving of the benefits of citizenry because their actions are deemed contrary to the rights of the nation, which supersede those of the individual. In sum, there is a concentration of authority in the hands of a hegemonic elite which redefines the rights of the state and the individual so that the former overrides the latter. Violations of the physical integrity of the person abound when constitutional and legal guarantees are suspended, creating a climate of fear which facilitates the consolidation of power and the implantation of the machinery of repression.

Few human rights organizations existed when national security states began to emerge. Those which did focused more on legal recourses than on humanitarian aid. The invoking of legal protections such as habeas corpus and appeals to the courts were generally relatively ineffectual.<sup>25</sup> Nevertheless, the absence of alternative instruments or strategies other than those provided by traditional jurisprudence tended to focus human rights activities on the courts. This has been the case in Brazil, Chile, Uruguay, and Argentina. In countries which do not have independent judiciaries--such as Paraguay, Haiti, El Salvador, Nicaragua, and Guatemala--the response of human rights activists and organizations to crisis has been to focus on the publications and dissemination of data concerning violations in the hope of generating pressure,

particularly at the international level, that will result in a reduction in government rights violations. Countries with a critical mass of lawyers and others willing to attempt to use existing legal structures stand a better chance of galvanizing and focusing energies and activities. Over the longer term, the knowledge and experience gained in this way can serve as the basis for the development of mechanisms and strategies capable of reducing repression or ameliorating the consequences of any resurgence in human rights violations.

In both national security states and more traditional personalistic or military regimes, the inculcation of fear is a prime means of stifling dissent and discouraging the activities of established political organizations. Secrecy is an effective means of maintaining the level of fear necessary for almost total social control. This is often facilitated by the expansion and technological upgrading of the intelligence apparatus.

Efforts are also made to use traditional values and beliefs to legitimate government actions and policies. Such efforts, together with actual human rights violations, frequently bring these governments into conflict with the Roman Catholic Church and other religious organizations to such an extent that the latter frequently become the most vocal critics of the state. This happened in Chile after 1975, Brazil in the early 1970s and, to a degree, in El Salvador and Nicaragua in the late 1970s.

The assumption of this role by religious groups is the result of a combination of international and national factors. Chief among them have been theological and pastoral developments within the Catholic Church stimulated largely by the Second Vatican Council (1965-1972) and the Medellin Conference of Latin American bishops in 1968. These two gatherings defined the mission of the Church as the promotion of social justice, human rights, and peace. Theological justification for this was provided by the theology of liberation, which emphasized the responsibility of the Christian to struggle for the creation of the Kingdom of God on earth. The special duty of the Church was seen as the defense of the poor and exploited. In addition, the Church as an institution was increasingly deemphasized in favor of the Church as a community of believers. These developments caused the Church to expand its activities among rural peasants and urban slum dwellers, which in turn helped to politicize church-people. Similar trends were apparent among mainline Protestant denominations in Latin America in the 1970s.

Such developments opened the way for greater receptivity of church-people to political and economic change, including socialism. Although few subscribe to Marxism, a good number have lost their faith in capitalism. The vast majority of church-people do not support violent revolution, but ideological and political polarization in Latin America caused the Catholic Church to be increasingly identified with the radical left. As a result, it became the object of repression. This tended to cause the Church leadership, including conservatives, to unite in defense of their personnel and in opposition to the generalized violation of human rights. In countries in which traditional mechanisms of political and economic demand-making were suppressed, the Church attracted many of those seeking to express their opposition to the regimes. Hence, alliances were built

between church-people and secular activists further involving the Church in politics.

More recently under the leadership of Pope John Paul II, there has been a moderation of progressivism within the Catholic Church and increased attempts on the part of the Church hierarchy to reassert doctrinal and political orthodoxy, including anti-Marxism. This is clearly the case in Nicaragua, and recent leadership changes in the Archbishopric of Santiago de Chile and the Brazilian National Bishops' Conference suggest a reassertion of centrist positions. This, however, depends on continuing improvement in the governments' human rights records. In countries such as Guatemala and Argentina, progressive elements such as the *Cursillos de Capacitación Social* and the Third World Priests Movement were squelched by the Church hierarchy and government officialdom in the mid-1970s. Only recently has the Catholic Church in these countries strongly criticized human rights abuses by the state.<sup>26</sup>

The involvement of the Church in human rights activities made more resources available, particularly from abroad. It also provided important national and international networks for the dissemination of information and documentation on rights violations. Furthermore, church involvement legitimated efforts in defense of human rights and offered some protection to activists.

After the consolidation of authoritarian national security states, or when guerrilla threats or generalized public protests subside, government repression generally is less visible as challenges to its authority become relatively infrequent or remain within certain bounds. The reduction of outright repression makes the molding and control of public opinion increasingly important and, thus, there is generally more attention devoted to the media, education, the gathering of international support, and expressions of national strength. This increases the importance of the role of human rights organizations in documenting and publicizing less obvious rights violations, together with their continued efforts to use existing structures to reassert legal protections and increase their own legitimacy as representatives of alternative visions of society. The latter is accomplished primarily through their own publications and mass education.

The consequences of the internalization of repression by the general populace have only recently begun to be studied. Human rights organizations have an important function in pointing out the abnormality of existing situations. The psychological toll of repression must be measured in terms of the context which it creates--not just in terms of those who are detained, tortured, or imprisoned, but also in terms of its impact on the general populace and ultimately on the polity as a whole. Preliminary research suggests that the building of democratic structures in these societies will encounter serious difficulties in mobilizing the citizenry to participate and become less passive and fearful of government.<sup>27</sup> After the more notorious violations of human rights decline, there is sometimes a decrease in international support for human rights organizations and activities. This is regrettable because human rights organizations at this point generally have more

capacity to take advantage of government weaknesses or emerging political liberalization.

In the case of Brazil, human rights organizations were joined by established parties, unions, and other groups in exploiting the official policy of abertura ("political opening") to create more space for their own activities. Their primary objective was to ensure a role in the transition to a new government, as well as participation in that government.<sup>28</sup> Liberalization or the disintegration of a regime may cause individuals, groups, and institutions which had not previously been active in the defence of human rights to begin to act (for example, the Catholic Church in Argentina), and past unreported violations may become known. Thus the demands on human rights organizations continue to be intense.

These include: (1) ensuring that their experience is used in the formulation of the new government's structures and policies, particularly with respect to those which promote the rule of law and its evenhanded application as well as the creation of an independent judiciary; (2) seeing that major violations which were previously unknown are documented and redress is sought; (3) promoting civilian control of the military through work with both civilians and members of the armed forces; (4) revising more effective means of popular participation in government decision-making. This last task is an appropriate one for human rights organizations because they often serve as exemplars of broad-based, multiclass coalitions potentially capable of transcending the problems of the partisan, narrow-based political parties which contributed to the instability of past elected governments.

To accomplish these tasks, it is necessary that human rights organizations remain in existence and are assisted in contributing to the creation of democratic governments and stable societies. This means that it is essential that they have the resources to reach those within society who, through lack of knowledge or fear, were unable to seek the help of such organizations previously. The vast majority of human rights organizations are based in capital cities and are limited in their ability to assist the urban or rural poor. If human rights are not to continue to be submerged periodically, then the research and analysis human rights organizations have initiated and stimulated must be continued, together with the fortifying of the legal and political base for democratic control.

This model of non-partisan cooperation in human rights organizations and among them should be used in building coalitions to participate in government, as well as to provide alternative associational models for the general public. To do this, the mass educational role of human rights organizations needs to be developed and fortified. The fact that human rights organizations have the potential to undertake these tasks is a direct result of the emergence of some consensus of human rights in Latin America over the past twenty years.

A review of the general consequences of repression in Latin America during that same period and the specific impediments to human rights advances suggests policy constraints for the United States, as well as for other actors. The denial of life, liberty, and the security of the

period in recent years resulted from a confusion on nation, state, and armed forces that led to the designation of political opponents--violent and non-violent alike--as traitors without the rights of citizens. The exercise of the state's coercive powers in such fashion is contrary to the rule of law and, as such, directly undermines the basis for order within society.

The identification of the nation, state, and armed forces also creates conditions in which criticism of the government or military is regarded as treason. There is no recognition that loyalty to one's nation is not the same as loyalty to the state, and that the latter can be withheld if a government acts illegitimately. Views such as these held by repressive regimes have led to wholesale violations of freedom of opinion and expression, of peaceful assembly and association, and of the right to take part in and change governments.<sup>29</sup>

The arbitrary exercise of state power requires undermining the independence of the Judiciary, which is frequently suborned or disregarded in favor of military courts. Purges of judges, arrests or expulsions from the country of lawyers who defend political prisoners, secret trials, and other violations of the right to a free trial also result. The concentration of power in the executive branch of government has led to rule by decree, which further circumvents the rule of law and the representativeness of government. As a result, it is frequently necessary to increase repression as opposition to the illegal and arbitrary exercise of power mounts. The end result is distrust and disrespect for government authority.

This tendency is reinforced when state power is used to impose and sustain economic policies which, rather than stimulating long-term economic growth as promised, lead to declines in real wages and escalating unemployment. Such phenomena decrease markedly the lower classes' capacity to fulfill their basic needs. Furthermore, these policies require the suppression of independent trade unions, imprisonment or expulsion of labor leaders, prohibition of strikes and coalitions of workers, as well as labor and management, not under government control. These violations become a significant part of the institutionalization of mechanisms of societal control. Hence, even after torture, disappearances, and assassinations diminish in frequency, rights violations continue and contribute to the maintenance of fear.

The persistence of these actions in Chile and Argentina, and the continued assassination and imprisonment of opposition figures in El Salvador, Guatemala, Haiti, Paraguay, and Uruguay, contrasts with the virtual abandonment of such tactics by the Brazilian government. Such contrasting situations reflect differences in the sophistication and effectiveness of institutionalized methods of societal control in these countries.

Even a return to non-authoritarian government is no guarantee of long-term respect for human rights. Instead, the experience of Peru since July 1980 and the prospect of civilian government in Argentina suggest that the violations of human rights will continue: so long as the

rule of law is not firmly implanted; the judiciary is not relatively independent; constitutions are not purged on articles giving the executive branch and armed forces extraordinary powers in all but exceptional situations; when a substantial proportion of the population does not have access to the level redress of abuses; while lawyers and ordinary citizens continue to be fearful of government or lack confidence in public officials; while the security apparatus that engaged in the abuse of rights remains in place and not under strict controls; while the mentality of the military remains relatively unchanged the military remains relatively unchanged; while the armed forces are not subject to legal penalties for illegal or unconstitutional actions; while the military does not accept civilian control, and governments are wary of exerting it; while corruption and arbitrariness infect government bureaucracies; while governments believe they can act with impunity in disregarding the needs of the people; and while governments believe other countries will remain mute in the face of violations of human rights save for the most notorious ones.

Because the conditions enumerated do not lend themselves to easy solutions, it is obvious that what is required is a permanent commitment to the strengthening of human rights through the expansion of the machinery to promote and defend them. The crux of a successful human rights policy is, therefore, an awareness of the depths of the problem, a careful evaluation of the effectiveness of means developed to guarantee human rights, and a commitment to employ them on a permanent basis.

### III. THE MEANS DEVELOPED TO DEFEND HUMAN RIGHTS

The principal means developed to defend human rights have been (1) the documentation and publicizing of violations in order to mobilize influential national and international sectors, as well as the general public, and (2) recourse to the courts. Most of the resources available to human rights organizations are devoted to these activities, and they are generally the actions taken first in crisis situations. However, in order to be effective, both the documentation and publication of violations and Judicial efforts must be supported by analysis, education, and training. These constitute the other main areas of human rights activities.

#### Documentation and Publicizing of Violations

Most human rights organizations (local, national, and international) devote the bulk of their energies to the investigation and documentation of violations. This strategy has been used successfully by a wide variety of groups, ranging from Church-related justice and peace committees to national human rights commissions and international organizations such as the OAS' Interamerican Commission of Human Rights, the International Commission of Jurists, and Amnesty International. Documentation has two main purposes: it provide the basis for eventual legal action, and to generate public and private pressure for the cessation of rights violations. For documentation to have a substantial impact, it generally must meet the requirements of legal evidence and withstand the scrutiny of the public, media, and critics.

The publicizing of individual cases has been a major strategy of human rights organizations, and it has proven highly effective in molding public opinion. In Latin America, a significant number of churches have taken up this work. Given their position in society as moral arbiters and their credibility, such involvement has had a very positive effect. The OAS' Interamerican Commission on Human Rights has also played an important role in documenting and publicizing violations, particularly since 1977. Many human rights organizations have become quite sophisticated in focusing the attention of the public and the media on violations. They have also developed extensive networks at national and international levels to disseminate information on violations. Nevertheless, their resources for such work are limited.

Contrary to some allegations, there is no firm evidence that the publicizing of human rights violations results in an increase in their frequency, although such action may precipitate reprisals against human rights organizations and individual activists. Instead, the documentation and publicizing of violations appears to have been effective in pressuring violators to abandon such practices, especially when these pressures emanate from influential national sectors and from international organizations and foreign countries.

#### Judicial Actions

Resort to existing legal remedies and efforts to expand their effectiveness are also major strategies in the defense of human rights. Focusing primarily on the utilization of judicial remedies such as habeas corpus and the provision of lawyers for those accused of political crimes, these activities frequently dominate human rights efforts in periods of crisis, and they continue to comprise a major portion of such work even after repression has diminished. This has been the case with some of the most effective human rights operations, including the Comité de Paz and the Vicaría de la Solidaridad in Chile, the Centro de Estudios Legales y Sociales in Argentina, and the Archbishopric of Sao Paulo in Brazil. In countries in which the legal community is closely identified with traditional elites (for example, El Salvador and Guatemala), it is much more difficult to involve lawyers in human rights work.

The recent experiences in Chile, Argentina, and Brazil suggest that judicial means are effective instruments to pressure governments to reduce human rights violations. In these countries, relatively sophisticated legal training and practice combined with greater numbers of legal professionals increased the effectiveness of legal defenses of human rights. A larger, more politically experienced legal community also helped reduce the fear of repression.

The legal defense of human rights in Latin America in the 1960s and 1970s also provided a focal point for the energies of non-legal personnel and support groups which assisted with research, investigation, and the identification and referral of cases. In the early stages of repression, this served as an outlet for the energies of non-violent opponents of governments which had suppressed previously existing means of political action. The simple filing of legal briefs and the proliferation of court



cases pressured governments to attempt to justify their actions legally or abandon them. This has both positive and negative consequences, for it prompted the revision of national constitutions and legal codes to justify state actions at the same time that it caused the reduction of some of the more notorious violations.

Legal actions by human rights activists also raised consciousness about human rights among lawyers, judges, and other members of the Judicial community. The organizing and operational experience of legal groups was frequently used by other human rights groups to develop their own activities. There has also been a substantial spinning-off of related activities by legal groups. The most notable example of this is the creation of the Academia de Humanismo Cristiano by the Archbishopric of Santiago in Chile. The Academia studies general political and economic trends and their impact on human rights, the reasons why violations occur, and the means of defense. It disseminates this information through training seminars, general courses, and publications aimed at both specialists and a general audience. This pattern has been repeated in a lesser scale by other institutions.

Both the Vicaria and the Academia (along with other human rights groups) have more recently concerned themselves with identifying these legal actions and other strategies most effective in defending human rights. One of the most successful of these has been limiting the number of fulltime lawyers on their staffs, in favor of employing a larger number of part-time lawyers. This has the advantage of sensitizing and training a larger number of lawyers, as well as indicating to governments that there is a broad-based commitment to human rights from an influential sector of society.

#### Analysis of Human Rights Violations

Second-line means to defend human rights include the creation or expansion of institutions which analyze the causes and consequences of violations in order to devise more effective strategies to combat them. Much of the impulse for such activities comes from the requirements of documentation and judicial defense. It also stems from the need to begin building structures which will better protect rights. A common complaint of human rights activists is their inability to extract themselves from everyday pressures so as to evaluate past experiences, identify trends, and develop and refine strategies. There is also little opportunity for long-term planning that is responsive to the situations in which they work. The comparison of experiences with other activists, particularly those who are geographically removed, is also difficult. Thus the possibilities of taking advantage of past experience or the experiences of others is limited. To remedy this situation, those documentation and judicial groups with the available resources developed research arms. The most active of these are the aforementioned Academia de Humanismo Cristiano in Santiago de Chile, the Archbishopric of Sao Paulo in Brazil, and the recently-created OAS Instituto Interamericano de Derechos Humanos in San José, Costa Rica.

All of these institutions have focused principally on the ideological and structural causes of human rights violations. Special attention has

also been paid to understanding the mechanisms of repression in order to either use existing defenses more effectively or to devise new ones. This work requires the dissemination of results, such as the publication of monographs for specialists; periodic evaluations of political, economic, and social conditions to establish the current level of denial of rights and future trends; and popular educational materials. General educational are aimed at assisting individuals and groups in claiming materials their rights. Seminars, courses, scholarly conferences, and press briefings to explain and disseminate research results have also been used effectively.

To date much of this work has been supported by the Catholic Church and European public and private foundations.<sup>30</sup> Although a substantial literature has been produced, it suffers from two limitations: a lack of analytical rigor, because many of the studies have been written by non-specialists due to a shortage of human rights scholars; and the absence of a comparative perspective, largely as a result of limited resources. There is now a sufficient number of studies available to allow for more sophisticated analysis in the 1980s, as well as for comparative studies if the necessary financial resources become available. Furthermore, the bibliography generated to date makes possible a considerable expansion of educational activities.

#### Educational Efforts on Human Rights Issues

Human rights education ranges from the training of lawyers to mass popular education. It has been promoted chiefly by the Catholic Church, international organizations such as UNESCO, private foundations, and local human rights organizations. Popular education in defense of human rights had already achieved some headway in Brazil and Chile prior to the upsurge of repression in those countries. The most immediate response to crisis was to focus on specialized training for legal personnel. Courses were subsequently developed for other human rights activists and, more recently, for popular groups. The latter range from basic literacy education that incorporates some human rights content (such as the efforts of CODECAL in Colombia and SERPAJ in Chile) to the training of factory workers in basic economics and business practices in Ecuador, Chile, and Brazil. Although such educational efforts are widely considered to be essential to the long-term defense of human rights, limited finances and the lack of trained teachers have hampered progress in this area. The UNESCO recommendation that education for human rights become a part of regular school curricula could be beneficial. A primary requisite is a government's willingness to take such a step.

#### Technical Assistance to Human Rights Organizations

In recent years human rights organizations have also increasingly moved to provide technical assistance of all kinds to assist individuals in securing their rights. Such efforts include providing information on how to extract more basic services from local governments, how to form production and consumer cooperatives, and to benefit from the experiences of other workers in negotiations with management. The efforts by IBASE to arrange for labor negotiators from Fiat in Italy to advise their counterparts in Brazil is a particularly imaginative example of this last form of technical assistance.

There have also been some advances in technical assistance to meet such basic needs as food, shelter, health care, and housing through programs operated by the United States Agency on International Development, the United Nations Development Program, the Inter-American Development Bank, The World Bank, and some private voluntary organizations. Voluntary organizations appear to have had more success than the other in tailoring their efforts to local needs and in ensuring that these programs survive after the withdrawal of foreign technicians. The success of efforts in this area is dependent on a better evaluation of past efforts and the availability of more trained specialists from the target population. Although it has not been a high priority to date, technical assistance is critical for major improvements in social and economic rights.

#### APROPRIATE REALMS FOR UNITED STATES FOREIGN POLICY CONCERNING HUMAN RIGHTS

Rather than being antithetical to American interests, a United States' human rights policy can and should make a direct contribution to the security of this country. Critics who charge that the United States "lost" Iran and Nicaragua as a result of efforts to make human rights a criterion of United States' foreign policy misread history. Furthermore, the "contention that United States' officials picked on friendly authoritarian regimes such as Iran's or Nicaragua's has no foundation. So evident was the concentration on the Soviet bloc in 1977 that Soviet dissident Valery Chalioze reminded the administration in print that human rights' violations were not confined to communist countries."<sup>31</sup>

In both Iran and Nicaragua it was the government's abuse on authority and the failure to respond to popular pressures that brought an end to the Fahlevi and Somoza dynasties, respectively. Traditional United States' identification with and support of these regimes contributed to the anti-American character of the new governments. However, this does not mean that there are not also reasons internal to the Khomeini and Sandinista regimes which help explain United States' foreign policy difficulties with them.

These two cases also suggest the need for the United States to project an image of principled support for human rights as the basis for a foreign policy which is tailored to the specific conditions of each country. In large measure, problems tend to arise from the tendency of the United States to categorize countries as friends or enemies, rather than as sovereign nations with which relations should be mutually supportive where possible without leading to the identification of the United States with all the actions of other governments. Stronger principles of discrimination need to be introduced into United States' foreign policy, and as a rule a certain distance should be maintained. No country, including the United States, does not occasionally do something reprehensible or illadvised. American foreign policy should be more pragmatic and diplomatic --in the original sense of the term--so that the United States can avoid being identified with the abuses of other governments. This means not embracing dictators both literally and figuratively.

In addition to the handling of diplomatic relations in such a fashion so as to allow the United States to dissociate itself from governments that engage in human rights violations, it is accepted international practice for a country to use the granting or withholding of aid to promote its interests. Debate on this question has been generated not by the use of such leverage, but rather over when and how to use it. Confusing support for anti-communist governments with support for democracy, and confusing support for capitalism as a system with support for a particular government or an economic model which may be harming an economy, has limited the effectiveness of United States' efforts to promote hemispheric stability. Public opinion polls suggest that the American public expects the government to act in accord with basic humanitarian values; when it does not, its domestic support declines.<sup>32</sup> A foreign policy that is not responsive to American domestic opinion is not long sustainable.

It was, in fact, the breakdown of domestic consensus regarding United States' policy toward Vietnam which served as the stimulus for the resurgence of human rights as a principal criterion of foreign policy. Not since the end of World War II and United States' involvement in the drafting and promulgation of the United Nations' Declaration of Human Rights (1948) had the issue of human rights stimulated so much public and congressional debate. The first wave of human rights legislation adopted in the late 1960s was aimed specifically at Vietnam. The upsurge of human rights abuses in Latin America beginning in 1968, revelations of United States' involvement in the overthrow of the Allende government in Chile, and subsequent gross violations of human rights in that country turned public and congressional attention to Latin America. This attention has not diminished because, as more notorious violations declined in the Southern Cone, the situation worsened in Central America. Thus when President Carter declared in 1977 that human rights were to be the soul of United States' foreign policy, this issue was already a primary concern to the American public. Moreover, much of the relevant legislation was already in place.

In a recent study by international legal scholars, United States' policy-makers and scholars affirmed that the principal explanations for the upsurge of interest in human rights issues were:

- (1) Earlier congressional human rights initiatives, including a series of hearings, resulted in structural and policy action which the Carter administration inherited. Congressional committees and a Department of State bureaucratic division on human rights were already established;
- (2) Public disillusionment with the Nixon-Watergate revelations and, to a lesser extent, Kissinger's ultrarealist foreign policy set the stage for dramatic change. The new, avowedly moral policy distinctly separated Carter from the previous administration in a particularly effective fashion; the policy was claimed to be moral in content and implementation;

- (3) United States world leadership had been damaged by the defeat in Vietnam. Through the human rights policy, the Carter administration was able to draw on a domestically acceptable source for reviving American stature in international affairs: the American tradition reflected in the Declaration of Independence and the Bill of Rights;
- (4) A further response to Vietnam, as well as to United States economic difficulties, was a domestic tendency toward isolationism. The human rights emphasis provided a rationale for the revival of an activist, is not interventionist, foreign policy;
- (5) Carter himself, as an apparently deeply religious man, appears to have personally charted his human rights policy in the hope of treating a new sense of "national integrity" to parallel the "personal integrity" so much a part of his public as well as personal image;
- (6) International organizations, both public and private, have significantly increased their discussion of and action of human rights, particularly in light of intensified concern over racist policies in Africa. The Carter administration may have felt the need to respond favorably to this rather strong international pressure.<sup>33</sup>

This indicates that the stimulus for increased emphasis on human rights as a criterion for United States' foreign policy came principally from, domestic factors in the context of certain international challenges.<sup>34</sup> There is no evidence that the motive was for the United States to establish itself as the judge of other countries in order to demonstrate its moral superiority as a nation. A substantially different desire was present: to demonstrate the moral superiority of Western liberal democracy and capitalism in the face of Soviet competition.

This served to heighten the tension between those who wished to use a United States' human rights policy to undercut Marxist governments and those who felt it should also be used to criticize anti-Communist authoritarian regimes which violated human rights. The Carter administration did not succeed in resolving these differences. Nor did it succeed in defining its human rights policy in a way that resolved the apparent conflict between human rights concerns and traditional definitions of national security interests, especially those which emphasized pragmatic support for anti-Communist governments despite the fact that their lack of popular support due to human rights abuses made them inherently unstable. In fact, the Carter administration's human rights policy left both the American public and the United States' Congress with the impression that human rights and national security interests were, if not antithetical, at least frequently in conflict. This was in large measure due to problems, common to all recent presidential administrations, which impede

the development of foreign policies responsive to long-term needs rather than immediate demands and partisan pressures. In addition, on-going debates over "quiet" versus "aggressive" diplomacy, and over the utilization of bilateral economic assistance and multilateral aid to promote social and economic rights, combined to make the Carter administration's rights policy appear incoherent and contradictory. Thus there was no true test of the possibility that firm support for humanitarian values in United States' foreign policy over the long term would help the United States in competition with communism.

Rather, the commitment to human rights was interpreted by Carter's critics as a sign of the weakening of United States' power abroad. Pressures for change and conflict in Latin America came to be seen as reflections of Soviet adventurism which required United States' support for anti-communist governments, even those which engaged in gross violations of human rights. In pursuit of its definition of United States' interests, the Reagan administration rejected strong support for human rights and stressed more traditional diplomatic and foreign aid efforts to bolster anti-Communist governments.<sup>35</sup> Attempts to present the United States as a champion of democracy have been submerged under the weight of an identification with governments which employ state terror. This policy has contributed to further ideological polarization in Latin America, thereby decreasing the possibilities of moderate political and economic solutions.<sup>36</sup>

Support for such governments served to delegitimize the foreign policy of the Nixon administration and, to a lesser extent, that of the Ford administration. The Carter administration's partial disassociation from repressive governments increased both domestic and international support for United States' foreign policy, despite what some critics alleged. Although there is no firm evidence that Carter's policy was a principal cause of literalization by some military regimes, it does appear that United States' efforts to promote human rights reinforced tendencies in that direction.<sup>37</sup> The primary benefit to the United States was to decrease its identification with fundamentally illegitimate governments. The Reagan administration's foreign policy has increased United States' identification with such governments.

United States foreign policy should promote international stability through support for governments which respond to their citizens' needs, as the latter determine them. Although the United States may not--and probably should not--have major influence over this process, the legitimacy of United States' diplomacy and foreign assistance must first be measured by whether actions are conducive to the well-being of the peoples involved, rather than beneficial to specific governments. Where a conflict of interest develops, decisions should be made in terms of rights priorities, with those related to physical survival taking precedence. American diplomacy must be founded on humanitarian principles, for "the experience of the 1960s indicates that American diplomacy has most enduring effect when it reflects well on Americans and their ideals."<sup>38</sup> This does not deny the need at times for pragmatic decisions (for example, to cooperate militarily with human rights violators if a substantial security threat to the United States exists). Rather, it reinforces the need to make clear the overall United States' commitment to human rights, and to conduct

diplomatic relations in such a way as to allow for cooperation without legitimating the government in question.

Furthermore, the concepts of human rights and national security both need to be better understood by the American public and leadership. "National security" has come to mean anti-Communism and support for United States' economic interests. The growth of United States' power, particularly in the post-World War II period, has led not to a greater sense of security, but to an increased tendency to defend and advocate a particular ideology and way of life in response to a heightened perception of threats.<sup>39</sup> Although the ideological, political, and economic opposition of the Soviet Union should not be discounted, there is no convincing evidence that support for anti-communist, capitalist governments which violate human rights is a useful strategy. These regimes are inherently unstable because they ultimately alienate their citizens. Studies of United States' military aid to such governments do not show that United States' security has been thus improved.<sup>40</sup>

Nor is there evidence that United States' security assistance to Latin American armed forces has made them more respectful to democracy, more receptive to civilian control, less likely to stage coups d'etat, or more respectful of human rights. To the contrary, this assistance has made the armed forces more confident of their managerial and technological capacities. As a result, since the early 1960s the Latin American armed forces have increasingly intervened in politics not simply to reduce chaos, but with the intention of maintaining themselves in power over the long term.<sup>41</sup> This has been a major blow to increased popular participation.

There is a similar pattern in the area of economic aid. There are no substantial indications that withholding aid directly stimulates the reduction of rights violations. Rather, the chief import of such action is to reduce official United States' identification with governments which violate the rights of their citizens. Furthermore, given present levels of bilateral economic assistance to Latin America, there is little likelihood that such leverage will increase. The current amount of United States' aid to Latin America is below the level reached in 1966, and the limited congressional appropriations to date for efforts such as the Caribbean Basin Initiative ensure that this assistance will have a reduced economic impact.<sup>42</sup>

However, there were major developments in the 1960s and 1970s linking United States' bilateral and multilateral economic assistance to human rights. The first of these was the growing conviction within the United States' and international development communities that long-term progress required that strategies focus on the promotion of basic social and economic rights. This view took hold initially in the International Labor Organization and subsequently in the World Bank, the United Nations Development Program, the Inter-American Development Bank, and the United States' Agency for International Development. The focus then turned to debates over the most effective strategies to meet basic needs, especially those of the poorest segments of the population. Differences in these

debates principally concerned whether to emphasize growth or redistribution. Most of the major institutions were inclined toward the latter. But with the poor as the primary target, the resources marshalled in the form of both bilateral and multilateral aid had limited impact beyond raising expectations. In addition, unless such programs were strongly supported by the recipient country's government, they had little chance of success.<sup>43</sup>

The amount of United States' bilateral assistance in particular has in recent years frequently been too small to influence developing country resource allocation. Nor have United States' basic need programs been coordinated with other United States' activities, such as trade policy. Thus they sometimes work at cross purposes. Finally, declining levels of foreign aid appropriations not only constrained existing programs, but also hindered their evaluation and the devising of more sophisticated strategies.<sup>44</sup>

When, as during the Carter administration, Congress passed legislation over the opposition of the President to tie financial assistance from multilateral institutions such as the World Bank and the Inter-American Development Bank to human rights, there was little effort on the part of the executive to implement it. This was the case of Public Law 95-118 (1977), which required the United States' government to oppose loans to the multilateral development banks to human rights violators. Institutions such as the World Bank were themselves opposed to this legislation on the grounds that only economic criteria should be considered in making loans. This continues to be the World Bank's position, and it is defensible except in rare instances. This has also been the position of the International Monetary Fund (IMF), although in the late 1970s it began to reorient its policies so as to decrease the negative impact of economic stabilization programs on the basic needs of the poor.<sup>45</sup> Given the present debt crisis in a number of Latin American countries, the capacity of the IMF to advance in this respect is circumscribed.

There was some overall progress in disassociating the United States from gross violators of human rights through the withholding of aid. The evidence suggests that the granting of aid probably had only marginal impact on improving rights observance.<sup>46</sup> The use of United States' bilateral and multilateral assistance to promote positively the fulfillment of social and economic rights was difficult due to a lack of financial and technical resources, as well as the frequent lack of political will on the part of the recipient governments. Private capital flows also diminished the specific impact of aid,<sup>47</sup> and there was not a strong consensus in favor of this strategy in Washington. Nevertheless, this is an area which human rights specialists regard as critical, for as one phrased it, "Promoting fulfillment of basic economic and social rights is not a simple matter of charity. It serves long-term United States' self-interest by defusing tensions between rich and poor and expanding access to markets and resources."<sup>48</sup>

The Reagan administration's emphasis on self-help and free enterprise as means to diminish these tensions has not convinced many Latin American specialists of their potential efficacy. The private sector



does not yet fully appreciate the relationship between the fulfillment of basic needs and the development of markets and stable investment climates. The present debt crisis and decreased exports have, however, begun to stimulate some business to rethink their overseas strategies. As corporations engage in more sophisticated risk analysis, the connection between stability and rights fulfillment should become more apparent. United States-based corporations have generally been relatively adaptable in their behavior overseas. This being the case, one hopes that the transnationals respond in the not too distant future to the threat to hemispheric stability posed by the widespread denial of social and economic rights. Positive action on the part of corporations is much more desirable than restrictions on United States' business operations abroad.

The experience of human rights initiatives in the 1960s and 1970s suggests that the promotion of human rights through diplomacy and foreign assistance had positive benefits for United States' prestige and influence. There is no conclusive evidence that the enjoyment of rights--particularly social and economic rights--was measurable improved. However, although United States' pressures through diplomatic initiatives or the granting or withholding of military or economic aid cannot be shown to have directly caused a reduction in violations, such measures did disassociate the United States from governments of questionable legitimacy. The decline in the incidence of more notorious human rights violations in Southern Cone countries in the late 1970s resulted largely from the elimination of the threat of armed revolution, the development of more sophisticated methods of social control, and increasing domestic and international pressures. There may well be an upsurge of human rights violations as political opposition to such governments in the 1980s.

United States' policies in the 1970s improved human rights situations by reinforcing the position of domestic human rights advocates, as well as supporting work by international actors such as the Interamerican Commission on Human Rights, Amnesty International, the United Nations, the International Commission of Jurist, and the International League for Human Rights. None of these groups can claim major influence by itself. Together, however, they were highly effective in collecting and disseminating information in order to mobilize sufficient international pressure to make gross violations of human rights too costly for many governments.

Are such benefits sufficient to override charges that a strong human rights posture is interventionist? Specifically, do diplomatic representations and the withholding of military and economic aid constitute "intervention" as defined by United States' treaty obligations and by international law? Article 15 of the Charter of the Organization of American States says:

No state or group of states has the right to intervene, directly, or indirectly, for any reason whatever, in the internal affairs of any other state. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the state or against its political, economic and cultural elements.

Two questions arise: Have any modifications of this prohibition been accepted in inter-American practice, and have the actions undertaken by the United States' government in support of human rights fallen within this definition of intervention?

Within the inter-American system, a number of governments and legal scholars agree that interference by one government in the internal affairs of another is not intervention when it is collective, or when such action is undertaken in the name of inter-American declarations, resolutions, and treaties dealing with democracy, human rights, social justice and hemispheric security.<sup>49</sup> The dangers of making absolute the prohibition against intervention were raised as early as 1928 at the Sixth International Conference of American States; the Cuban delegate held that to condemn intervention totally would result in "sanctioning all the inhuman acts committed within determined frontiers."<sup>50</sup> Furthermore, the United Nations Charter provided that a member state which "in any way violates the dictates of humanity and shocks the conscience of mankind to such an extent that the breach of human rights constitutes a threat to international peace" cannot claim immunity from collective intervention by the organization.<sup>51</sup>

International law also recognizes that intervention is justified in some circumstances. In the classic study Non-Intervention: The Law and Its Import in the Americas, the authors argue that intervention in the defense of human rights is not, as sometimes alleged, a threat to peace.

historical hindsight proves that in the long run...peace is in more danger from tyrannical contempt for human rights than from attempts to assert, through intervention, the sanctity of human personality. It has been suggested that intervention, far from improving the position of the victims of persecution, may, by drawing upon them the wrath of their government, attain a contrary result. Contrariwise, the fury of persecution may receive an impetus not only from foreign acquiescence, but also from the hesitation and reserve of foreign intercession coupled with courteous admission that there is no right of intercession.<sup>52</sup>

The 1947 Inter-American Treaty of Reciprocal Assistance (the Rio Treaty) specifically notes the negative consequences of human rights violations for international peace. It argues that peace is rooted in justice and moral order, including the recognition and protection of human rights and freedom. Hence, the prohibition against intervention in Article 15 of the OAS Charter is tempered by Article 19, which states that "measures adopted for the maintenance of peace and security do not constitute a violation of the principles set forth in Article 15."<sup>53</sup> The subsequent creation of the Interamerican Commission on Human Rights, the Interamerican Court on Human Rights, and the Interamerican Institute on Human Rights is a logical extension of the belief that the promotion and defense of human rights are essential to the maintenance of hemispheric peace and security. Although the clear preference of OAS members is that intervention be collective when it is necessary, the legitimacy of unilateral intervention is admitted in some cases.

There has been considerable discussion within international law concerning the criteria to determine legitimate intervention on behalf of human rights. A recent summary included the following

That there must be an immediate and extensive threat to fundamental human rights.

That all other remedies for the protection of those rights have been exhausted to the extent possible within the time constraints posed by the threat.

That an attempt has been made to secure the approval of appropriate authorities in the target state.

That there is a minimal effect on the extant structure of authority (e.g., that the intervention not be used to impose or preserve a preferred regime).

That the minimal requisite force be employed and/or that the intervention is not likely to cause greater injury to innocent persons and their property that would result if the threatened violations actually occurred.

That the intervention be of limited duration.

That a report of the intervention be filed immediately with the United Nations Security Council and, when relevant, regional organizations.<sup>54</sup>

These criteria obviously suggest much more substantial actions than those undertaken by the United States' government in the 1970s on behalf of human rights.

According to international law, relatively moderate actions such as diplomatic protests and withholding of foreign assistance do not constitute intervention. The three commonly cited forms of economic intervention are the "manipulation of tariffs, the imposition of an embargo, and the imposition of a boycott."<sup>55</sup> Diplomatic representations and the withholding or granting of aid are considered in international law to be humanitarian intercession, which is defined as "interference consisting in friendly advice given or friendly offers made with regard to the domestic affairs to another State."<sup>56</sup> As the legal scholar Richard B. Lillich has noted, "'friendly' is used to characterize almost any relationship--short of armed conflict--between sovereign states. Thus, although both intervention and intercession are forms of interference in the internal affairs of other states, the distinction between the two lies in the fact that intervention is dictatorial and often forceful, while intercession includes a wide range of nominally friendly acts ranging from expressions of sympathy for oppressed persons in another state to economic or political sanctions, stopping short only of the actual use of force."<sup>57</sup> Examples of humanitarian intercession include "correct" rather than "warm" diplomatic relations, formal diplomatic inquiries as to the status of political

prisoners, support for investigations by agencies such as the Inter-american Commission of Human Rights, sending observers to trials involving human rights, formal and informal protests over situations concerning human rights, supporting the work of the Interamerican Court on Human Rights, and the granting or withholding of aid. Past United States' actions in support of international human rights have not gone beyond the parameters set by those examples. Diplomatic protests and the withholding of aid do not undercut national sovereignty, although they may cause some difficulties for a particular government.

The fact that both international law and the OAS Charter give priority to respect for human rights and the maintenance of peace over non-intervention is too often ignored. This is not to deny that non-intervention is a vital principle in the international order. But, to use non-intervention is a justification for failure to protest the deprivation of basic human rights in another state has also been sharply challenged on the grounds that every government has a dual responsibility: not to violate the rights of its own citizens, and not to contribute to other governments' human rights violations. This includes avoiding actions which strengthen or legitimate violators of human rights. Furthermore, "uncertainties about when, if ever, to intervene are no excuse for failure to refrain from collaboration with deprivation, especially when an alternative to the violating government is available and the deprivations are essential, that is, inherent in an economic strategy that the incumbent government refuses to change."<sup>58</sup> This clearly suggests that governments have a responsibility not to collaborate in the violation of both civil/political rights and social and economic rights.

The assertion of an absolute right of non-intervention raises important moral issues.

A state adhering to an absolute principle of non-intervention must tolerate injustice, such as the abuse of human rights, within another state because to interfere against it would be to violate the principle of state sovereignty; the values associated with statehood would be deemed superior to the plea for humanitarian intervention .... For the principle, in requiring mutual toleration by states of what happens in their domestic affairs, in so placing order between states before Justice for individuals within them, allows states to avoid the responsibility of making a decision as to whether an act or institution within any of them is just or unjust. It provides the state also with a convenient legal excuse for ignoring consideration of Justice for individuals within other states. A general moral judgement, then, might be that the principle of non-intervention is an amoral rule ....<sup>59</sup>

Thus it does not appear that there is a basis in international law, the inter-American system, or morality for asserting a principle of absolute non-intervention. Claims that Latin American countries never engage in intervention in the internal affairs of other countries are

also unsupportable.<sup>60</sup> It is true that the principle of non-intervention should always be respected when possible, and that humanitarian intervention is far preferable to intervention. Intervention should be undertaken only in extreme cases of gross violations of human rights, and whenever possible such actions should be undertaken collectively. This involves increased United States' emphasis on initiatives pursued through multilateral human rights agencies.

## V. OPPORTUNITIES FOR MULTILATERAL COOPERATION CONCERNING HUMAN RIGHTS

Among the factors that affect United States-Latin American cooperation on human rights issues are the contemporary debt crisis, different levels of development, varying definitions of hemispheric security, and the United States' handling of a rising tide of immigrants. Economic difficulties in both the United States and Latin America will make the satisfaction of basic needs more difficult and will, therefore, tend to increase societal tensions. Difficult though it may be, if social and political conflict is not to increase, attention to social and economic rights must be factored into any resolution.

Similarly, the likelihood of much heavier Latin American migration to the United States in the 1980s is high. The credibility of the United States commitment to human rights will be measured in part by how these immigrants are treated. The significant impact which this response will have on the United States' internal security further demonstrates the linkage between domestic United States' and international rights' situations.

A number of mechanisms are already in place to facilitate United States-Latin American human rights cooperation. The principal inter-American actor on behalf of human rights has been the Organization of American States' Interamerican Commission on Human Rights. Since 1977 the Commission has played an increasingly important role in documenting human rights violations, as well as analyzing their causes. The Commission's heightened involvement in these areas was made possible in large part by increased United States' financial support for its activities.<sup>61</sup> It was also the result of the support accorded the Commission by a majority of OAS members, a substantial number of which fear the destabilizing effect of repressive governments. Because the United States is a major financial backer of the OAS, a high level of activity on the part of the Commission is contingent on continued United States' support. Given the fact that most OAS members support the Commission's work, continued backing would demonstrate the United States' willingness to respect the will of the majority on a critical issues.

In part as a result of the worsening human rights situation in much of Latin America in the 1970s, the Interamerican Court of Human Rights and the Interamerican Institute of Human Rights were founded and based in Costa Rica. The Court is patterned after its European counterpart, and although it has heard only one case thus far, it is intended to provide individuals with the possibility of redress of

grievances if national judiciaries are unable to do so. The Court's functioning is hampered by the fact that most victims of human rights violations do not have the knowledge or resources to take advantage of it, and by some countries' rejection of the Court's jurisdiction.

The Interamerican Institute for Human Rights is devoted primarily to education, analysis, and promotion of human rights. Its goal is to fund such activities where they already exist at the national level, as well as assisting in the coordination of international human rights activities. The Institute has initiated a series of seminars and publications concerning those factors which affect the observance of non-observance of human rights. One of its most innovative efforts is in the form of courses for government officials and others on strategies for defending human rights. The Institute's priorities reflect needs that human rights specialists have long felt, but did not have the means to satisfy.

The upsurge of notorious human rights violations in the 1960s and 1970s resulted in both a sharp increase in the activities of international human rights organization and a proliferation of new groups. The United Nations Commission on Human Rights, the United Nations Economic and Social Council, the United Nations Economic and Social Council (UNESCO), and the United Nations Conference on Trade and Development (UNCTAD) were all involved in attempts to discourage gross violations of human rights. During the Nixon and Ford Administrations, the United States generally voted against resolutions by United Nations agencies criticizing such countries as Chile, Argentina, and Brazil. This policy changed under the Carter administration. However, the United States has rarely accorded much importance to United Nations actions. In addition, the United Nations Commission on Human Rights has for some time played a limited role in the international defense of human rights due to internal political division.

Non-governmental groups such as Amnesty International, the International Commission of Jurists, the International League for Human Rights, and the Washington Office on Latin America, among others, have had more impact on international public opinion and on United States' policies and legislation. Working closely with members of the United States Congress and (during the Ford and Carter administrations) with the United States Department of State, these organizations were vital in providing data, devising strategies, and even drafting legislation. They also helped channel resources to Latin American-based human rights groups, facilitated networking, and arranged contacts for Latin American human rights activists with United States government officials and opinion shapers. These groups tended to work closely with churches whose networks and resources greatly expanded their capabilities. The international character of many religious denominations and their grass-roots presence were perhaps the principal reasons that human rights network continued to expand in the early 1980s, as did support facilities such as Human Rights Internet.

Attacks in the credibility of some human rights organizations by United States government officials are an important recent development in this area.<sup>62</sup> United States' embassy personnel in some Latin American countries have frequently questioned statistics on rights violations gathered by human rights organizations. This was the case in El Salvador, where the number of civilian deaths reported by Socorro Jurídico (Judicial Assistance) has frequently been challenged by United States officials. Yet in his memorable luncheon address to the San Salvador Chamber of Commerce in late 1982, then Ambassador Dean Hinton used a statistic as high as any Socorro ever cited (30,000). Moreover, Hinton agreed that many of these deaths could be attributed to security forces. Although human rights organizations are not infallible, attacks on them by United States government officials and agencies are inappropriate and raise questions concerning both their motives and the government's commitment to the promotion of human rights. If "quiet diplomacy" is to be used with human rights violators, then it would seem appropriate to employ the approach in contacts with human rights promoters.

#### CONCLUSION

The 1960s and 1970s witnessed increasing polarization in Latin America-- primarily between those whose basic needs were more than adequately met, and those whose basic needs went unfulfilled. Economic models which focused on growth at high social cost required the repression of civil and political rights. This further polarized many Latin American societies and increased the potential for internal conflict and instability. United States' congressional and administrative initiatives in the 1970s which opposed the worst of these rights abuses --especially violations of the physical integrity of the person--through diplomatic representations and the withholding of military and economic aid, did not destabilize governments. The principal results were to disassociate the United States from repressive regimes and to hearten those working for a return to more democratic systems in those countries.

Over the long term, conditions in Latin America require a stronger United States commitment to human rights if there is to be stability in the region. The United States government, regardless of changes in administration, should make clear that the promotion of human rights is a basic element in its foreign policy. If the United States is to be true to the democratic principles it propounds, it must recognize that legitimate governments are ones which respond to the needs of their people. Diplomacy is the instrument that allows the United States to deal with both legitimate and illegitimate governments. It should be employed as part of a foreign policy that has as its overall objective the encouragement of governments whose stability rests on the will of the people, rather than on force. Governments whose rule is based on force are tenable only in the short term, as events in the Southern Cone have aptly shown. In the 1980s the United States should focus on assisting democratic elements in the arduous task of constructing societies in which human rights are more fully enjoyed. As access to rights is expanded, hemispheric stability will be increased.

To accomplish this, United States' policymakers should abandon the notion that support for human rights and the pursuit of security interests are antithetical. The cases adduced (primarily Iran and Nicaragua) do not establish that the Carter administration's human rights policies brought anti-American regimes to power, for there is no firm evidence that either the Shah or Somoza could have been saved except by direct United States military intervention. As one analyst noted, "any government which has to resort to torture or assassination to maintain itself in power is already terminally ill."<sup>63</sup>

What is needed is a rethinking of the roles of human rights and national security in United States foreign policy in order to clarify their relationship. Denial of basic civil and political rights--as well as social, economic, and cultural rights--has had a destabilizing effect on developing countries. Because many of these countries are capitalist, Marxists have been able to exploit the alienation of substantial sectors of the population. If it is the intention of the United States to counter "Marxist inroads", the strategies must be developed to identify capitalism with the greater observance of human rights. Support for repressive capitalist states identifies the United States with governments whose long-term survival is unlikely. Hence, a conception of security that is relatively inflexible toward change--including socialist change--will not reinforce hemispheric security. Thus it is time for a substantial rethinking of the bases of United States security policy.

The longer basic human rights are denied on a broad scale, the more likely it is that the eventual eruption of discontent will be violent and lead to a radical rejection of the existing system. If the United States wished to defend capitalism, then it must demonstrate that it is beneficial for the bulk of Latin America's population. If the United States wishes to promote its political system, then it must promote the humanitarian values it claims to defend.

In addition to this, diplomatic relations transcend categories such as "friends" and "enemies"--allowing for the possibility of maintaining diplomatic ties, disassociating the United States from the noxious actions of some governments. The best European powers seem to be more successful at maintaining useful relations with other states without becoming identified with a particular government. This is in part the result of their acceptance of the idea that pressures for change are frequently rooted in domestic socio-economic conditions rather than international subversion, as well as differences in the ways in which their diplomats are trained.

The United States should use all means at its command--diplomatic, economic, and military--to promote human rights in proportion to the severity of the situation, without violating another nation's sovereignty. In order to be proportionate, the United States should improve its capacity to analyze Latin American realities and focus more intensively on long-term consequences and planning. Greater



coordination within the United States government and improved training for United States personnel are important means for accomplishing these goals.

A number of specific changes should be adopted in this regard. First, an inter-agency committee should be charged not only with the resolution of disputes concerning the implementation of human rights legislation (as was the Christopher Committee), but also with the coordination of human rights policy with other policies (for example, trade, military affairs, and so forth). The Foreign Service Institute should provide more advanced training for United States diplomatic personnel in order to promote more sophisticated analysis of local conditions. Seminars on long-range planning should also be introduced. Training of this kind might impart greater coherence to United States human rights policy from one administration to the next, as well as increasing the possibilities for its successful implementation. In addition, more efforts should be made to expose embassy staff personnel to the dominant modes of political, economic, and social analysis in their host country.

Greater coordination between the Department of State's Office of Human Rights and Humanitarian Affairs and the Office for the American Republics Area could also help clarify the role of human rights in United States' foreign policy. These offices should undertake a careful analysis of the efficacy of past initiatives, actions, and strategies regarding human rights. New directions should be devised through joint consultations.

On the congressional side, the Senate should ratify the International Covenant on Economic, Social, and Cultural Rights in order to demonstrate that the United States understands the importance of meeting basic needs as a basis from which individuals can claim and exercise civil and political rights. The United States should also support the study and drafting of international conventions dealing with states of siege, states of emergency, and related grants of extraordinary powers to government to authorities, in order to help reduce abuses in this area. Similarly, the United States government should promote the drafting of international codes of conduct for those authorities dealing with prisoners, detainees, and demonstrators (for example, police, security forces, soldiers, jailers, judges, doctors, and other medical personnel). The United States should also work to secure international guarantees for the protection of individuals and organizations engaged in human rights work. Because greater public understanding of human rights issues is a necessary basis for the success of these different recommendations, the United States should support the efforts of UNESCO and the Interamerican Institute of Human Rights in their educational and research efforts in this area.

With respect to United States economic assistance, both bilateral aid programs and multilateral assistance need to be reviewed in an effort to make them more effective in satisfying basic needs. Both market and non-market mechanisms should be incorporated in the

production and distribution of those goods and services which are deemed essential to fulfill basic needs. Specifically, bilateral aid to improve the fulfillment of basic needs should be increased, together with appropriations to evaluate the efficacy of past programs and strategies. Both bilateral and multilateral aid must also be coordinated with other aspects of United States aid policy (for example, trade policy) in order to ensure the realization of aid objectives. Initiatives such as these could be strengthened if the United States government encouraged the private sector to increase the production of basic commodities for consumption in Latin America.

Given the present heavy involvement of the United States and the International Monetary Fund (IMF) in the Latin American debt crisis, amendments to the foreign appropriations bill should require the IMF to weigh the effects of its loan conditions on employment, investment, income distribution, and basic needs. In addition, the IMF and World Bank should be encouraged to cooperate more closely if the IMF is not to undercut World Bank basic needs strategies. This would require the IMF to give more importance to human capital formation and allow for a more active public sector role in supplying basic needs.

With respect to military aid, no rewards--particularly restored security assistance--should be given to any Latin American military government merely due to a decrease in the use of torture or a decline in the number of disappearances. More significant structural changes must first occur in the nature of the state's repressive apparatus and in the economy. These would include: (1) the setting of a definite timetable for a full return to civilian government; (2) the reestablishment of civilian control of the military; (3) the restoration of guarantees for the exercise of civil liberties and the normal jurisdiction of the civilian courts; (4) the elimination of illegal paramilitary forces; (5) the protection of labor rights, including unionization and effective collective bargaining. Loopholes in current United States' legislation which permit the sale of repressive technology to Latin American security forces should be closed. Licensing limits on commercial sales are necessary to prevent United States' companies from selling such items as "shock batons," thumb screws, and leg irons to Latin American governments. Explicit limitations are also required on the International Narcotics Control Program to prevent training programs from being used by Latin American police and security forces against civilian dissidents.

There should also be stricter congressional monitoring of United States' security assistance to insure that the provisions of the Foreign Assistance Act are fully observed. Article 502-B denies military assistance to gross human rights violators unless extraordinary circumstances dictate that such assistance is in the United States' national interest. The current situation in El Salvador has focused attention on both the difficulties of applying such legislation and the need to do so.

These specific recommendations are neither easily accomplished nor exhaustively inclusive. Instead, they are pragmatic steps in the

continuing process of integrating human rights concerns more firmly into United States' foreign policymaking. As arduous and conflictual as this effort may be, it is the most realistic means through which to achieve hemispheric stability. The validity of the belief held by the government representatives who come together to draft the Universal Declaration of Human Rights, that long-term peace could only be achieved through a firm commitment to human rights, has been amply demonstrated in the years since 1948. Peace in the 1980s might not be so elusive if the commitment expressed in the Universal Declaration informed United States' foreign policy more directly.

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<sup>2</sup>Although a declaration of the rights and duties of the individual was adopted by the Latin American delegates to the 1984 meeting which produced the Interamerican Declaration of Human Rights, a comparable document for states was rejected by the government representatives. Lawrence J. Le Blanc, "Economic, Social and Cultural Rights and the Interamerican System," Journal of Interamerican Studies and World Affairs 19, 1 (February, 1977), pp. 63-71.

<sup>3</sup>Natalie Kaufman Hevener, ed., The Dynamics of Human Rights in United States' Foreign Policy (New Brunswick, N.J.: Transaction Books, 1981), pp. 356-358.

<sup>4</sup>These include Barbados, Bolivia, Chile, Costa Rica, Colombia, Dominican Republic, Ecuador, Grenada, Haiti, Honduras, Jamaica, Panama, Peru, United States, Uruguay, and Venezuela. Although it is true that Argentina, Brazil, Mexico, and Canada have not affirmed the Convention, it should be noted that their resistance is not based on a lack of a consensus regarding core rights, but on a fear of problems relating to their domestic judicial systems. All these countries have in their constitutions guarantees of rights akin to those in the Convention. Personal communication with staff of the Interamerican Commission on Human Rights, Organization of American States, Washington, D.C., July 20, 1983.

<sup>5</sup>On the purposes of the Commission and Court, see Comisión Interamericana de Derechos Humanos, Diez años de actividades, 1971-1981 (Washington, D.C.: Organización de los Estados Americanos, 1981), pp. 5-7; 12-14. For the Instituto Interamericano de Derechos Humanos see El Instituto Interamericano de Derechos Humanos (San José: IIIDE, 1981).

<sup>6</sup>Comisión Interamericana de Derechos Humanos, Diez Años, pp. 313-339

<sup>7</sup>Ibid, pp. 335-336

<sup>8</sup>Hugo E. Fruhling, "Derechos Humanos: naturaleza, vigencia y futuro." Paper presented to the Seminario sobre Ciencia Política y

Derechos Humanos, UNESCO and the Instituto Interamericano de Derechos Humanos, San José, Costa Rica, 1982, p. 1, and Houis Henkin, "International Human Rights as 'Rights'" in J. Roland Pennock and John W. Chapman, eds., Human Rights (New York: New York University Press, 1981), p. 259.

<sup>9</sup>George W. Shepperd, Jr., "Transitional Development of Human Rights: The Third World Crucible," in Ved, P. Nanda, James R. Scarrit, George W. Shepperd, Jr., eds., Global Human Rights: Public Policies, Comparatives Measures, and NGO Strategies (Boulder, Co.: Westview Press, 1981), pp. 214-215. Studies which focus on differences in perceptions of human rights issues include Abdul Aziz Said, Human Rights and World Order (New Brunswick, N.J.: Transaction Books, 1978) and Adamantia Pollis and Peter Schwab, eds., Human Rights: Cultural and Ideological Perspectives (New York: Frederick A. Praeger, 1979). For an analysis of the impact of the Western liberal, Marxist, and Judaeo-Christian heritages on the concept of human rights in the Americas, see Alfred Hennelly, S.J. and John Langan, Human Rights in the Americas: The Struggle for Consensus (Washington, D.C.: Georgetown University Press, 1982).

<sup>10</sup>Ives do Amaral Lesbaupin. "Direitos Humanos e Classes Populares do Municipio do Nova Iguaçu" Master Thesis, IUPERJ, Rio de Janeiro, 1982). pp. 11; 203-208

<sup>11</sup>The difficulties of devising such a measure are clearly demonstrated by the attempt of Jorge I. Dominguez, "Assessing Human Rights Conditions," in Jorge I. Dominguez, et. al., Enhancing Global Human Rights (New York: McGraw-Hill Company, 1979), pp. 21-104.

<sup>12</sup>The Private, Washington-based Human Rights Internet lists several hundred such groups in its North American Human Rights Directory (Washington, D.C.: Human Rights Internet, 1980), Human Rights Directory: Latin America, Africa, Asia (Washington, D. C.: Human Rights Internet, 1981), and Human Rights Directory: Western Europe (Washington, D.C.: Human Rights Internet, 1982). A Human Rights Directory: Eastern Europe is forthcoming.

<sup>13</sup>For the nature and extent of human rights violations in Latin America, see the United States Department of State's Country Reports on Human Rights Practices from 1977 to 1982 and the OAS Interamerican Commission on Human Rights' Annual Reports and Informes on the situation in particular countries. The latter are summarized in Comisión Interamericana de Derechos Humanos, Diez años, pp. 249-309. See also the reports of Amnesty International, International Commission of Jurists, and International League for Human Rights.

<sup>14</sup>The forthcoming bibliography on human rights in Latin America by the Hispanic Foundation of the Library of Congress contains, for example, over 4,000 items.

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<sup>15</sup>Louis Henkin, The Hights of Man Today (Boulder, Co.: Westview Press, 1978), pp. 31-88. Henkin divides his survey of constitutions into three categories: democratic-libertarian, socialist-communist, and Third World, and he concludes that "All systems and all societies now recognize some individual rights" (p. 86). He fully admits, however, that the actual enjoyment of rights is dependent on a wide variety of societal conditions and attitudes. Henkin's position is a common one among international law specialists. For other examples, see Richard B. Lillich and Frank C. Newman, International Human Rights: Problems of Law and Policy (Boston: Little, Brown and Company, 1979); Thomas Buergerthanl and Louis B. Sohn, International Protection of Human Rights (New York: Bobbs-Merrill, 1973); H. Gross Espieil, "The Evolving Concept of Human Rights: Western, Socialist and Third World Approaches," in B.G. Ramcharan, ed., Human Rights: Thirty Years after the Universal Declaration (The Hague: Martinus Nijhoff, 1979), pp. 41-65.

<sup>16</sup>Arlene Swidler, Human Rights in Religious Traditions (New York: The Pilgrim Press, 1982). This was also a conclusion of the conference on "Religion and Human Rights: Historical and Comparative Perspectives," sponsored by the Committee on General Education of Columbia University and the Jacob Blaustein Institute for the Advancement of Human Rights, October 14-17, 1982, Seven Springs Center, Mount Kisco, New York.

<sup>17</sup>For example, the Comisi6n Interamericana de Derechos Humanos is currently preparing its eight report on Cuba. It recently completed its fourth on-site investigation in Nicaragua since 1980.

<sup>18</sup>As Cyrus Vance stated in his University of Georgia Law School address of April 30, 1977: "In pursuing a human rights policy, we must always keep in minds the limits of our power and of our wisdom. A sure formula for defeat of our goals would be a rigid, hubristic attempt to impose our values on others. A doctrinaire plan of action would be as damaging as indifference." Cyrus R. Vance, "Law Day Address on Human Rights Policy," in Donald P. Kommers and Gilbert D. Loescher, eds., Human Rights and American Foreign Policy (Notre Dame: University of Notre Dame Press, 1979), p. 311. In section three of this paper, additional evidence will be offered that the increased interest in human rights in the 1960s and 1970s was in large measure in response to United States' domestic developments, rather than any intention to judge other nations.

<sup>19</sup>A recent nationwide survey indicated that the 'moral dimension' was the prime criterion in public evaluation of United States' political leadership. In addition, 76 percent of the general public felt that government runs best when it listens to public opinion on major issues. Only 15 percent disagreed. Research and Forecast, Inc., The Connecticut Mutual Life Report on American Values in the '80s: The Impact of Relief (Hartford, CT.: Connecticut Mutual life Insurance Company, 1981), pp. 193, 238.

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<sup>20</sup>The term "Americas" is used consciously to indicate that the problem is a hemispheric one, and that the United States is part of the problem. This was the intention, as clearly stated in the respective Introductions, of the two volumes resulting from the Woodstock Theological Center's Human Rights Project: Human Rights and Basic Needs in the Americas and Human Rights in the Americas: The Struggle for Consensus, previously cited. Rather than ignoring the United States' contribution to human rights problems in Latin America, these volumes specifically studies the impact of United States' political, economic and military policies in this area. See especially chapters 8, 9 and 10 of Human Rights and Basic Needs in the Americas.

<sup>21</sup>This categorization follows the general lines of the analysis presented by John Samuel Fitch in "A Human Rights Policy for Latin America in the 1980s," Discussion Paper N<sup>o</sup> 3, Center for Public Policy Research, University of Colorado at Boulder, June 15, 1982, p. 5.

<sup>22</sup>The armed forces installed themselves in power in Brazil in 1964, Chile and Uruguay in 1973, and Argentina in 1976, clearly indicating their intention to retain control over the long-term. Recently the military in Argentina has promised elections for a civilian government in late 1983, while the armed forces in Brazil have made a similar promise for 1985. In Uruguay there has also been some slight movement in this direction, with much less change in Chile even in the face of mounting opposition to the government of General Augusto Pinochet.

<sup>23</sup>This is an opinion shared by the Roman Catholic hierarchy in Latin America. For their position, see Latin American Bishops Discuss Human Rights, LADOC 'Keyhole' Series, 16 (Washington, D. C.: United States Catholic Conference, nd).

<sup>24</sup>The political, economic, and ideological origins of national security ideology are detailed in Margaret E. Crahan, "National Security Ideology and Human Rights," in Crahan, ed., Human Rights and Basic Needs in the Americas, pp. 100-119. See also David Collier, ed., The New Authoritarianism in Latin America (Princeton, N.J.: Princeton University Press, 1979) and Genaro Arriagada, et. al., Las Fuerzas Armadas en las sociedad civil: Alemania, USA, URSS, y América Latina (Santiago de Chile, Centro de Investigaciones Socio-económicas, 1978).

<sup>25</sup>Only two of several thousand writs of habeas corpus were granted by the Argentine courts between 1976, and these were not granted until 1982 after the government has been discredited by the Falklands debacle and economic mismanagement. This reflects the slow reassertion of some independence on the part of the Argentine judiciary, which appears increasingly preoccupied with disassociating itself from the excesses of an executive branch of government controlled by the armed forces.

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<sup>27</sup>Some research touching on this issue has been undertaken by the Social Science Research Council's Seminar on the Culture of Fear, directed by Juan Corradi and Patricia Weiss Fagen, as well as by FASIC in Santiago, Chile.

<sup>28</sup>Maria Elena Moreira Alves, "The Formation of the National Security State: The State and the Opposition in Military Brazil," (Doctoral Dissertation, Massachusetts Institute of Technology, 1981).

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<sup>30</sup>Information concerning the size of foreign financial flows is not readily available. Some indication can be found in Smith, "Churches and Human Rights," pp. 159-160.

<sup>31</sup>Alan Tonelson, "Human Rights: The Bias we Need," Foreign Policy, 49 (Winter 1982-1983), p. 54.

<sup>32</sup>Research and Forecast, Inc., Report on American Values, pp. 186, 183, 238. Some data indicate that the United States' public generally opposes favorable treatment for pro-Western authoritarian governments; Tonelson, "Human Rights," p. 54; 70. A former United States' policy maker has concluded that "indifference to expressed American values (i.e. human rights) does violence to Americans' view of themselves and saps domestic support for United States' foreign policy"; Sandy Vogelgesang, American Dream, Global Nightmare: The Dilemma of United States' Human Rights Policy (New York: W.W. Norton & Company, 1980), p. 253.

<sup>33</sup>He never, The Dynamics of Human Rights in United States Foreign Policy, pp. 1-2.

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- <sup>50</sup>Ibid., p. 13.
- <sup>51</sup>Ann Van Wynen Thomas and A. J. Thomas, Jr., Non-Intervention: The Law and its Import in the Americas, Foreword by Julio Cueto-Rua (Dallas: Southern Methodist University Press, 1956), pp. 376-377.
- <sup>52</sup>Ibid., p. 374. In law, a distinction is made between intervention and intercession.
- <sup>53</sup>Ibid., pp. 386-387.
- <sup>54</sup>Richard B. Lillich, "A United States Policy of Humanitarian Intervention and Intercession," in Kommers and Loescher, eds., Human Rights and American Foreign Policy, p. 290. These criteria incorporate elements from Ved Nanda, "The United States' Action in the 1965 Dominican Crisis: Impact on World Order, Part I," 43, Denver Law Journal (Fall 1966), pp. 439, 474-479; Richard B. Lillich, "Forcible Self-Help by the States to Protect Human Rights," Iowa Law Review, 53 (1967), p. 325 and Richard B. Lillich, ed., Humanitarian Intervention and the United Nations (Charlottesville: University Press of Virginia, 1979); J. Moore, "The Control of Foreign Intervention in Internal Conflict," Virginia Journal of International Law, 9 (May 1969), pp. 205, 261-264. Louis Henkin, "Human Rights and 'Domestic Jurisdiction'" in Thomas Buergenthal, ed., Human Rights, International Law and the Helsinki Accord (Montclair, N.J.: Allanheld, Osmun & Co., 1977) pp. 21-40; Thomas Buergenthal, "Domestic Jurisdiction, Intervention and Human Rights: The International Law Perspective," in Peter G. Brown and Douglas MacLean, eds., Human Rights and U.S. Foreign Policy (Lexington, Mass.: Lexington Books, 1979), pp. 111-120. For a critique of these criteria, see Thomas Farer, "The Regulation of Foreign Intervention in Civil Armed Conflict," Recueil des Cours, II (1974), p. 392.
- <sup>55</sup>Thomas, Non-Intervention, pp. 410; 402.
- <sup>56</sup>L. Openheim, Interventional Law, Vol. 1 (New York: Longmans Green, 1905), p. 181.
- <sup>57</sup>Lillich, "A United States Policy." p. 279
- <sup>58</sup>Shue, Basic Rights, p. 165.
- <sup>59</sup>R.J. Vincent, Non-Intervention and International Order (Princeton: Princeton University Press, 1974), p. 344
- <sup>60</sup>See, for example, Gregory Treverton's discussion of Interstate relations in "Interstate Conflict in Latin America" in this volume.

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<sup>61</sup>Bryce Wood, "Human Rights Issues in Latin America," In Jorge I. Dominguez, et. al., Enhancing Global Human Rights, pp. 178-179, 191.

<sup>62</sup>In mid-1982 the U.S. Department of State prepared a critique of reports of human rights violations by Amnesty International, the Washington Office on Latin America, the Guatemalan Human Rights Commission, and NISGUA, which it stated was for internal use only. (U.S. Department of State, "Guatemala: Human Rights Analysis," Xerox, nd. 4. pp.) It was subsequently released to pro-Rios Montt elements who published it. This was one of a series of recent efforts aimed at discrediting human rights organizations.

<sup>63</sup>Fitch, "A Human Rights Policy for Latin America in the 1980s," p. 36.