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HUMAN RIGHTS IN THE INTERNATIONAL COMMUNITY AND IN U.S. FOREIGN POLICY, 1945–76

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INTERNATIONAL ORGANIZATIONS

OF THE

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INTERNATIONAL RELATIONS
HOUSE OF REPRESENTATIVES

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FOREWORD

House of Representatives,
Committee on International Relations,
Washington, D.C., July 24, 1977.

The human rights study contained herein was prepared by the Congressional Research Service at the request of Congressman Donald M. Fraser, chairman of the Subcommittee on International Organizations.

Given the wide interest in human rights, this study is being printed to assist the Members of the Congress in their consideration of legislation relating to human rights and U.S. foreign policy. The findings and conclusions in this study are those of the Foreign Affairs and National Defense Division, Library of Congress and do not necessarily represent the views of the members of the Committee on International Relations.

Clement J. Zablocki,
Chairman.

LETTER OF TRANSMITTAL

U.S. House of Representatives,
Subcommittee on International Organizations,
Washington, D.C., May 1, 1977.

Hon. Clement J. Zablocki,
Chairman, Committee on International Relations, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: As part of the ongoing activities of the Subcommittee on International Organizations, I am submitting this study which was prepared at my request within the Foreign Affairs and National Defense Division of the Congressional Research Service. Marjorie Ann Browne, analyst in international organization, who was responsible for its overall structure and content, wrote the introduction, the congressional summary, part I, and part IIA. Vita Bite, analyst in international relations, wrote part II and the two appendixes. Brenda Branaman, analyst in international relations, wrote part III. Ms. Jacqueline M. Daniels and Ms. Sandra Hunt prepared the final copy of the report.

The study examines the evolution of international human rights, and devotes a section to human rights and U.S. foreign policy over the last 30 years.

The U.S. Government is currently formulating guidelines for a foreign policy infused with a deeper concern for human rights. This study, therefore, is timely and ought to give readers a deeper understanding of human rights issues.

Sincerely,

Donald M. Fraser,
Chairman,
Subcommittee on International Organizations.

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SUMMARY

I. Human Rights Tradition—Past and Present

Before 1945 any human rights question was considered to be a matter between a nation state and the persons within its territory. As issues of domestic jurisdiction, they were beyond the reach of international law. In early U.S. domestic practice human rights were not considered a proper subject of U.S. treatymaking powers. Moreover, the Federal Government was generally denied jurisdiction in such matters because they were considered within the purview of the State within the U.S. federal system.

World War II marked the start of a revolution in the development of new approaches to human rights issues. Today, international legal practice accepts the protection of human rights as a matter of international concern. The 1969 report of the Special Committee of Lawyers for the President's Commission for the Observance of Human Rights Year 1968 confirmed the acceptance in the United States of human rights as a proper subject of U.S. treatymaking. In addition, the enactment of substantial civil rights and welfare legislation at the national level has nullified the view that human rights are matters exclusively within the purview of the State within the U.S. federal system.

The Universal Declaration of Human Rights is one of the most widely accepted statements identifying basic human rights. It was not intended to place legally binding obligations but to set forth a "common standard of achievement for all peoples and all nations." The declaration was conceived as the initial part of an international bill of rights in which the human rights convenants or treaties would constitute the binding portion. The two covenants—on civil and political rights and on economic, social, and cultural rights—were adopted in 1966 and came into force in 1976.

The U.N. Charter asserted fundamental obligations for the United Nations and for U.N. member states to protect human rights. At the same time article 2(7) of the Charter set forth the principle of nonintervention by the United Nations in matters within the domestic jurisdiction of any State. This article has frequently been cited as an obstacle to the implementation of the human rights provisions of the Charter.

II. International Community Action to Protect Human Rights

In 1970 the United Nations established, within its Human Rights Commission, various procedures for the treatment of petitions from individuals or groups identifying violations of human rights in U.N. member states. All deliberations and reports, however, are maintained in private, closed meetings; documents are kept confidential, and actual progress is difficult to assess.

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Two other U.N. bodies that receive and consider petitions on human rights questions do maintain a clear policy of publicity. The Committee of 24, formally the Special Committee on the Situation With Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, and the Special Committee on Apartheid each consider petitions directly, adopting resolutions that recommend action to governments.

The U.N. General Assembly and Security Council, as well as the Economic and Social Council, have responded to the complaints of governments on the actions of other governments in the human rights area. The question of what powers U.N. bodies should have in matters concerning such issues as the human rights situation in Chile, however, remains unresolved. In this case the stumbling block appears to be article 2(7) on nonintervention. A U.N. Working Group established to investigate and examine the situation has not yet been allowed entry into Chile.

A third area of U.N. activity on human rights protection is the development of treaties to implement the Charter articles relating to human rights and the Universal Declaration of Human Rights. Three U.N. instruments adopted in the mid-1960's envision some form of implementation machinery. The International Convention on the Elimination of All Forms of Racial Discrimination has been in force since 1969. A Committee on the Elimination of Racial Discrimination was created under this Convention. The second instrument is the International Covenant on Civil and Political Rights, which entered into force on March 23, 1976. A Human Rights Committee, created in September 1976, is provided for in the covenant. The third instrument is the International Covenant on Economic, Social, and Cultural Rights, in force since January 3, 1976. The U.N. Economic and Social Council is the implementing organ named in this treaty. All three conventions provide for the submission of reports from the state parties on their implementation of the convention. These reports are considered by the relevant committees. The first two treaties also provide an optional mechanism for the receipt and consideration by the committee of communications from individuals and groups from the parties accepting this procedure.

Four U.N. specialized agencies have a particular interest in the protection of specific human rights. This report singles out the International Labor Organization (ILO) as having probably the most effective program of international human rights implementation.

The 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms established one of the most elaborate systems for the protection of human rights. Under the convention a European Commission of Human Rights and a European Court of Human Rights were established. Any contracting party to the convention may refer to the Commission an alleged violation by any other party. In addition the committee has jurisdiction to receive private applications from "any person, nongovernmental organization or group of individuals." This last element was made optional and has been accepted by 13 of the 18 states which are party to the convention. In practice, interstate applications have rarely been lodged with the Commission. The overwhelming majority have been individual applications.

The keystone of the inter-American system for the protection of human rights is the Inter-American Commission on Human Rights, which was created under the Organization of American States and now reports to the OAS General Assembly on any cases of gross violations of human rights.

The Permanent Arab Commission on Human Rights, established by the Council of the League of Arab States in 1968, has not conducted any human rights investigations other than those concerning the rights of Arabs in occupied territories. An African Commission on Human Rights, proposed to be established under the Organization of African Unity, has not yet been created.

III. Human Rights and U.S. Foreign Policy

The United States does have treaty obligations to promote the protection of human rights. Articles 55 and 56 of the U.N. Charter require U.N. member states to promote human rights and to take joint affirmative action on human rights issues. As a member of the International Labor Organization, the United States is obligated to promote economic security and equal opportunity in its labor practices without regard to race, creed, or sex. Under the OAS Charter the United States is bound to respect the rights of the individual. However, of the 40 human rights treaties now in force, the United States has ratified only 10: 5 U.N. treaties and 5 OAS human rights treaties; there are at least 30 human rights treaties the United States has not ratified.

Human rights issues compete with various other considerations during the formulation of U.S. foreign policy. The most fundamental consideration is that of the national interest and what actions policymakers perceive to have the most advantageous impact on U.S. national interests. The linking of some human rights issues with other international problems sometimes makes resolution more difficult. The impact of intervention of any form—a public statement might be viewed by some nations as intervention—is measured against national interest perceptions. There is also some sensitivity to the possibility that other countries will in turn charge the United States with human rights violations. One issue is whether the United States should maintain a single human rights standard against which all nations—big and small, friend or foe, neutral or our most important national security partners—will be measured and will be identified as human rights violators. Another question is whether the United States should take on the task of moral policeman for the world, especially when United States and Western concepts of human rights are in some respects significantly different from the human rights priorities of other nations and cultures.

It is in the area of approach that efforts to maintain a single standard, if there can be or should be such, diminish. Different countries, different cultures, different priorities, and different U.S. national interests, may require different U.S. responses. These include:

(*a*) Quiet diplomacy;

(*b*) Public denunciation (statements to press; speeches);

(*c*) Requests that an international organization take action;

(*d*) Application of economic sanctions or arms embargo;

(*e*) Cut off or reduction of economic and/or military assistance; and

(*f*) Action limiting or affecting U.S. diplomatic representation.

The congressional response to human rights violations in other countries has been to assure greater attention to these violations and to the role of human rights in U.S. foreign policy considerations both through its investigative and legislative functions. The Foreign Assistance Acts of 1973 and 1974 both included sections aimed at linking the receipt of foreign assistance to the protection of human rights. The International Development and Food Assistance Act of 1975 strengthened the provisions of the Foreign Assistance Act in the human rights area. The International Security Assistance and Arms Export Control Act of 1976 called for the establishment within the State Department of a Coordinator for Human Rights and Humanitarian Affairs who would have primary responsibilities for maintaining information on the status of human rights in other countries and for reporting to the Congress through the Secretary of State on human rights practices.

INTRODUCTION

The Carter administration has expressed its commitment to a new position for human rights both in U.S. foreign policy and in its domestic policies.[1] Already, public comments by the President and the Secretary of State have been made on the status of human rights in other countries. Most news conference meetings with Carter or Vance during the first several months of the new administration included questions from the press on human rights issues and U.S. policy. Vance's comments during a February 27 segment of Face the Nation seem to characterize the position of the administration:

> The human rights issue is really grounded in the fundamental values which lay at the root of the founding of this country. The dignity of the individual and the protection of those rights is a very sacred right that is of great importance to Americans, and therefore it is something which should be of importance to us in our domestic lives and in the conduct of our foreign policy. It has to be interwoven into the fabric of our foreign policy, and this, we believe, can be done.
>
> Now, insofar as speaking out on human rights issues abroad are concerned, we will speak out when we believe it desirable to do so. We will try to do it in a nonstrident, nonpolemical way, and we would expect others, if they see things happening in the United States, to criticize us, because this is not a one-way street. We have not tried to single out any country. We will speak out when we believe it appropriate to do so with respect to a human rights issue wherever it may arise throughout the world.[2]

The public comments with respect to human rights in the Soviet Union have led some observers to imply that the Soviet Union is receiving an inequitable amount of criticism from the United States on the human rights issue. The administration has stressed its efforts to be evenhanded in its public comments on human rights in all countries. At the same time, with the Soviet Union, it has attempted to separate human rights issues from national security issues such as SALT. In addition, queries by the press that there was a cause and effect relationship between statements by President Carter about Uganda and the actions taken by President Amin of Uganda against Americans in Uganda have been denied by Vance. Britain's Foreign Secretary David Owen has supported the administration's defense of human rights, adding that:

> In Britain we will take our stand on human rights in every corner of the globe. We will not discriminate. We will apply the same standards and judgments to Communist countries as we do to Chile, Uganda and South Africa.
>
> * * * * * * *
>
> We recognise that the issue of human rights is only one strand in the complex East/West relations. It is no part of HMG's policy to promote compaigns of denunciation or to assume the role of agents-provocateurs. Equally, the Communist countries must recognize that concern for human rights is not a diver-

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[1] Inaugural address of President Jimmy Carter. Weekly Compilation of Presidential Documents, vol. 13, No. 4, Jan. 24, 1977: p. 88.

[2] CBS News. Face the Nation; Feb. 27, 1977, Washington, D.C., with Cyrus Vance, Secretary of State. p. 3 (copyright CBS News).

sionary tactic but an integral part of foreign policy in the Western democracies. Of course we have to balance morality with reality. The art again lies in striking the right balance.[3]

On the question of assistance to countries accused of human rights violations, Secretary Vance has noted that this must be done on a case-by-case basis:

> We are working to fulfill both the letter and spirit of current legislation relating human rights concerns to foreign assistance. * * * In each case we must balance a political concern for human rights against economic or security goals. No formula can resolve the larger conflict of commitments, but prudent and dedicated attention to both the basic objectives and the day-to-day operations of our programs can make specific problems tractable.[4]

Vance announced that military aid to Argentina, Ethiopia, and Uruguay would be reduced or eliminated because of human rights violations. Military assistance to the Republic of Korea would however, be maintained because of U.S. national security interests.

This new emphasis on human rights brings with it the need, to paraphrase Foreign Secretary Owen, to strike the right balance between morality and reality. This task may be facilitated by an understanding of the historical roots of the growing international and U.S. concern for human rights issues. The purpose of this paper is to set down the development of international community mechanisms and procedures to protect human rights and to review the factors which before 1977 influenced U.S. foreign policy toward countries where human rights conditions have been at issue.

Congressional interest in human rights conditions in other countries has increased substantially over the past 3 years. This interest has been exhibited in different ways and has gone beyond the holding of hearings to describe human rights conditions in various countries and to question members of the executive branch on actions taken by the United States to express dissatisfaction with nations that carried out most blatant and systematic denials of human rights. Congress has adopted legislation to limit the provision of assistance to countries in particular circumstances. It has also created, within the Department of State, a Coordinator for Human Rights and Humanitarian Affairs.

While Congress has not, by legislation, defined "human rights", it has provided some framework for consideration of human rights issues. The Charter of the United Nations and the U.N. Universal Declaration of Human Rights are both referred to (see appendix B) in legislation. The International Development and Food Assistance Act of 1975 (Public Law 94–161) cites language that is frequently used in U.S. resolutions:

> Consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person. * * *

The International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329) also relies on standards and criteria which have been established by the international community. Further more, this act declares that it "is the policy of the United States * * *

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[3] Congressional Record [daily ed.] vol. 123, Mar. 9, 1977: H1920–1921.

[4] Vance, Cyrus R., U.S. Foreign Assistance Programs. Statement before the Senate Foreign Operations Subcommittee of the Appropriations Committee, Feb. 24, 1977. p. 2.

to promote and encourage increased respect for human rights and fundamental freedoms for all * * *. To this end, a principal goal of the foreign policy of the United States is to promote the increased observance of internationally recognized human rights by all countries."

However, this recognition of the role of the international community in the protection of human rights is a relatively new phenomenon and is not universally accepted. Each state often interprets its international obligations in relation to its own cultural, social, economic, and political priorities and perspectives. Moreover, the same charter which (1) obligates U.N. members to promote respect for human rights and (2) states as a primary purpose of the organization the promotion of human rights and fundamental freedoms for all (art. 1) also recognizes the doctrine of nonintervention. Article 2, paragraph 7 of the U.N. Charter stipulates that nothing in the charter authorizes the "United Nations to intervene in matters * * * essentially within the domestic jurisdiction of any state. * * *" The doctrine of nonintervention can be said "to derive from and require respect for the principle of state sovereignty," [5] insofar as it establishes a norm for international conduct that one state will not interfere in the internal affairs of another state. States that have been accused of human rights violations often cite the doctrine of nonintervention in their requests that international organizations or other states not interfere in their domestic affairs.

At the same time there is substantial justification for state responsibility for the protection of the human rights of the individual and for some level of international community "interference" on behalf of those whose rights have been infringed. International organization activity in the protection of human rights has been constantly subjected to the imbalance or tension between state sovereignty as protected by the doctrine of nonintervention and state obligations to protect individual human rights and fundamental freedoms.

Part I of this report discusses past and present perceptions of the human rights tradition both in international law and by the United States. Part II identifies international and regional organization actions and procedures for the promotion and protection of human rights. Part III, after identifying U.S. obligations in the human rights area, examines the problems and approaches used by the executive branch in response to human rights violations in other countries. Lastly, this section explores the congressional response to human rights violations.

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[5] R. J. Vincent, Nonintervention and International Order. New Jersey, Princeton University Press, 1974, p. 14.

NOTE: Reference will be made throughout this paper to a set of hearings in 1973 and to a 1974 report, both by the Subcommittee on International Organizations of the House International Relations Committee. The following are the citations to each item with the short form citation used hereafter in this paper.

U.S. Congress. House. Committee on Foreign Affairs. Subcommittee on International Organizations and Movements. International Protection of Human Rights. Hearings, 93d Cong., 1st sess. Aug. 1 * * * Dec. 7, 1973. Washington, U.S. Government Printing Office, 1974, 987 pp. Hereafter referred to as Human Rights Hearings.

U.S. Congress. House. Committee on Foreign Affairs. Subcommittee on International Organizations and Movements. Human Rights in the World Community: A Call for U.S. Leadership. Washington, U.S. Government Printing Office, 1974, 54 pp. (93d Cong., 2d sess. committee print.) Hereafter referred to as committee print on Human Rights in the World Community.

I. HUMAN RIGHTS TRADITION—PAST AND PRESENT*

A. Human Rights in International and U.S. Law

1. INTERNATIONAL LAW

Concern for human rights did not emerge full grown onto the international scene with the adoption of the 1945 U.N. Charter. Protection of rights was the raison d'etre for the Magna Carta in 1215, the Habeas Corpus Acts of 1640 and 1670, the English Bill of Rights in 1689, the Bill of Rights of 1789 in the first 10 amendments to the U.S. Constitution, and the French Declaration des Droits de l'Homme et du Citoyen in 1789. The protection of rights of the citizen within his country was the intent in each of the above-named documents. In general, protection of human rights was considered until recently a matter between the state and the persons within its territory—a question of domestic jurisdiction, beyond the reach of international law.

There were a few exceptions to this generally accepted approach. First, states were viewed as having a special duty to protect aliens within their territory. This was conceived as a responsibility between states. Second, it was generally agreed that if government atrocities against its citizenry were so extreme as to shock the conscience of mankind, other states had a right to intervene. Nineteenth century interventions tended to focus on the protection of religious minorities. Third, countries entered into agreements to halt slavery and the slave trade. Steps were also taken for the relief of the sick and wounded in wartime and for the eradication of some harmful labor conditions. Fourth, while there were few treaties that dealt exclusively with human rights, concern for the rights of minorities was expressed in such multilateral peace agreements as the Treaty of Westphalia (1648), the Congress of Vienna documents (1815), and the Treaty of Berlin (1878).

Human rights considerations were a thread of concern throughout the World War I peace settlement talks in 1919. The League of Nations Covenant contained provisions for the protection of the rights of the natives in the colonies of member states, of the inhabitants of mandated territories, and of women and children. The treaties and declarations on the protection of minorities created, under the League, a system of protection of certain racial, religious, and linguistic minorities. The Versailles Peace Treaty established the International Labor Organization which sought to create a system of guarantees in labor rights.[1]

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*This section was prepared by Marjorie Ann Browne, analyst in international organization.

[1] See Egon Schwelb. Human Rights and the International Community. Chicago, Quadrangle Books, 1964, pp. 11–25; and John P. Humphrey. The International Law of Human Rights in the Middle Twentieth Century. In Maarteen Bos, ed. The Present State of International Law and Other Essays. The Netherlands Kluwer, 1973, pp. 75–83.

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While some progress had been made in protecting individuals through human rights activities before World War II, the war itself served as the catalyst for what John P. Humphrey called the "revolutionary developments in the international law of human rights that characterize the middle twentieth century." [2] Before this time a substantial portion of theory and practice argued that individuals were not a legitimate subject of international law. International treaty activities might formulate general principles for the protection of human rights in other countries but it was left to each country to set down national laws to implement such principles. Today, the individual has become a primary focus of international human rights law.

2. DOMESTIC CONSIDERATIONS

The basic problems for U.S. law created by an international responsibility for the protection of human rights are derived from the traditional exemption of the individual as a subject of international law. For example, are the rights of the individual inside a country within the scope of the treatymaking power of the United States? Article 2, section 2, paragraph 2 of the U.S. Constitution gives to the President the "Power, by and with the Advice and Consent of the Senate to make Treaties, provided two-thirds of the Senators present concur. * * *" This power, according to article 1, section 10, can not be exercised by any State of the Union. Furthermore, article 6 specifies that "all Treaties made, or which shall be made, under the Authority of the United States, shall be [like the Constitution and the laws made in pursuance thereof] the supreme Law of the Land. * * *"

Charles Evans Hughes, commenting in 1929 on the proper subjects of the treatymaking power, indicated that the treatymaking power was not to be used "with respect to matters that have no relation to international concerns" or with matters which "normally and appropriately were within the local jurisdiction of the State * *".[3] This subject limitation was often referred to by U.S. opponents to the human rights treaties which were being drafted under U.N. and U.N. agency auspices during the 1940's and 1950's. However, Louis Henkin has pointed out that the Hughes subject limitation on the treatymaking power was not relevant in the human rights area. Human rights treaties had previously been entered into by the United States. Thus, human rights was not a new area of treatymaking.[4] The Clark committee report, arriving at the same conclusion in 1969, also pointed out—

> it appears not only that human rights are matters of international concern, but also that there is substantial U.S. precedent for the ratification of human rights treaties.[5]

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[2] John P. Humphrey. The International Law of Human Rights in the Middle Twentieth Century, pp. 82–83.

[3] These comments were made extemporaneously during a meeting of the American Society of International Law. Hughes was speaking as a private individual; he had ceased to be Secretary of State and, while he had been designated Chief Justice, he had not yet entered that office. American Society of International Law, proceedings, vol. 23, 1929: pp. 194–196.

[4] Louis Henkin, Foreign Affairs and the Constitution, Mineola, N.Y., The Foundation Press, 1972, p. 155

[5] U.S. President's Commission for the Observance of Human Rights Year 1968. Special committee of lawyers. A report in support of the treatymaking power of the United States in Human Rights matters. October 1969, n.p., n.d., p. 7. Also in Human Rights hearings, p. 741:

The American Law Institute restatement of the foreign relations law notes:

> Matters of international concern are not confined to matters exclusively concerned with foreign relations. Usually, matters of international concern have both international and domestic effects, and the existence of the latter does not remove a matter from international concern.[6]

In addition, opponents of U.S. ratification, citing the 10th amendment to the Constitution.[7] have held that human rights treaties deal primarily with matters handled by the States. However, this restriction with respect to matters essentially within the juridsiction of the several States has been viewed by many as being overcome by events. Enactment of civil rights and welfare legislation by the Congress has nullified any claims that human rights are matters exclusively within the purview of the State within the U.S. Federal system. Furthermore, as the American Law Institute notes:

> The 10th Amendment, which reserves to the several states those "powers not delegated to the United States," does not limit the power to make treaties.[8]

In *Missouri* v. *Holland*, 252 U.S. 416 (1920), the Supreme Court rejected this claim that treaties cannot deal with matters reserved to the States.

Another problem impeding ratification by the United States of human rights treaties can be illustrated by referring to the 1965 (U.N.) International Convention on the Elimination of All Forms of Racial Discrimination, which includes a provision calling upon the parties: (1) to pass legislation, or take other appropriate measures, prohibiting racial discrimination by private *persons* and organizations; and (2) to declare illegal any organizations and propaganda activities which *advocate* racial discrimination.[9] [Italic supplied] These provisions run counter to U.S. ideas of freedom of speech, association, and the press. It has been suggested that such a treaty could only be ratified with a reservation. The State Department supports this view, although it makes clear that a reservation might be seen by some parties as avoiding the full obligations of the treaty. Therefore, the possibility exists that other parties to the treaty "can object to the reservation and refuse to be in treaty relations with the reserving country." [10]

B. Definition and Scope Within the Framework of the Universal Declaration

"The International Relations Dictionary," by Plano and Olton, defines human rights as—

> protection for individuals from arbitrary interference with or curtailment of life, liberty, and the equal protection of the laws by government or private individuals and groups.[11]

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[6] American Law Institute. Restatement of the law, Second. Foreign Relations Law of the United States. St. Paul, Minn., American Law Institutes Publishers 1965, p. 370.

[7] The 10th Amendment: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

[8] American Law Institute, p. 373.

[9] United Nations. Office of Public Information. The United Nations and Human Rights. New York, United Nations, 1973, pp. 38-39.

[10] U.S. Department of State. Legal Division. Memorandum of reservations to Human Rights Conventions. In Human Rights hearings, p. 471.

[11] Jack C. Plano and Roy Olton. The International Relations Dictionary. New York, Holt, Rinehart and Winston, Inc., 1969, p. 285.

The preamble of the Universal Declaration of Human Rights by inference defines human rights as "the inherent dignity and * * * the equal and inalienable rights of all members of the human family."

More important than a definition of human rights, perhaps, is an identification of specific rights. The above-mentioned Universal Declaration does just this. This declaration was adopted unanimously by a resolution of the U.N. General Assembly on December 10, 1948.[12] It was not a treaty or international agreement and, thus, was not subject to signature and ratification. It was not intended to place legally binding obligations on member States but to set forth a "common standard of achievement for all peoples and all nations."

Briefly, the Universal Declaration defines the following as being among basic human rights:

> The right to life, liberty, and security of person; freedom of religion; freedom of opinion and expression; freedom of assembly; self-government through free elections; freedom from slavery and torture; the right to a fair trial and to equality before the law; presumption of innocence until proved guilty; the right not to be subjected to retroactive laws; freedom of movement within one's state and freedom to leave or return to it; the right of asylum; the right to a nationality; the right to found a family; the right to privacy; the right to own property, to social security and to work; the right to form and join trade unions; the right to an adequate standard of living, to education, and to rest and leisure; and the right to participation in the cultural life of the community.

During the more than 25 years since its adoption, the Universal Declaration has exercised an influence not often equaled by other U.N. General Assembly resolutions. The declaration has been referred to in other resolutions of the U.N. Security Council, Economic and Social Council, and General Assembly, in multilateral and bilateral treaties, in national constitutions, and in municipal laws and decrees. It has been invoked in judicial proceedings and cited in a number of judicial decisions and opinions.[13]

The declaration was conceived as the initial part of an international bill of rights in which the human rights covenants or treaties would constitute the binding portion. The two covenants—on civil and political rights and on economic, social, and cultural rights—were adopted in 1966 and went into force in 1976.[14] In addition, treaties on specific rights cited in the declaration have been drafted to establish binding obligations for states parties. (See appendix A.) Several international conventions dealing in greater detail with specific articles of the declaration have been adopted; many are now in force.

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[12] The vote in the General Assembly was 48 in favor, 0 against, and 8 abstentions. Byelorussian SSR, Czechoslovakia, Poland, Saudi Arabia, Ukrainian SSR, Union of South Africa, U.S.S.R., and Yugoslavia abstained. Afghanistan, Argentina, Australia, Belgium, Bolivia, Brazil, Burma, Canada, Chile, China, Colombia, Costa Rica, Cuba, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Guatemala, Haiti, Iceland, India, Iran, Iraq, Lebanon, Liberia, Luxembourg, Mexico, Netherlands, Paraguay, Peru, Philippines, Siam (Thailand), Sweden, Syria, Turkey, United Kingdom, United States, Uruguay, and Venezuela voted in favor. Two countries were absent or not voting: Honduras and Yemen.

[13] See United Nations. United Nations Action in the Field of Human Rights. New York, United Nations, 1974. (U.N. document ST/HR/2) pp. 8-19.

[14] The United States has not taken any action to ratify these two treaties and is not bound by them.

II. INTERNATIONAL COMMUNITY ACTION TO PROTECT HUMAN RIGHTS

This section will identify the role of international governmental organizations in the protection of human rights. Support of these activities has reinforced acceptance of the notion that protection of human rights is a proper matter for international attention, concern, and action.

A. The United Nations*

The basic authority for the United Nations to engage in international cooperation efforts to protect human rights and to encourage respect for human rights resides in the U.N. Charter. The preamble of the charter, in its statement of the goals for the world organization, ranks respect for human rights second only to the urgency of saving succeeding generations from the scourge of war. It states the organization's intent—

> to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small. * * *

Articles 1(3), 13(1), 55, 62(2), and 76 commit the organization to the goal of promoting and encouraging respect for human rights and for fundamental freedoms for all. In becoming party to the charter, U.N. member nations pledge themselves (articles 56 and 2(2)) to take joint and separate action for the achievement of this goal. Goodrich, Hambro, and Simons observe that "the General Assembly has made it clear that it considers that article 56 imposes on members the definite obligation to follow or refrain from certain courses of action in the promotion of respect for human rights." [1] Article 68 of the U.N. Charter authorizes the Economic and Social Council to establish a commission for the promotion of human rights. In addition, the charter cites approaches that may be used in the encouragement and promotion of respect for human rights. The General Assembly may initiate studies and make recommendations and the Economic and Social Council may make or initiate studies and reports, and make recommendations, and it may prepare draft conventions for submission to the General Assembly.

The U.N. Charter also provides that nothing therein shall authorize the United Nations to intervene in matters that are essentially within the domestic jurisdiction of any State or shall require members to submit such matters to settlement.[2] Because of the traditional approach toward human rights as a matter exclusively within the domestic jurisdiction of sovereign States, article 2(7) has frequently

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*This section was prepared by Marjorie Ann Browne, analyst in international organization.

[1] Leland M. Goodrich, Edvard Hambro, and Anne Patricia Simons. Charter of the United Nations, commentary and documents. 3d and rev. ed. New York, Columbia University Press, 1969, p. 382.

[2] This principle of nonintervention on the part of the United Nations in accordance with article 2(7) does not apply to enforcement measures approved by the U.N. Security Council under ch. 7 (art. 39–51) which provides for nonmilitary and/or military action in response to threats to the peace, breaches of the peace, and acts of aggression.

been viewed as an obstacle to the implementation of the human rights provisions of the Charter.

The United Nations has utilized several mechanisms in fulfilling its charter responsibilities to promote and protect human rights. Broadly stated, U.N. activities can be identified as (1) formulation of standards through the adoption of declarations and treaties; (2) supervision of application of standards through the use of (*a*) reports, (*b*) procedures for the consideration of communications and complaints, and (*c*) investigations; and (3) informational, educational, and assistance programs.

1. ADOPTION OF INTERNATIONAL AGREEMENTS UNDER U.N. AUSPICES

The Universal Declaration, which gave form to the general statements of the charter, also served as a starting point for the drafting and adoption of treaties to deal in more detail with various human rights. (See Appendix A).[3] At least 19 treaties, drafted and adopted under the auspices of the United Nations, are in force.[4]

While only two of these treaties actually state that the particular problem is a crime under international law which must be prevented and punished (the Genocide Convention, preambular paragraph 1 and article 1 and the Apartheid Convention, preambular paragraphs 5, 6, 7, and 9 and article 1), the adoption of so many documents as well as their subsequent ratification and entry into force gives testimony to the view widely shared among states that human rights are a legitimate matter of international concern and that protection of human rights is not within the exclusive jurisdiction of the individual state.

While these treaties exist and the states parties to them are legally bound to give them effect within their national jurisdictions, only five treaties include any mechanisms for review of state practice at the U.N. level of provide for receipt of complaints of violations at the U.N. level.[5] Thus, for the majority of the treaties, there is no way of ascertaining states parties manner of interpretation or implementation of the provisions. It has been seen that being a party to a treaty is no guarantee of faithful and meaningful adherence to the terms and intent of that treaty. This is particularly true in the human rights field where the principle of national sovereignty often takes precedence over international community goals. In addition, different cultural and social mores influence the interpretation of treaty provisions.

2. U.N. PROCEDURES TO CONSIDER HUMAN RIGHTS VIOLATIONS*

Throughout its history member states have, in the various organs of the United Nations, brought human rights violations in particular

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[3] At least 11 articles of the Declaration have to some degree been translated into treaty form. An additional five have been clarified in declarations which, while not legally binding, have established a set of principles to guide the actions of states. Draft declarations and/or treaties are in process for at least 4 more of the 30 articles of the Universal Declaration.

[4] See World Association of Lawyers. Committee on Human Rights. The Ratification of International Human Rights Treaties. Washington, 1976, 78 pp.

[5] These procedures are discussed in detail later in this report; see Convenant on Civil and Political Rights and its Optional Protocol; Covenant on Economic, Social, and Cultural Rights; and Convention for the Elimination of all Forms of Racial Discrimination. The fifth treaty is the Convention on the Suppression and Punishment of the Crime of Apartheid which provides for reports on state practice to be submitted to the United Nations.

* This section was prepared by Vita Bite, analyst in international relations and Marjorie Ann Browne, analyst in international organization.

countries to the attention of the world organization. Discussion in a body where states, not experts, participate has frequently prevented any effective "U.N." response to the violations. Resolutions recommending that the injurying state refrain from further human rights violations, have usually been adopted without attention to insuring that the resolution will be carried into effect. In fact, adoption of a General Assembly resolution recommending action or requesting the state to stop its actions does not carry with it the legal mandate that the resolution be carried out by the injurying state. Such resolutions are recommendations, not law or edict.

The United Nations has also received thousands of petitions or communications from individuals and groups (nongovernmental organizations) identifying the violation of human rights in specific countries. While the U.N. Charter does not provide the individual with the right of petition except within the trusteeship system (art. 87(b)), U.N. organs receiving such communications have worked out various ways of handling and utilizing such communications. This section will identify the various procedures.

(*a*) *U.N. Commission on Human Rights*

The Human Rights Commission was established by the Economic and Social Council in 1946 pursuant to article 68 of the charter and is presently composed of 32 members who serve 3-year terms. The Commission which may deal with any question concerning human rights meets annually in Geneva for about 6 weeks. While the Commission decided initially that it had no power to take action on complaints from individuals and organizations, it developed in 1970 a procedure for the review of such communications, with a view toward action in the case of gross violations.[6]

The Subcommission on Prevention of Discrimination and Protection of Minorities, created by the Commission on Human Rights in 1947, appointed a working group of five members to meet once a year for 10 days to consider "in private" all communications received by the Secretary General on human rights and to report to the Subcommission and in turn to the Commission on any which "reveal a consistent pattern of gross and reliably attested violations of human rights and fundamental freedoms." According to the procedures outlined, the Commission then determines whether a Commission study or the establishment of an ad hoc investigating committee is required. Only after all available means at the national level have been exhausted and any other international or regional procedures have been pursued is an investigation by an ad hoc committee, with the consent of the state concerned, to be undertaken. In implementing these procedures the Commission, since 1974, has created its own working group which, prior to the annual meeting of the Commission, surveys the report of the Subcommission and submits a report to the Commission.

In actual practice these procedures appear to have generated little concrete action. All of the meetings and reports have been closed and the documentation restricted. Thus, there is very little hard information on the effectiveness of the procedures either in acquiring redress for those individuals who have been victims of human rights

[6] ECOSOC Resolution 1503 (XLVII), May 27, 1970.

violations or in altering the actions of member states.[7] The Working Group on Communications, the Subcommission, and the Commission and its working group have continued to meet, but without any public pronouncements on these cases before them. One might even argue that the confidentiality of the procedure has served to protect the injurying state rather than reveal its violations to the world community. Furthermore, the Human Rights Commission has itself been the object of accusations that it has "been more concerned to cover up than to expose human rights violations." [8] Leonard Garment, as U.S. Representative to the Commission, gave a lengthy critique of its 1976 meeting, calling the Commission's work a "travesty of human rights." [9]

(b) Other U.N. Bodies

Other U.N. bodies receiving petitions from individuals and groups include two committees created by the General Assembly: the Committee of 24 and the Special Committee on Apartheid. The Committee of 24, formally the Special Committee on the Situation With Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, was established in 1961. A Subcommittee on Petitions receives all communications addressed to the Committee, examines them, and decides whether to circulate each as a petition and whether to recommend to the Committee that it grant a hearing, if requested by the communication. The Committee's main weapons are publicity and immediate action on communications.

The Special Committee on Apartheid, originally the Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa, was created in 1962. Its Subcommittee on Petitions acts in somewhat the same manner as the apparatus established by the Committee of 24. This Committee also has a special responsibility under the International Convention on the Suppression and Punishment of the Crime of Apartheid.

The only U.N. organ originally authorized in the charter to receive and act upon petitions from individuals and groups is the Trusteeship Council, which under article 87 can "accept petitions and examine them in consultation with the administering authority." This applies only to petitions from nationals of the trusteeship territory and not to petitions from persons who are citizens of the administering authority. The Council received a total of 1,668 petitions between 1945 and 1964. The 11 territories which were under the U.N. Trusteeship System dwindled by 1964 to 8. In 1977 there is only one territory remaining—the Trust Territory of the Pacific Islands, administered by the United States.

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[7] During its first session in August 1972, the Subcommission's Working Group on Communications attempted to survey over 20,000 individual communications. The report of the group to the Subcommission was confidential and not circulated as a public document. The Subcommission, in 1972, postponed any decision on this report of the Working Group. In 1973 the Working Group referred eight cases to the Subcommission which, in turn, referred them to the Commission on Human Rights. The cases concerned torture in Brazil, detention of political prisoners in Indonesia, torture by the United Kindgom in Northern Ireland, arrest of trade unionists in Portugal, suppression of political rights in Iran, forced marriages In Tanzania, massacre in Burundi, and discrimination against East Indians in Guyana. Since 1974 when press articles identified these eight cases, no further information has surfaced on their resolution .

[8] U.S. Congress. Senate. Committee on Foreign Relations. United Nations. Hearings, 94th Cong. 2d sess., March 1976. Washington, U.S. Government Printing Office, 1976. Comments by former U.S. Representative to the U.N. Daniel P. Moynihan, p. 187.

[9] Leonard Garment. Address to American Jewish Congress. Apr. 1, 1976. U.S. Mission to the United Nations Press Release USUN-39(76), p. 1.

3. U.N. ACTIONS TO IMPLEMENT CHARTER ARTICLES*

(a) *Role of U.N. Organs*

In practice U.N. organs have taken action in a number of concrete situations dealing with alleged violations of human rights and fundamental freedoms in particular countries or territories. A sampling of such actions follows:

In 1949 the Economic and Social Council initiated an inquiry into charges concerning forced labor. The resulting 1953 report by the Ad Hoc Committee on Forced Labor relating to allegations of forced labor in 24 countries (and/or territories administered by them) was followed in 1957 by adoption by the International Labor Conference (ILO) of the Abolition of Forced Labor Convention.

In 1949 the General Assembly declared that measures by the Soviet Union to prevent wives of citizens of other nationalities from leaving their country of origin with their husbands or in order to join them abroad were not in conformity with the Charter. The Assembly recommended that the Government of the Soviet Union halt actions of this type.

A General Assembly inquiry was initiated into charges of violations of human rights and fundamental freedoms in Hungary during 1956 and afterward.

In 1959, 1961, and 1965 the General Assembly invoked the human rights provisions of the Charter on behalf of the people of Tibet. It called for cessation of practices which deprived the Tibetan people of their fundamental human rights.

In 1969 the Human Rights Commission established a Working Group of Experts to investigate allegations that Israel had violated the Geneva Convention of 1949 relative to the Protection of Civilian Persons in Time of War in the territories occupied by Israel as a result of hostilities in the Middle East.

Chile and the United Nations

A closer examination of the recent situation in Chile will identify some of the approaches used by the United Nations.

Early in 1974 at its 30th session, the Human Rights Commission authorized its chairman to send a telegram to the Government of Chile calling for immediate cessation of any kind of violation of human rights. The Economic and Social Council adopted Resolution 1873 (LVI) on May 17, 1974, expressing concern that violations of human rights in Chile continued to be reported, endorsing the concern of the Human Rights Commission, and calling upon the Government of Chile to "take all necessary steps to restore and safeguard basic human rights and fundamental freedoms in Chile, particularly those involving a threat to human life and liberty." During its 1975 meeting the Human Rights Commission appointed a five-man working group to inquire into the human rights situation in Chile. The study was to include a visit to Chile and the Chilean Government indicated that it would cooperate with the working group's inquiry. Later, however, the Chilean Government refused to allow such on-the-scene study. The General Assembly on December 9, 1975, after considering the progress report submitted by the working group, passed Resolution 3348 expressing profound distress at the constant flagrant violation of human rights in Chile, and calling upon the Chilean authorities to take without delay all necessary measures to restore and safeguard human rights and fundamental freedoms. The resolution also recommended extending the mandate of the working group to continue its study of the situation of human rights in Chile.

The Human Rights Commission to which the working group submitted a report at its February 1976 meeting agreed to extend the working group's mandate. The Commission also authorized its chair-

*This section was prepared by Vita Bite, analyst in international relations.

man to address a telegram to the Government of Chile urging it to desist from holding the contemplated military trial of 13 Chileans and to release them without further delay. The Economic and Social Council at its spring 1976 meeting approved extension of the working group's mandate and requested the working group to "ascertain any measure the Chilean authorities might have taken toward the re-establishment of respect for human rights and fundamental freedoms in implementation of General Assembly Resolution 3448 (XXX)." The Council also adopted a resolution appealing to the Chilean authorities to restore basic human rights and fundamental freedoms. The 1976 General Assembly, in addition to reiterating the provisions of its 1975 resolution, requested the Human Rights Commission to (1) formulate recommendations on possible humanitarian, legal, and financial aid to those arbitrarily arrested, imprisoned, or forced to leave Chile and (2) to consider the consequences of the various forms of aid extended to the Chilean authorities. (A/Res/31/124, Dec. 16, 1976.)

Other human rights questions considered by the United Nations include treatment of persons of Indian and Indo-Pakistani origin in South Africa; racial discrimination in South Africa resulting from the policies of apartheid; and observance by Bulgaria, Hungary, and Romania of the human rights provisions of the World War II peace treaties. The protection of human rights and fundamental freedoms has also been an important factor in the consideration of many so-called colonial issues, as for example, the questions of Tunisia, Morocco, Algeria, and Angola. In these situations a wide range of decisions has been made by the United Nations with a view to promoting respect for the human rights in question. An everchanging mix of pressure and persuasion has played a part in these decisions which have included: Reminding states of their international obligations, urging them to act in accordance with their U.N. Charter obligations, requesting states in conflict over questions of human rights to confer and to reach a peaceful settlement, setting up a committee of inquiry, affirming that continuation of the dispute or situation endangers international peace, and requesting members to take collective measures to bring about abandonment of such policies.[10]

(b) U.N. Human Rights Treaty Procedures

This section will discuss specific procedures provided for in U.N.-sponsored international agreements. Three U.N. instruments adopted in the mid-1960's envisage some form of implementation machinery. The first of these instruments is the International Convention on the Elimination of All Forms of Racial Discrimination adopted by the General Assembly in December 1965 and in force since 1969.[11] The convention provides for establishment of a Committee on the Elimination of Racial Discrimination (CERD). The committee which held its first session in 1970 and has met semiannually since then, (1) examines reports from states parties on the legislative, judicial, administrative, and other measures they have adopted to give effect to the provisions of the convention; (2) makes proposals and general recommendations based on its examination of the reports and information from the states parties; (3) functions with a view to settling disputes among

[10] Goodrich, Hambro, and Simon, op. cit., pp. 380–381.

[11] As of Mar. 11, 1977, the convention has been ratified by 94 states; it has been signed but not ratified by the United States.

states parties on the application of the convention; and (4) forwards proposals and recommendations in regard to such reports. Further, the convention provides for the right of individual petition, in that a state party may at any time declare that it recognizes the competence of the committee to receive and consider communications from individuals and groups within its jurisdiction who claim to be victims of a violation by the state party of the rights set forth in the convention. The committee is to cooperate with U.N. bodies in regard to petitions from inhabitants of nonindependent territories.

The second instrument, the International Covenant on Civil and Political Rights, adopted in December 1966, and in force on March 23, 1976, contains similar machinery for the implementation of its provisions.[12] A Human Rights Committee, which was established in September 1976 will consider the reports submitted by states parties on measures they have adopted to give effect to the rights set forth in the convenant and on the progress made in the enjoyment of these rights. An optional protocol to the covenant, adopted at the same time, empowers the Human Rights Committee to receive and consider communications from individuals who claim violations of any right set forth in the covenant.[13]

A somewhat different form of implementation machinery is found in the International Covenant on Economic, Social, and Cultural Rights also adopted in 1966 and in force on January 3, 1976.[14] This covenant provides that all states parties must submit reports on the measures adopted and the progress made in achieving observance of the rights recognized in the covenant, as well as any special circumstances which make it difficult for them to carry out their obligations under the covenant. These reports are to be transmitted through the Secretary General to the Economic and Social Council which may bring to the attention of other organs of the United Nations any matters arising out of the reports which may assist such bodies in deciding on what international measures should be taken toward the progressive implementation of the covenant. Economic and Social Council Resolution 1988 adopted on May 11, 1976, established a procedure and program whereby states parties are to furnish the reports outlined above in biennial stages. The Council also created a working group to assist in the review of these reports.

All three of these U.N. instruments envisage the submission and examination of periodic reports by the contracting states on domestic measures of implementation adopted and progress made in the realization of human rights. These reports are to be considered by different organs on the basis of different procedures. The two covenants do not specifically provide that the control organ is to determine the form of the reports. The Committee on the Elimination of Discrimination adopted the rule that it may inform the states parties of its wishes regarding the form and contents of the periodic reports. Theoretically the control organs for the covenants could adopt rules of procedures which could strengthen the impact of these documents.

The composition of the organ receiving and examining the reports differs among the three instruments. In the Economic, Social, and Cultural Rights Covenant the reports of the contracting states on

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[12] As of Mar. 11, 1977, 41 states have ratified; the United States has not ratified.
[13] As of Mar. 11, 1977, 15 states have ratified; the United States has not ratified.
[14] As of Mar. 11, 1977, 43 states have ratified; the United States has not ratified.

the application of the covenant are to be furnished (via the Secretary General) to the Economic and Social Council—a body composed of government representatives. In the Covenant on Civil and Political Rights reports are to be furnished to a Human Rights Committee, composed of individuals independent of their governments. The Committee on the Elimination of Racial Discrimination is composed of individuals independent of their governments.

The examination of reports provided by the U.N. instruments includes no other sources of information than the governments themselves—apparently the control organs are not to have wide investigative powers. In practice, the Committee on the Elimination of Racial Discrimination has carefully analyzed the reports submitted to it, calling on the representatives of the submitting states to amplify and clarify the reports and for states to correct deficiencies or omissions in submitted reports. Lists of the reports and additional information submitted are published giving date due, date of submission, as well as dates of reminders to states delinquent in submitting reports.

The formal results of all these examinations of reports in the case of the Economic, Social, and Cultural Rights Covenant are to be general recommendations submitted by the Economic and Social Council to the General Assembly; in the case of the Civil and Political Rights Covenant, the Human Rights Committee is to formulate general comments; and in the case of the International Convention on the Elimination of All Forms of Racial Discrimination, the CERD is to report to the General Assembly suggestions and general recommendations based on the examination of the reports and information received from the contracting states—along with comments of the states parties concerned. Similarly, in the case of individual petitions allowed by the Optional Protocol to the Covenant on Civil and Political Rights and optionally allowed by the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee examining the case is not empowered to make a decision on the question of violation, but only to forward its views to the state party concerned and to the individual, as well as to include it in its report to the General Assembly. Thus, ultimately, one might say that the measures of implementation set forth in these U.N. documents are primarily a means of acquiring and disseminating information and, to some extent, of exerting political pressure.

(c) U.N. Specialized Agency Procedures: The ILO [15]

In this discussion of U.N. actions to implement charter articles, mention should also be made of the work of four U.N. specialized agencies [16] which have a particular interest in the protection of specific human rights—the International Labor Organization (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the World Health Organization (WHO), and the Food and Agriculture Organization (FAO). Within the U.N. system the ILO may be singled out as probably having the most effective program of international human rights implementation.

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[15] The sources for information in this section include the following: C. Rossilion. ILO Examination of Human Rights Situations. Review of the International Commission of Jurists, 1974, No. 12: pp. 40–49; and Human Rights Hearings, pp. 561–570, 574–576. See also International Labour Office. The Impact of International Labour Conventions and Recommendations. Geneva, International Labour Office, 1976, 104 p.

[16] For a brief introduction to the work of these agencies in the human rights area see: United Nations. Office of Public Information. The United Nations and Human Rights. New York, United Nations, 1973. (United Nations Sales No. E.67.I.29) pp. 8–11, 27–29, 35–36.

The ILO is composed not only of government delegates, but also representatives of workers and of employers. At its annual conference each national delegation is composed of one employer delegate, one worker delegate, and two government delegates. Each delegate votes individually rather than as part of a national bloc. This tripartite International Labor Conference has adopted a body of international labor standards comprising (as of March 1977) 147 conventions and 155 recommendations. The ILO has established institutions and procedures for supervising the application of these conventions and recommendations. A fundamental obligation of all member governments (art. 19 of the ILO Constitution) is to submit to its competent national authority (its legislative body, usually) the texts of all conventions and recommendations within 12 to 18 months of adoption by the Conference. Each government must inform the International Labor Office of measures taken to give effect to these documents.

Every member state is required to report annually on the steps it has taken to give effect to all the conventions it has ratified. In addition, more detailed reports are sought at intervals on specific conventions or groups of conventions as determined by the ILO governing body. Nonratifiying countries must report on the position of their laws and practice in regard to the matters dealt with in the convention, showing the extent to which effect has been given, or is proposed to be given to all of the provisions of the convention, and stating the difficulties which prevent or delay ratification. All of this information is reviewed annually by the ILO Committee of Experts on the Application of Conventions and Recommendations, a group composed of representative jurists from around the world. The Committee of Experts, in turn, submits a report each year to the tripartite ILO Conference Committee on Application of Conventions which, after full discussion, submits its report to the Conference. Governments, employers, and workers are all represented and have equal votes. The discussions of this Conference Committee provide employers' and workers' representatives with an opportunity to criticize the manner in which conventions are applied in their own countries or elsewhere, while government delegates representing countries which are alleged to be in default have an opportunity to provide explanations. In recent years the Committee of Experts has listed in its report cases in which governments, in response to earlier comments by the Committee, have introduced changes in their law and practice in order to give fuller effect to ratified conventions. During 1975, for example, 52 countries reported 94 such changes in their national laws or practices.

Another important body in the implementation of ILO human rights standards is the Freedom of Association Committee of the Governing Body. Established in 1951, this Committee has examined hundreds of allegations of violations of trade union freedoms involving the governments of almost every member state. It has made observations and recommendations for changes in the legislation and policies of the governments concerned. Under this machinery, complaints alleging infringements of trade union rights may be submitted either by workers' or employers' organizations or by governments. They may be investigated even in the absence of ratification of the relevant conventions. More than 800 cases have so far been examined by the Committee, and in many instances the ILO has succeeded in obtain-

ing the abrogation or discontinuance of measures impairing the free exercise of trade union rights, such as the release of trade unionists from detention, the remission of sentences, and changes in legislation or practice.

There are also a variety of special procedures which may be invoked for promoting the implementation of ILO standards and principles. An industrial association of employers or of workers may complain to the ILO that a member has failed to secure the effective observance within its jurisdiction of any convention to which it is a party. Any member state has the right to file a complaint with the International Labor Office if it is not satisfied that any other member state is securing the effective observance of any convention which both have ratified. This complaint procedure may also be initiated by the governing body on its own motion or on receipt of a complaint from any delegate to the Conference. Over the past 10 years, the procedures in question have been invoked in regard to the question of forced labor in Portuguese territories in Africa, and in Liberia, in regard to freedom of association in Greece, labor administration in Brazil, and employment services in Italy.

The existence of so many conventions and procedures, however, has not produced a trouble-free system for the protection of human rights for labor. When, on November 5, 1975, the United States submitted its notice of intention to withdraw from the ILO, two of the four matters of fundamental concern to the United States dealt with the treatment of human rights issues in the ILO. The first problem was the selective concern for human rights. The International Labor Conference was characterized as pursuing the violation of human rights in some States and granting immunity from such citations to other States. This was viewed as undermining the credibility of the ILO's support of freedom of association.

The second problem related to the recent practice of adopting resolutions condemning particular member states without first utilizing the procedures and mechanisms established by ILO for the examination of allegations of violations of trade union rights. This approach was identified as disregard of due process and was viewed as "gravely damaging the ILO and its capacity to pursue its objectives in the human rights field." [17]

B. Other International Apparatus for the Protection of Human Rights*

In contrast to the effect of the procedures instituted by the United Nations, some regional arrangements offer other models that have thus far had a more positive impact on the actions of governments. The European regional system and somewhat less so the Inter-American system have made considerable advances in the protection and promotion of human rights. Regional arrangements for the protection of human rights provide complementary means for the attainment of the goals envisioned by the worldwide system. The advantage of the regional organization is that it provides an institutional framework for nations with certain common characteristics such as language, culture, law, and political and economic systems. Thus, the regional

[17] U.N. document A/C.5/1704.

*This section was prepared by Vita Bite, analyst in international relations.

system can be more sensitive to the special features of a given area—such as the traditions of the population and differing levels of economic and social development.

1. European System for the Protection of Human Rights [18]

The European system for the protection of human rights provides the most elaborate measures of implementation and has proved itself to be an influential instrument. The Nazi actions and the tragic experience of World War II, coupled with common cultural and historical ties, led the Council of Europe in 1950 to adopt the European Convention for the Protection of Human Rights and Fundamental Freedoms. The convention came into force in 1953 and shortly thereafter the European Commission of Human Rights and the European Court of Human Rights were established under article 19 of the Convention "to insure the observance of the engagements undertaken by the high contracting parties in the present convention." The Committee of Ministers of the Council of Europe was also given certain adjudicatory and enforcement functions by the convention.

The European Commission of Human Rights consists of as many members as there are contracting parties to the convention (18 as of December 1976). No two members are to be nationals of the same state. They are elected by the Committee of Ministers from a list of names prepared by the Bureau of the Consultative Assembly of the Council of Europe. The members serve in their individual capacity and not as governmental agents.

Any contracting party to the convention may refer to the Commission an alleged violation by any other party. In addition the Commission has jurisdiction to receive private applications from "any person, nongovernmental organization or group of individuals." This was made optional and applicable only to states which have accepted it. Thirteen states (as of November 1975) have accepted the right of individual petition: Austria, Belgium, Denmark, Federal Republic of Germany, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, Sweden, Switzerland, and the United Kingdom.

In practice, interstate applications have rarely been lodged with the Commission. The overwhelming majority have been individual applications. At the end of September 1975 the Commission had registered 11 cases brought by one member state against another and about 7,200 cases brought against states by individuals or groups of individuals. In considering an application, the Commission first decides whether the application is admissible. Strict rules are applied in making this determination. There are more than 10 distinct grounds on which an application may be declared inadmissible. About 90 percent of the individual cases have been declared inadmissible or struck off the list of cases without being communicated by the Commission to the government concerned.

If a case is declared admissible, the Commission has the further task of establishing the facts and trying to attain a friendly settlement of the matter. If such a settlement cannot be reached, the

[18] The sources for information in this section include the following: European Commission on Human Rights. Stocktaking on the European Convention on Human Rights. Strasbourg, Council of Europe, 1975; Louis B. Sohn and Thomas Buergenthal. International Protection of Human Rights. New York, Bobbs-Merrill, 1973, pp. 999–1265; and A. H. Robertson. Human Rights in the World. Manchester, England, Manchester University Press, distributed by Humanities Press, New York, 1972.

Commission is to draw up a report expressing its opinion as to whether the facts disclose a violation of the convention. This report is then sent to the Committee of Ministers of the Council of Europe. The committee is composed of the Ministers for Foreign Affairs of the member states. If a case is not referred to the Court of Human Rights, the Committee of Ministers decides whether or not a violation has taken place. In all its decisions to date (November 1975) the Committee has upheld the opinion of the Commission.

The Court of Human Rights has as many judges as members of the Council of Europe. They are elected to a 9-year term by the Consultative Assembly of the Council of Europe from a list of persons nominated by the member states of the Council of Europe. The Court normally sits in a chamber of seven judges and is empowered to make a final decision in each case. The contracting parties have agreed in advance to abide by the decisions of the Court, and the Committee of Ministers is made responsible for supervising execution of the decision.

A case may be referred to the Court of Human Rights only by the Commission or a state party concerned (not by an individual applicant.) Such a referral must be made within 3 months of the Commission's submission of its report to the Committee of Ministers. This may be done, however, only if the defendant state has accepted the Court's jurisdiction. Such an acceptance may be made as a general declaration recognizing the compulsory jurisdiction of the Court or ad hoc for a particular case.

An important body of case law has been developed by the European Commission and Court. Member states have on several occasions allowed the Commission to investigate their internal affairs. Moreover, certain changes have been effected in the internal legal system of member states. Because there are procedures for bringing violating states before regional machinery, most states have found it best to take appropriate measures on their own initiative so that they would not be found in violation of the convention.

An important exception to this has been in the case of Greece. Several member states brought charges against the Greek Government. The European Commission after investigating found the Greek Government guilty of certain human rights violations. Rather than comply with the Commission's findings, the Greek Government in 1969 denounced the European convention and withdrew from the Council of Europe. On January 17, 1974, the Council of Europe's Executive Assembly adopted a measure condemning the Greek Government for continuing to violate basic human rights and called on members of NATO and the European Community to exert pressures on the military regime to restore democracy. Later that year on November 28, 1974, after the change in its government, Greece was readmitted to the Council of Europe by a unanimous vote of its 17 other members.[19]

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[19] European Commission on Human Rights, op. cit., pp. 6–9.

2. INTER-AMERICAN SYSTEM FOR THE PROTECTION OF HUMAN RIGHTS [20]

The Ninth Inter-American Conference meeting at Bogota, Colombia, in 1948, adopted a resolution containing the "American Declaration of the Rights and Duties of Man." The extensive rights, duties, and ethical aspirations listed in the declaration were, however, only statements of aims and hopes. The revision of the Charter of the Organization of American States (OAS) in 1967 [21] provided for the protection of human rights in the Americas. Article 51 designated the Inter-American Commission on Human Rights as a principal organ of the OAS. Article 112 identified the Commission's function—

> to promote the observance and protection of human rights and to serve as a consultative organ of the organization in these matters.

The major significance of this revision for human rights in the Inter-American system was to give the Commission and its actions a treaty basis. Buergenthal observed in a 1975 article:

> The pre-1970 practice and achievements of the Commission gain in significance once it is remembered that prior to the revision of the Charter the Inter-American human rights system * * * owed its existence not to a treaty or other legally binding instrument but to OAS resolutions and pronouncements of uncertain authority. The entire system lacked a solid constitutional basis and seemed to be shrouded in legal and institutional ambiguities. The Commission was designated an "autonomous entity" of the OAS, no doubt because this was a good name as any for a body which was not provided for in the OAS Charter or any other treaty, was established by a simple conference resolution, and qualified neither as an organ of the OAS Council nor as a so-called "specialized organization" of the OAS. Moreover, the human rights the promotion and observance of which the Commission was to ensure were proclaimed in the American Declaration of the Rights and Duties of Man, an instrument not deemed to create binding legal obligations for OAS member states. Consequently, an aura of make-believe attached to the Inter-American human rights system, denying it the political authority that flows from constitutional legitimacy.[22]

The Inter-American Commission on Human Rights had been created at the fifth meeting of foreign ministers in 1959 to (1) "develop an awareness of human rights among the peoples of America"; (2) make recommendations to governments of member states; (3) prepare studies and reports; and (4) receive information from governments of member states on measures adopted by them in matters of human rights. In 1965 the Commission was granted additional functions, including limited powers to consider individual petitions and to submit annual reports to the Inter-American Conference or the meeting of consultation of ministers of foreign affairs on progress made in the human rights field.

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[20] The sources for information in this section include: Christian S. White, IV. Practice and proceedings before the Inter-American Commission on Human Rights. Human Rights, vol. 4, No. 3, summer, 1975: pp. 413–431; Robert K. Goldman. The Protection of Human Rights in the Americas: Past, Present, and Future. New York, New York University, Center for International Studies, 1972 (New York University, Center for International Studies, policy paper, vol. 5, No. 2); and Sohn and Burgenthal, op. cit., pp. 1267–1374.

[21] 21 UST 607.

[22] Thomas Buergenthal. The Revised OAS Charter and the Protection of Human Rights. American Journal of International Law, vol. 69, October 1975: p. 833.

During 1975 the Inter-American Commission considered 289 communications from individuals or organizations in which 100 concrete cases of alleged violations of human rights were denounced.[23] The Commission examined the evidence adduced in the communications as well as any other evidence it was able to gather. The annual report cited those cases (including those for which the original communications had been received earlier) (1) in which processing and examination were completed during the period of the report, (2) in which violations of human rights were confirmed, and (3) regarding which appropriate recommendations had been made by the Commission to the government against which the denunciation was filed. The Commission report provided a brief account of the process and decisions adopted in the cases it had not completed.

Thus far, the Commission, whose functions and procedures parallel those of the European Commission, has accomplished important results in its study of alleged violations of human rights in some American states—such as Haiti, Nicaragua, Dominican Republic, and most recently Cuba and Chile. The Commission submitted to the sixth regular session of the General Assembly of the Organization of American States in June 1976 its fifth detailed report on the status of human rights in Cuba and its second report on the status of human rights in Chile. The General Assembly expressed its appreciation to the Commission for its report on Chile and requested it to continue considering the status of human rights in that country and report to the General Assembly at its next meeting. The report on the status of human rights in Cuba was submitted too late to be placed on the General Assemblys 1976 agenda.

In addition to its oversight of the conduct of member states, the Commission has made numerous studies and reports on subjects such as freedom of expression, information and investigation; the right of petition; the right to education; and reports on economic and social conditions, election procedures, and suffrage.

The American Convention on Human Rights, adopted at San Jose, Costa Rica, in 1969, but not yet in force, recognizes the Commission and Inter-American Court of Justice as the organs for the protection of the rights enumerated. As envisioned in the convention, the new Commission will differ little from the existing one. The Commission is to be composed of seven members sitting in a personal capacity. They are to be elected by the OAS General Assembly from lists of candidates submitted by member states. No two nationals of the same country are to be concurrent members of the Commission.

The Commission is to have competence to consider petitions from individuals, groups of individuals, and nongovernmental organizations alleging violation of the convention by states. In contrast to the European Convention, the American Convention makes acceptance of this competence obligatory rather than optional. Thus, acceptance of the right of individual petition follows automatically from ratification. Interstate complaints, however, are to be optional, that is, they may be brought only against a state which has expressly agreed to this procedure by a state which has made a similar declaration. Such a declaration may be made at any time and for a limited or unlimited period of time.

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[23] Annual report of the Inter-American Commission on Human Rights for the Year 1975, to the General Assembly. Washington, D.C., 1976. (Organization of American States [Document] OEA/Ser. P; AG/doc. 623/76.)

The rules of admissibility and basic procedures of the Inter-American Commission are to be quite similar to those of the European Commission. The Commission's first task (once a case is found admissible) is to establish the facts. During the required investigation, the states concerned are to furnish all necessary facilities. The Commission must then try to bring about a friendly settlement. If that cannot be achieved, the Commission is to draw up a report stating the facts of the case and giving its conclusions and proposals. If within a period of 3 months following the report the case is not solved or submitted to the Court, then the Commission may (art. 51), by an absolute majority of its members, "set forth its opinions and conclusions concerning the questions submitted for its consideration." It may then make any pertinent recommendations, and shall fix a period of time within which the state concerned is to take steps necessary to remedy the situation. At the end of that period, the Commission is to decide whether the state has taken adequate measures and whether to publish its report.

The Inter-American Court of Human Rights is the other organ which is designed to protect and enforce the convention's guarantees. This body does not yet exist. It is to consist of seven judges, who are to serve in an individual capacity, chosen from among jurists of the highest moral authority and recognized competence, possessing the qualifications required for the highest judicial office. Only the states parties to the convention may propose candidates and take part in the elections; candidates, however, may be nationals of any member state of the OAS.

An individual cannot directly petition the Court on his own behalf; only states parties to the convention and the Commission, which may espouse the individual's claim, have standing to submit a case to the Court. Moreover, the Court cannot hear a case until procedures in the Commission has been exhausted—that is, until the Commission or a state party acknowledges that the matter in dispute cannot be settled. The state party submitting a case to the Court must recognize as binding the jurisdiction of the Court in all matters relating to the interpretation or application of the convention.

On the whole, the Inter-American Court of Human Rights is to have somewhat wider powers than the European Court. If it finds a violation, the Inter-American Court may order that the injured party be reinstated in his rights. It may also order that the consequences of a violation be remedied and damages paid. Moreover, an order for damages is to be directly enforceable in the state concerned. The Court is required to submit an annual report to the General Assembly of the OAS indicating which states have complied with its judgments. The Inter-American Court is also given wide powers in relation to advisory opinions. It may give advisory opinions relating not only to the American Convention but also to other treaties concerning the protection of human rights in the American States. All the organs of the OAS may consult the Court on matters within their competence. Any OAS member may ask for and receive an opinion on the compatibility of any of its domestic laws with the American Convention or any other treaty relating to human rights in the American States.

3. ORGANIZATION OF AFRICAN UNITY AND THE LEAGUE OF ARAB STATES

(a) *The League of Arab States*

The Permanent Arab Commission on Human Rights was created by Arab League Council Resolution 2443 of September 3, 1968. Each member state of the Arab League is represented on the Commission—its members are thus representatives of governments (as in the U.N. Commission) and not individuals serving in a personal capacity (as in the European and Inter-American Commissions). Other Arab States may be invited to attend. The Council of the Arab League appoints the chairman of the Commission for a term of 2 years (renewable). The Secretary General of the League appoints the Secretary of the Commission.

The basic functions of the Commission are to prepare drafts and other proposals for the Council; it also has the right of initiative and may submit its own recommendations and suggestions to the Council. Its objectives are essentially those of the promotion of human rights (cf. the U.N. Commission) rather than their protection (cf. European Commission). At its second session in April 1969, the Commission prepared a plan of action or program which was approved by the Council at its September 1969 session. The plan is based on the principle that all matters relating to human rights in the Arab world are within the scope of the Commission's activity, particularly the coordination of joint action by the Arab countries, the protection of the rights of the individual Arab, and the promotion of respect for human rights in Arab countries generally. As of May 1976, the Commission was preparing an Arab Declaration of Human Rights which, after approval by member states and the Arab League Council, is to serve as the basis for an Arab Charter on Human Rights. Both declaration and charter are to precede the formation of a Human Rights Court.

In practice, the Commission has not conducted any human rights investigations, other than (at long range) those concerning the rights of Arabs in occupied territories (for example, relating to Israeli activities). The Commission's recommendations and resolutions through May 1976 while giving overwhelming priority to Israeli violations of human rights in occupied areas have also dealt with the teaching of human rights in schools and the establishment of human rights divisions in the governments of member states and in the League Secretariat. At the international level the Commission has been active in organizing the participation of the Arab League in, and assisting delegations of member states at various international conferences, including sessions of the U.N. Commission on Human Rights and of its Ad Hoc Working Group of Experts to investigate Israel's alleged violations of human rights in the occupied territories.

(b) *The Organization of African Unity*

The creation of an African Commission on Human Rights was first proposed at the African Conference on the Rule of Law, organized by the International Commission of Jurists in Lagos in 1961. In September 1969, at a U.N. Human Rights Commission seminar the question was taken up by 20 African countries. Most of the participants envisioned the formation of a commission for the promotion of human rights comparable to the U.N. Commission or the Inter-American

Commission as originally set up in 1959, rather than comparable to the European Commission with its quasi-judicial functions. Thus, the competence of the African Commission was to include the following functions: educational and information activities, undertaking research and studies, performance of advisory services, and holding seminars and awarding fellowships. However, optional functions were to include: factfinding and conciliation, and consideration of communications from states, individuals, and groups of individuals, and the kind of action to be taken thereon.

Since the functions of the African Commission were to be mainly "promotional" rather than juridical, it was agreed that the Commission should be created by resolution of the Organization of African Unity. It was further agreed that the future African Commission on Human Rights was to maintain close working relations with the United Nations and with existing regional organizations. It was also agreed that appropriate nongovernmental organizations should have access to the Commission. Furthermore, the Commission should cooperate with and, where they do not exist, foster the creation of national human rights commissions in the African states.

The proposal for an African Commission on Human Rights was again discussed in 1971 at the Addis Ababa Conference, convened by the Economic Commission for Africa. However, further measures to implement the proposal apparently have not yet been taken.

III. HUMAN RIGHTS AND U.S. FOREIGN POLICY: 1946–76*

A. U.S. Obligations in the Human Rights Area

The United States, along with other U.N. members, is obligated under article 55(c) of the U.N. Charter "to promote human rights." What this obligation entails is vague. The general interpretation by member governments is that efforts in the area of human rights should be directed toward improvement and not toward perpetuating or increasing discrimination. Article 64(1) authorizes the Economic and Social Council (Ecosoc) to obtain reports from U.N. members on their human rights practices. The United States makes such a report every 6 years.[1] In addition, article 56 of the charter obligates the United States to take joint affirmative action on human rights issues. Such action may take the form of General Assembly and Ecosoc recommendations which are authorized by articles 13 and 62(2) respectively.

The 1948 Universal Delcaration of Human Rights has also been viewed as incurring some degree of obligation to protect human rights. Much controversy centers around whether the Declaration of Human Rights is or is not legally binding. It was originally adopted as a General Assembly resolution in 1948 and at the time was not considered binding. But over the years it has come to be considered by many scholars, governments, regional organizations, and conferences (such as the U.N.-sponsored International Conference on Human Rights in 1968) as customary law. However, U.S. Government spokesmen have viewed the obligation as being more of a moral than a legal one.[2]

As a member of the International Labor Organization (ILO), a U.N. specialized agency, the United States is obligated to promote economic security and equal opportunity without regard to race, creed, or sex.

> [More specific] obligations have to do with conventions and recommendations that the General Conference of the ILO adopts * * *. In the case of a convention, the President must refer it to the Senate, though he is not obliged to ask the Senate to advise and consent to ratification. In the case of a recommendation * * * the President must refer it to the competent legislative or administrative agency, national, state, or local.[3]

Also under the ILO, the United States is required to make annual reports which must include measures taken to meet obligations under ratified conventions.[4] In the case of an unratified convention reports

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* This section was prepared by Brenda Branaman, analyst in foreign affairs.

[1] Marshall Wright. Letter to Representative Donald M. Fraser of Dec. 7, 1973. In Human Rights Hearings, p. 870.

[2] Vernon Van Dyke. Human Rights, the United States, and World Community. New York, Oxford University Press, 1970, p. 124, quotes statement by U.S. Representative to the United Nations Arthur J. Goldberg in hearings before the Senate Foreign Relations Committee on February 23, 1967.

[3] Ibid., p. 127.

[4] Constitution of the International Labor Organization, art. 22.

must be made "at appropriate intervals" (usually every 2 or 3 years) and are to include the position of U.S. law and practice relating to the convention and difficulties in securing its ratification.[5] Similar reports are to be made on ILO recommendations "at appropriate intervals" (also every 2 or 3 years).[6]

Within the Organization of American States (OAS) the United States is legally bound to respect "rights of the individual," although this term is not clearly defined. The preamble to the revised charter, article 3(d), and article 16 contain general statements concerning human rights.[7] Under its statute the OAS Inter-American Commission on Human rights submits annual reports to the OAS General Assembly concerning progress made by its members in implementing the principles of the American Declaration of the Rights and Duties of Man and the Universal Declaration of Human Rights.[8] The Commission annually requests the United States, as well as other members, to supply it with information in preparation of these reports. The United States complies with this request each year although it maintains it is not obligated to do so.[9]

The United States has ratified five U.N. human rights treaties (see app. A) and five OAS human rights treaties and is therefore legally bound by them. There are 30 human rights treaties which the United States has not ratified.[10]

B. Human Rights as a Factor in U.S. Foreign Policy

Human rights issues compete with various political, economic, and military considerations during the formulation of U.S. foreign policy. There are several problems that affect U.S. choices. Government officials weigh the effects of each of these elements against the national interest. Those who might not rank human rights as a major factor would argue that a human rights issue must benefit the national interest or, at least, not interfere with it. Others would argue that the primacy of human rights issues in foreign policy will always place the United States in a favorable position and thus benefit the national interest.

Another problem is that created by the politicization of human rights. There are occasions when it becomes politically advantageous for a country to further the interests of human rights. Some observers have argued that the United States should take advantage of such situations, while others have pleaded for the depoliticization of human rights issues, urging consistency in the application of human rights standards. Some human rights subjects are themselves interwoven with controversial international political problems, the resolution of which await political decisions from a number of national units, not from the United States alone.

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[5] Ibid., art. 19(7)(b)(iv).
[6] Ibid., art. 19(7)(b)(v).
[7] Van Dyke, op. cit., pp. 125–126.
[8] Statute of the Inter-American Commission on Human Rights, art. 9(d) and 9(BIS)(c).
[9] George Monsoma, International Operations Adviser, Permanent Mission of the United States of America to the Organization of American States, Bureau of Inter-American Affairs, Department of State, Dec. 13, 1974.
[10] Committee print on Human Rights in the World Community, op. cit., p. 21. The U.N. Convention on the Political Rights of Women and the OAS Inter-American Convention on the Granting of Political Rights to Women have been ratified by the United States since publication of the committee print.

When considering the foreign policy implications of U.S. action on human rights, the issue of intervention has often been uppermost. Most countries regard even statements accusing them of violating human rights as intervention in their domestic affairs.[11] Because of the widespread sensitivity to outside interference, the general policy of the United States during the early 1970's was to maintain a "low profile," [12] especially with respect to Third World nations. However, Thomas Quigley asserted during the 1973 Human Rights hearings that in the case of Latin America the United States had exercised widespread economic and political influence throughout this area and stated—

> that by the Government declining a more positive role, it is, in fact, saying "Things will continue developing by their own internal logic. The status quo will prevail and we have nothing to say about it." [13]

He further suggested that the United States should intervene in the affairs of some of our own corporations in order to bring about a true "low profile." During 1976 the United States began to make stronger statements about human rights problems in Latin America. Secretary of State Henry Kissinger proposed to the June meeting of the OAS General Assembly that the Inter-American Commission on Human Rights regularly visit each member State and report on the status of human rights in each country, rather than identify selective human rights problems.

The executive branch has often in the past been reluctant to intervene in human rights situations for fear of retaliation—"charging others also makes one vulnerable to charges in turn." [14] American society itself is not perfect in regard to human rights. In addition, the U.S. record in ratifying human rights treaties is meager. Therefore, the policymaker might believe that it would not be in the U.S. interest to provoke outside intervention in U.S. domestic affairs. The possibility of what might occur is illustrated by the following comments:

> When an African delegate proposed that the U.N. Commission on Human Rights investigate the racial discrimination in the United States and human rights violations in Vietnam, the United States withdrew a resolution recommending Commission investigation of Greece and Haiti.[15]

However, some might argue that a consistent approach in support of protection of and respect for human rights everywhere and in every international forum would strengthen the United States, both at home and abroad. Secretary of State Henry Kissinger in February 1975, instructed the U.S. delegation to the U.N. Human Rights Commission to support thorough studies by the Commission of alleged human rights violations anywhere in the world—whenever complaints indicated a consistent pattern of gross violations. The only conditions were that allegations be reasonably supported by the evidence available, that the violations appear to be continuing, and that the terms of reference of the study not prejudge its outcome.

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[11] Testimony of George H. Aldrich, Sept. 20, 1973, in Human Rights hearings, p. 95.
[12] Testimony of Stephen Low, Oct. 3, 1973, in Human Rights hearings, p. 216.
[13] Statements by Thomas Quigley, Oct. 3, 1973, in Human Rights hearings, p. 217.
[14] Testimony of Louis Henkin, Oct. 16, 1973, in Human Rights hearings, p. 356.
[15] Jerome J. Shestack and Roberta Cohen. International Human Rights: A role for the United States. Virginia Journal of International Law, vol. 14, No. 4, summer 1974: p. 678.

Other difficulties in the way governments, including the United States, deal with human rights violations in other countries include the reluctance to take action against allies who violate human rights, and the tendency to speak out against those violating powers who are small and weak but not those who are large and powerful.[16]

Once a decision has been made that the United States will take some form of action on a human rights issue, an appropriate approach must be chosen. The two most frequently used approaches are quiet diplomacy and public denunciation. The second approach can be made unilaterally in a statement to the press by a spokesman, by the Secretary of State, or by the President or in a speech on U.S. policy before a variety of forums. It may be appropriate to raise the issue in an international organization. U.S. officials might consider the situation serious enough to request that an international organization take action against the violating state. Recent U.S. policymakers have preferred quiet diplomacy, contending that this is the more effective method. However, it has been asserted by others that quiet diplomacy produces results only if it is known that in the case of failure the United States will resort to public diplomacy. In the human rights hearings of 1973 Thomas Buergenthal stated that "countries like Brazil and other countries know that if they simply do not go along with whatever quiet diplomacy requests we make, that it is not going to make any difference. We are not going to cut off our aid. We are not going to make public statements." [17]

Another approach, rarely used, is the application of economic sanctions or arms embargoes. There is some debate concerning the effectiveness of this method. The U.N. Security Council imposed economic sanctions against Rhodesia's white, minority-dominated government which opposed self-determination for the black majority and is considered by many to be guilty of violating human rights. While the executive branch regarded itself legally bound by the U.N. Charter to observe them, the United States in 1972 modified its adherance to the sanctions after passage of the Byrd amendment (sec. 503 of the Military Procurement Act of 1972) in 1971. This legislation in effect provided for the importation from Rhodesia of strategic minerals such as chromite and nickel. There have been several congressional efforts since that time to repeal the amendment.[18]

There are those who believe that sanctions should also be applied to South Africa for its refusal to respect the right of self-determination for the black majority and for its apartheid policies. However, the State Department has taken the position that South Africa is a legally constituted government recognized internationally and to impose economic sanctions upon South Africa would be to intervene in its internal affairs. The United States did impose its own arms embargo

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[16] Committee print on Human Rights in the World Community, op. cit., pp. 10–11; and testimony of Rita Hauser, Oct. 4, 1973, in Human Rights Hearings, p. 233.

[17] Statement by Thomas Buergenthal, Oct. 3, 1973, in Human Rights Hearings, p. 211.

[18] In March 1977, the House and Senate passed identical bills amending the U.N. Participation Act of 1945, that in effect would repeal the Byrd amendment. President Carter signed the bill into law March 18, 1977, permitting him to reimpose the embargo against Rhodesian chrome, and placing the United States in compliance once again with U.N. economic sanctions.

against South Africa in 1962 [19] and has in general observed the U.N. embargo imposed by Security Council Resolution 181 (1963) of August 7, 1963.[20]

In 1961 the United States secured a pledge from the Portuguese authorities that no American arms and military equipment would be used in Portgual's African territories.[21] Allegations were made in 1973, however, that the United States allowed some gray area involvements with Portugal and South Africa and did not adequately enforce the arms embargoes with these two countries. The gray areas included sales of military equipment, commercial aircraft capable of alteration for military use, and herbicides; transfer of aircraft components through third countries, training of South African and Portuguese military; and distribution of military film to the South African and Portuguese military.[22] The coup in Portugal in 1974 established a government under which all of its African territories have become independent and are now members of the United Nations.

Finally, the United States might cut off various forms of economic and/or military assistance to the violating country or might take action affecting the diplomatic relationship between that country and the United States by (1) calling the U.S. Ambassador back to Washington for consultations for long periods of time, (2) giving the U.S. Ambassador another assignment and not naming a replacement, or (3) withdrawing diplomatic representation altogether. The restriction of aid has been a concept advanced by the Congress since 1973 (see app. B).

C. Recent Congressional Response to Human Rights Violations

The creation of the United Nations and the acceptance of the responsibility for promotion of human rights established under its charter, have provided the opportunity for greater flexibility in protesting human rights violations in other countries. The charter and the Universal Declaration of Human Rights allow for a deeper and broader interpretation of the right of states to intervene in cases of human rights violations than had been the case under the nonintervention doctrine. The United States has taken advantage of this broadened opportunity on several occasions since that time. More recently, the Congress has passed legislation concerned with human rights violations in an effort to assure greater attention to human rights in foreign policy considerations.

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[19] U.S. Representative to the United Nations, Francis Plimpton, informed the Special Political Committee of the General Assembly on Oct. 19, 1962, that the United States had adopted and was enforcing an arms embargo against South Africa. He did not, however, indicate when the U.S. embargo was implemented. In statement by Francis T. P. Plimpton, U.N. Considers Problem of Racial Discrimination in South Africa. Department of State Bulletin, Nov. 19, 1962: p. 794.

[20] However, the United States made two exceptions to its observance of the embargo including the honoring of contracts which were in existence prior to the embargo, and the reservation of the right to interpret this policy in the light of requirements for assuring the maintenance of international peace and security. At the time the U.N. Security Council Resolution which initiated the embargo against South Africa was adopted, U.S. Ambassador to the United Nations, Adlai Stevenson stated the position of the United States that the situation in South Africa did not fall within the provisions of ch. VII of the U.N. Charter and therefore the requirement that U.N. members impose an embargo against South Africa was not binding.

[21] Testimony of David D. Newsom, Apr. 6, 1973, in U.S. Congress. House. Committee on Foreign Affairs. Subcommittee on Africa. Implementation of the U.S. Arms Embargo (Against Portugal and South Africa, and Related Issues). Hearings, 93d Cong., 1st Sess. Washington, U.S. Government Printing Office, 1973, pp. 143–144, 281.

[22] Statement of Representative Charles C. Diggs, Jr., and testimony of Bruce J. Oudes. Ibid., p. 10.

Section 32 of the Foreign Assistance Act of 1973 (Public Law 93–189) provides:

> It is the sense of Congress that the President should deny any economic or military assistance to the government of any foreign country which practices the internment or imprisonment of that country's citizens for political purposes.

Responding to section 32 of the Foreign Assistance Act of 1973, the State Department, on April 4, 1974, asked U.S. Embassies in 68 countries receiving assistance to make reports on the situation in each country with respect to political prisoners.[23] The requests for information were subsequently broadened to include respect for the full range of human rights. Information about the content of section 32 was brought to the attention of governments in the East Asia and Pacific region, including the Republic of Korea.

Section 46 of the Foreign Assistance Act of 1974 (Public Law 93–559) added section 502B urging the President to reduce or terminate security assistance to any government which consistently violates internationally recognized human rights. Violations of human rights were identified as:

> * * * including torture or cruel, inhumane or degrading treatment or punishment; prolonged detention without charges; or other flagrant denials of the right to life, liberty, and the security of the person.

Congress also requested that the President advise it of the circumstances making it necessary to provide security assistance to such governments. On November 14, 1975, the Department of State transmitted to the congressional foreign relations committees a report which broadly summarized the results of the Embassy responses. The report stated that since human rights violations were widespread in the world, only subjective determinations could be made on the existence of "gross" violations or on whether there is a consistent pattern of such violations in these countries. The report concluded, therefore, that "quiet but forceful" diplomacy continued to be the most effective method of improving human rights matters.

Section 310 of the International Development and Food Assistance Act of 1975 [24] amends section 116 of the Foreign Assistance Act to: (*a*) Provide that economic assistance may not be given to any country which consistently violates internationally recognized human rights; (*b*) require the President to submit to Congress a written report explaining how assistance would directly benefit the people of such a country, and (*c*) stipulate that if either House of Congress disagrees with the President's justification, it may take action to terminate economic assistance to that country by a concurrent resolution. In compliance with the provision indicated in item (*b*) above, the Agency for International Development (AID), on March 5, 1976, submitted a report which said, "While in future years we will conduct a more comprehensive review, we are satisfied that development programs as now proposed for fiscal year 1977 comply in good faith with the requirements of section 116."

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[23] The administration continues to ignore Congress on aid to countries practicing political imprisonment. Congressional Record [daily ed.] Aug. 6, 1974: H7777; U.S. Congress. House. Committee on Foreign Affairs. Fiscal year 1975 foreign assistance request. Hearings, 93d Cong., 2d sess., June, July 1974. Washington, U.S. Government Printing Office, 1974, pp. 280–287.

[24] Public 94–161, approved Dec. 20, 1975.

Section 301 of the International Security Assistance and Arms Export Control Act [25] (1) established within the State Department a Coordinator for Human Rights and Humanitarian Affairs to be appointed by the President with the advice and consent of the Senate; (2) required the Secretary of State to submit reports each fiscal year on human rights practices in each country proposed as a recipient of security assistance; (3) required, upon request of either the House or Senate or of either Foreign Relations Committee, that the Secretary of State prepare, with the assistance of the Coordinator, a statement on a designated country's human rights practices; (4) established that if such a statement on a designated country is not transmitted within 30 days, security assistance to that country will cease until the statement is transmitted; and (5) provided that after the requested statement is transmitted, Congress may reduce or end security assistance to the designated country by adoption of a joint resolution.

Congress has also enacted legislation directed at problems in specific countries. For example, in 1974, Congress limited military assistance to Korea for fiscal year 1975 "until the President submits a report to the Congress * * * stating that the Government of South Korea is making substantial progress in the observance of internationally recognized standards of human rights." (Sec. 26, Foreign Assistance Act of 1974, Public Law 93–559.) The International Security Assistance and Arms Exports Control Act of 1976 expressed the concern of Congress for the erosion of civil liberties in South Korea and requested the President to communicate this concern in forceful terms to the South Korean Government (sec. 412, Public Law 94–329).

Appropriations for U.S. assistance to Chile have, on several occasions, been prohibited or limited by Congress to express its concern over human rights in Chile. In 1973, Congress included in the Foreign Assistance Act of 1973 section 35 which provided that the President (1) request Chile to protect human rights; (2) support United Nations and Red Cross activities to aid political refugees and investigate detention facilities; (3) support and aid voluntary agencies in emergency relief needs, and (4) request the Inter-American Commission on Human Rights to investigate "recent events in Chile." [26] In December 1974, Congress passed the Foreign Assistance Act of 1974 (Public Law 93–559), section 25 of which prohibited all military assistance to Chile and limited assistance to $25 million during fiscal year 1975. According to committee reports submitted during the formulation of the act, section 25 "expresses the committee's concern about continuing disregard for the protection of human rights in Chile." [27] The administration's position, as expressed by President Ford in a statement at the time the act became law, was that cutting off military assistance to Chile was not an effective means for promoting human rights in that country.[28] In 1975, Congress limited economic assistance to Chile in fiscal year 1976 to $90 million.[29] Section 406 of the Inter-

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[25] Public Law 94–329, approved June 30, 1976.

[26] Public Law 93–189, Dec. 17, 1973.

[27] U.S. Congress. Senate. Committee on Foreign Relations. Foreign Assistance Act of 1974; report on S. 3394 To Amend the Foreign Assistance Act of 1961, and for other purposes, 93d Cong., 2d sess. Washington U.S. Government Printing Office, 1974 (93d Cong., 2d sess. Senate. Rept. No. 93–1299), p. 41.

[28] Gerald R. Ford, Foreign Assistance Act of 1974. Weekly Compilation of Presidential Documents, vol. 11, No. 1, Jan. 6, 1975: p. 3.

[29] International Development and Food Assistance Act of 1975, Public Law 94–161, section 320.

national Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329) terminated military assistance to Chile, including a prohibition of military education and training, placed a ceiling on economic assistance of $27.5 million during the transition quarter and fiscal year 1977, and specified conditions relating to human rights under which economic assistance might be increased by an additional $27.5 million.

Congress has also enacted legislation aimed at addressing human rights problems in the Soviet Union and Eastern Europe. Section 402 of the Trade Act of 1974 (Public Law 93–618; approved Jan. 3, 1975) tied MFN (most-favored-nation) treatment to trade in products from nonmarket economy countries to the maintenance of freedom of emigration from these countries. In addition, Congress created a Commission on Security and Cooperation in Europe (Public Law 94–304; approved June 3, 1976) to monitor actions of signatory nations to the Final Act of the Conference on Security and Cooperation in Europe (the Helsinki accords) and especially the provisions relating to cooperation in humanitarian fields.

The Congress stipulated in section 505 of the Foreign Assistance and Related Programs Appropriations Act, 1977 (Public Law 94–441, Oct. 1, 1976) that no funds were to be used to provide military assistance, international military education and training, or foreign military credit sales to the Government of Uruguay. This prohibition was provoked by congressional concerns for the status of human rights in Uruguay.

During 1976, Congress also enacted legislation authorizing and directing the U.S. executive directors of the Inter-American Development Bank and the African Development Fund—

> to vote against any loan, any extension of financial assistance, or any technical assistance to any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denials of the right to life, liberty, and the security of person, unless such assistance will directly benefit the needy people in such country.

The instructions to the U.S. Governor and Executive Director of the African Development Fund added those countries which provide refuge to individuals committing acts of international terrorism such as the hijacking of an aircraft.[30] The House and Senate foreign relations committees and the House Committee on Banking, Currency, and Housing were authorized to require information which would identify whether assistance to such a country would directly benefit needy people in such countries.

Congress has also sought by holding hearings to identify and bring to public attention the extent of human rights violations in specific countries and to clarify and focus executive branch efforts and policies on these problems. Among most active groups has been the Subcommittee on International Organizations of the House Committee on International Relations which started its hearings in 1973 and issued a report on human rights and U.S. foreign policy in 1974. During the 94th Congress this subcommittee conducted a total of 40 hearings relating to human rights problems in 18 different countries.[31]

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[30] Public Law 94-302, May 31, 1976, secs. 28 and 211.

[31] Donald M. Fraser. Subcommittee Record on Human Rights—94th Cong. Congressional Record [daily ed.] vol. 122, Oct. 1, 1976: E5440–E5441.

D. Human Rights Concerns for the 95th Congress

Congress has established certain procedures and guidelines for the Government to follow. Requests from the executive branch for economic assistance to countries violating internationally recognized human rights must be accompanied by reports explaining how such assistance would directly benefit the people of that country. Requests for security assistance must be accompanied by reports on human rights practices in each proposed recipient country. Furthermore, under section 502B(c) of the Foreign Assistance Act of 1961, as amended, reports on human rights and U.S. policy in six countries—Argentina, Haiti, Indonesia, Iran, Peru, and the Philippines—were submitted, as requested, to Congress in December 1976. Congress may now decide to adopt a joint resolution terminating or restricting security assistance to any of the six countries listed. The joint resolution procedure would require the approval of the President or the override vote of Congress in case of a Presidential veto.

U.S. bilateral assistance has to an increasing extent been supplemented by assistance through multilateral channels—not only through the U.N. Development Program but also the international financial institutions, such as the World Bank, the International Development Association, the Inter-American Development Bank, and the Asian Development Bank. In November 1976 the United States also joined the African Development Fund. However, U.S. policy on the role of human rights in the actions of these international financial institutions, in particular, could be clarified. The U.S. Executive Directors for two institutions have already been instructed by the Congress to vote against loans to countries which have a consistent pattern of gross violations of internationally recognized human rights. Will the same instructions be added to U.S. legislation for the other institutions in 1977? What effect will such instructions have on the institutions and on the violating countries?

Another area with potential for executive branch and congressional initiatives is the revision of the U.S. record in ratifying U.N. human rights treaties. An effort by the President and within the Senate to get the Genocide Treaty approved by the Senate could be followed by the submission to the Senate and active support of Senate approval of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination, which the United States has signed. The two International Covenants on Human Rights could also be sent to the Senate for its consideration.

Congressional committees which have focused most of their attention on human rights violations in other countries and the U.S. Government reaction to those violations might now want to examine the countries where human rights are being protected—as an approach to identifying the elements in national development which contribute to and promote respect for human rights. These committees might also want to examine the procedures of international and regional organizations for the promotion and protection of human rights. They might want to explore the steps the United States could take to strengthen international organization procedures.

APPENDIX A

Charts of International Human Rights Documents Concluded Under the Auspices of the United Nations and Its Agencies

1. GENERAL DOCUMENTS

Document	Date adopted/signed	Date in force *	Number of parties (as of Mar. 10, 1977)	United States
Universal Declaration of Human Rights	Dec. 10, 1948, GA Res. 217 (III).		General Assembly resolution, unanimous vote 48 to 0, 8 abstain.	Voted for.
International Covenant on Economic, Social and Cultural Rights.	Dec. 16, 1966	Jan. 3, 1976	43	
International Covenant on Civil and Political Rights.	do	Mar. 23, 1976	41	
Optional Protocol to the International Covenant on Civil and Political Rights.	do	do	15	
Proclamation of Teheran	May 13, 1968			

*Only applicable to treaties and agreements.

2. DOCUMENTS ELABORATING RIGHTS IDENTIFIED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

Article of Universal Declaration of Human Rights	Document	Date adopted/signed	Date in force *	Number of parties	United States
Art. 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act toward one another in a spirit of brotherhood.	United Nations Declaration on the Elimination of Racial Discrimination.	Nov. 26, 1963, GA Res. 1904 (XVIII).		Unanimously passed.	Voted for.
Art. 2. Everyone is entitled to all the rights and freedoms set forth in this declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.	International Convention on the Elimination of All Forms of Racial Discrimination.	Mar. 7, 1966	Jan. 4, 1969	94	Signed.
	Declaration on the Elimination of Discrimination Against Women.	Nov. 7, 1967, GA Res. 2263 (XXII).		Unanimous vote 111 to 0.	Voted for.
Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.	International Convention on Suppression and Punishment of the Crime of Apartheid.	Nov. 30, 1975	July 18, 1976	23	
Art 3. Everyone has the right to life, liberty and security of person.	Convention on the Prevention and Punishment of the Crime of Genocide.	Dec. 9, 1948	Jan. 12, 1951	82	Signed; pending before the Senate.
	Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity.	Nov. 26, 1968	Nov. 11, 1970	21	
Art. 4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.	Slavery Convention	Sept. 25, 1926 (league)	Mar. 9, 1927	118	Acceded.
	Protocol Amending the Slavery Convention Signed at Geneva on Sept. 25, 1926.	Dec. 7, 1953	Dec. 7, 1953, and July 7, 1955.	118	Ratified.
	Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.	Sept. 7, 1956	April 30, 1957	106	Acceded.
	Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.	Mar. 21, 1950	July 25, 1951	44	
Art. 5. No one shall be subjected to torture or to cruel, inhumane or degrading treatment or punishment.	Standard Minimum Rules for the Treatment of Prisoners (Declaration).	1955			
	Declaration on the Protection of All Persons From Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.	Dec. 9, 1975, GA Res. 3452 (XXX).		Adopted without vote.	
Art. 6. Everyone has the right to recognition everywhere as a person before the law.					
Art. 7. All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this declaration and against any incitement to such discrimination.					
Art. 8. Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.					

Art. 9. No one shall be subjected to arbitrary arrest, detention or exile.	Draft principles on freedom from arbitrary arrest or detention (1962).				
Art. 10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.	Draft principles on equality in the administration of justice.				
Art. 11. (1) Everyone charged with a penal offense has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.					
(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.					
Art. 12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.					
Art. 13. (1) Everyone has the right to freedom of movement and residence within the borders of each state.	Draft principles on right of everyone to leave any country, including his own, and to return to his country (1964).				
(2) Everyone has the right to leave any country, including his own, and to return to his country.					
Art. 14. (1) Everyone has the right to seek and to enioy in other countries asylum from persecution.	Declaration on Territorial Asylum	Dec. 14, 1967; GA Res. 2312 (XXII).			Unanimous vote
	Draft convention on territorial asylum				
(2) This right may not be invoked in the case of prosecutions genuinely arising from nonpolitical crimes or from acts contrary to the purposes and principles of the United Nations.					
Art. 15. (1) Everyone has the right to a nationality	Convention on the Nationality of Married Women.	Feb. 20, 1957	Aug. 11, 1958	50	
(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.					
	Convention on the Reduction of Statelessness.	Aug. 30, 1961	Dec. 13, 1975	6	
	Convention Relating to the Status of Stateless Persons.	Sept. 28, 1954	June 6, 1960	32	
	Convention Relating to the Status of Refugees.	July 28, 1951	Apr. 22, 1954	68	
	Protocol Relating to the Status of Refugees	Jan. 31, 1967	Oct. 4, 1967	63	Ratified.
	Statute of the Office of the United Nations High Commissioner for Refugees (not a treaty).	Dec. 14, 1950			

See footnote at end of table.

2. DOCUMENTS ELABORATING RIGHTS IDENTIFIED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS—Continued

Article of Universal Declaration of Human Rights	Document	Date adopted/signed	Date in force *	Number of parties	United States
Art. 16. (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.	Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages.	Dec. 10, 1962	Dec. 9, 1964	29	Signed
(2) Marriage shall be entered into only with the free and full consent of the intending spouses.					
(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.					
Art. 17. (1) Everyone has the right to own property alone as well as in association with others.					
(2) No one shall be arbitrarily deprived of his property					
Art. 18. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.	Draft Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.				
	Draft International Convention on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.				
Art. 19. Everyone has the right to freedom of opinion and expression, this right includes freedom to hold opinions without interference and to seek, receive and impart information and idea through any media and regardless of frontiers.	Convention on the International Right of Correction.	Mar. 31, 1953	Aug. 24 ,1962	10	
	Draft Declaration on Freedom of Information.				
	Draft Convention on Freedom of Information				
Art. 20. (1) Everyone has the right to freedom of peaceful assembly and association.	International Labor Organization (ILO) Convention on Freedom of Association and Protection of the Right to Organize (No. 87).	July 9, 1948	July 4, 1950	81	Pending in U.S. Senate.
(2) No one may be compelled to belong to an association					
Art. 21. (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.	Draft Principles on Freedom and Nondiscrimination in the Matter of Political Rights.				
(2) Everyone has the right to equal access to public service in his country.					
(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.	Convention on the Political Rights of Women.	Mar. 31, 1953	July 7, 1954	83 (including China).	Acceded.
Art. 22. Everyone, as a member of soceity, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each state, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.	Declaration on Social Progress and Development.	Dec. 11, 1969, GA Res. 2542 (XXIV).		Vote 119 to 0, 2 abstain.	Voted for.
	Declaration on the Rights of Mentally Retarded Persons.	Dec. 20, GA Res. 2856 (XXVI)		Vote 110 to 0, 9 abstain.	Do.

Art. 23. (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions to work and to protection against unemployment.	ILO—Right to Organize and Collective Bargaining Convention (No. 98).	July 1, 1949	July 18, 1951	91	
(2) Everyone, without any discrimination, has the right to equal pay for equal work.	ILO—Abolition of Forced Labor Convention (No. 105).	June 25, 1952	Jan. 12, 1959	89	Pending in U.S. Senate.
(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.	ILO—Workers' Representatives Convention (No. 135).	June 23, 1971	June 30, 1973	4	
	ILO—Employment Policy Convention (No. 122.)	July 9, 1964	July 15, 1966	45	Pending in United States.
	ILO—Discrimination (Employment and Occupation) Convention (No. 111).	June 25, 1958	July 15, 1958	80	
(4) Everyone has the right to form and to join trade unions for the protection of his interests.	ILO—Equal Remuneration Convention (No. 100.)	June 29, 1961	May 23, 1953	77	
Art. 24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.					
Art. 25. (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.	Declaration of the Rights of the Child	Nov. 20, 1959; GA Res. 1386 (XIV).		Unanimous vote	
	Draft Principles on Equality and Non-discrimination in Respect of Persons Born Out of Wedlock.				
(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.					
Art. 26. (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.	UNESCO—Convention against Discrimination in Education.	Dec. 14, 1960	May 22, 1962	63	
	Protocol Instituting a Conciliation and Good Offices Commission to be responsible for seeking a settlement of any dispute which may arise between states parties to the Convention against Discrimination in Education.	Dec. 10, 1962	Oct. 24, 1968	25	
(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.	Declaration on the Promotion among Youth of the Ideals of Peace, Mutual Respect and Understanding.	Dec. 7, 1965, GA Res. 2037 (XX)		Adopted by acclamation.	
(3) Parents have a prior right to choose the kind of education that shall be given to their children.					

See footnote at end of table.

2. DOCUMENTS ELABORATING RIGHTS IDENTIFIED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS—Continued

Article of Universal Declaration of Human Rights	Document	Date adopted/signed	Date in force *	Number of parties	United States
Art. 27. (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.	UNESCO—Declaration on the Principles of International Cultural Cooperation.	Nov. 4, 1966			
(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.					
Art. 28. (1) Everyone is entitled to a social and international order in which the rights and freedoms set forth in this declaration can be fully realized.					
Art. 29. (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.					
(2) In the exercise of his rights and freedoms everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.					
(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.					
Art. 30. Nothing in this declaration may be interpreted as implying for any state, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.					

3. DOCUMENTS ELABORATING RIGHTS NOT IDENTIFIED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

Article of Universal Declaration of Human Rights	Document	Date adopted/signed	Date in force *	Number of parties	United States
	Declaration on the Granting of Independence to Colonial Countries and Peoples.	Dec. 14, 1960, GA Res. 1514 (XV).		Vote 89 to 0, 9 abstain.	Abstained.
	Declaration on Permanent Sovereignty over Natural Resources.	Dec. 14, 1962, GA Res. 1803 (XVII).		Vote 87 to 2, 12 abstain.	Voted for.

*Only applicable to treaties and agreements.

APPENDIX B

Legislation Enacted on Human Rights

Currently in Force

Foreign Assistance Act of 1973, Public Law 93–189, December 17, 1973

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POLITICAL PRISONERS

Sec. 32. It is the sense of Congress that the President should deny any economic or military assistance to the government of any foreign country which practices the internment or imprisonment of that country's citizens for political purposes.

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RIGHTS IN CHILE

Sec. 35. It is the sense of the Congress that (1) the President should request the Government of Chile to protect the human rights of all individuals, Chilean and foreign, as provided in the Universal Declaration of Human Rights, the Convention and Protocol Relating the Status of Refugees, and other relevant international legal instruments guaranteeing the granting of asylum, safe conduct, and the humane treatment or release of prisoners; (2) the President should support international humanitarian initiatives by the United Nations High Commissioner for Refugees and the International Committee of the Red Cross to insure the protection and safe conduct and resettlement of political refugees, the humane treatment of political prisoners, and the full inspection of detention facilities under international auspices; (3) the President should support and facilitate efforts by voluntary agencies to meet emergency relief needs; and (4) the President should request of the Inter-American Commission on Human Rights to undertake an immediate inquiry into recent events occurring in Chile.

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Foreign Assistance Act of 1974, Public Law 93–559, December 30, 1974

* * * * * * *

POLICY ON THE INDEPENDENCE OF ANGOLA, MOZAMBIQUE, AND GUINEA-BISSAU

Sec. 50. (a)(1) Congress finds that the Government of Portugal's recognition of the right to independence of the African territories of Angola, Mozambique, and Guinea-Bissau marks a significant advance toward the goal of self-determination for all the peoples of Africa, without which peace on the continent is not secure.

(2) Congress finds that progress toward independence for the Portuguese African territories will have a significant impact on the international organizations and the community of nations.

(3) Congress commends the Portuguese Government's initiatives on these fronts as evidence of a reaffirmation of that Government's support for her obligations under both the United Nations Charter and the North Atlantic Treaty Organization.

(b) Therefore, Congress calls upon the President and the Secretary of State to take the following actions designed to make clear United States support for a peaceful and orderly transition to independence in the Portuguese African territories:

(1) An official statement should be issued of United States support for the independence of Angola, Mozambique, and Guinea-Bissau, and of our desire to have good relations with the future governments of the countries.

(2) It should be made clear to the Government of Portugal that we view the efforts toward a peaceful and just settlement of the conflict in the African territories as consistent with Portugal's obligations under the North Atlantic Treaty Organization partnership.

(3) The United States should encourage United Nations support for a peaceful transition to independence, negotiated settlement of all differences, and the protection of human rights of all citizens of the three territories.

(4) The United States should open a dialog with potential leaders of Angola, Mozambique, and Guinea-Bissau and assure them of our commitment to their genuine political and economic independence.

(5) The economic development needs of the three territories will be immense when independence is achieved. Therefore, it is urged that the United States Agency for International Development devote attention to assessing the economic situation in Angola, Mozambique, and Guinea-Bissau and be ready to cooperate with the future governments in providing the kind of assistance that will help make their indepencence viable. In addition, the United States Government should take the initiative among other donors, both bilateral and multilateral, in seeking significant contribution of development assistance for the three territories.

(6) In light of the need of Angola, Mozambique, and Guinea-Bissau for skilled and educated manpower, a priority consideration should be given to expanding current United States programs of educational assistance to the territories as a timely and substantive contribution to their independence.

(c) Reports should be submitted to the Congress on the implementation of the proposals set forth in subsection (b) and Congress should be kept fully informed on developments in United States policy toward the independence of the Portuguese African territories.

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Trade Act of 1974, Public Law 93-618, January 3, 1975

* * * * * * *

SEC. 402. FREEDOM OF EMIGRATION IN EAST-WEST TRADE.

(a) To assure the continued dedication of the United States to fundamental human rights, and notwithstanding any other provision of law, on or after the date of the enactment of this Act products from any nonmarket economy country shall not be eligible to receive nondiscriminatory treatment (most-favored-nation treatment), such country shall not participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly, and the President of the United States shall not conclude any commercial agreement with any such country, during the period beginning with the date on which the President determines that such country—

(1) denies its citizens the right or opportunity to emigrate;

(2) imposes more than a nominal tax on emigration or on the visas or other documents required for emigration, for any purpose or cause whatsoever; or

(3) imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate to the country of his choice.

and ending on the date on which the President determines that such country is no longer in violation of paragraph (1), (2), or (3).

(b) After the date of the enactment of this Act, (A) products of a nonmarket economy country may be eligible to receive nondiscriminatory treatment (most-favored-nation treatment), (B) such country may participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, and (C) the President may conclude a commercial agreement with such country, only after the President has submitted to the Congress a report indicating that such country is not in volation of paragraph (1), (2), or (3) of subsection (a). Such report with respect to such country shall include information as to the nature and implementation of emigration laws and policies and restrictions or discrimination applied to or against persons wishing to emigrate. The report required by this subsection shall be submitted initially as provided herein and, with current information, on or before each June 30 and December 31 thereafter so long as such treatment is received, such credits or guarantees are extended, or such agreement is in effect.

(c)(1) During the 18-month period beginning on the date of the enactment of this Act, the President is authorized to waive by Executive order the application of subsection (a) and (b) with respect to any country, if he reports to the Congress that—

(A) he has determined that such waiver will substantially promote the objectives of this section; and

(B) he has received assurances that the emigration practices of that country will henceforth lead substantially to the achievement of the objectives of this section.

(2) During any period subsequent to the 18-month period referred to in paragraph (1), the President is authorized to waive by Executive order the application of subsections (a) and (b) with respect to any country, if the waiver authority granted by this subsection continues to apply to such country purusant to subsection (d), and if he reports to the Congress that—

(A) he had determined that such waiver will substantially promote the objectives of this section; and

(B) he has received assurances that the emigration practices of that country will henceforth lead substantially to the achievement of the objectives of this section.

(3) A waiver with respect to any country shall terminate on the day after the waiver authority granted by this subsection ceases to be effective with respect to such country pursuant to subsection (d). The President may, at any time, terminate by Executive order any waiver granted under this subsection.

(d)(1) If the President determines that the extension of the waiver authority granted by subsection (c)(1) will substantially promote the objectives of this section, he may recommend to the Congress that such authority be extended for a period of 12 months. Any such recommendation shall—

(A) be made not later than 30 days before the expiration of such authority;

(B) be made in a document transmitted to the House of Representatives and the Senate setting forth his reasons for recommending the extension of such authority; and

(C) include, for each country with respect to which a waiver granted under subsection (c)(1) is in effect, a determination that continuation of the waiver applicable to that country will substantially promote the objectives of this section, and a statement setting forth his reasons for such determination

(2) If the President recommends under paragraph (1) the extension of the waiver authority granted by subsection (c)(1), such authority shall continue in effect with respect to any country for a period of 12 months following the end of the 18-month period referred to in subsection (c)(1), if before the end of such 18-month period, the House of Representatives and the Senate adopt, by an affirmative vote of a majority of the Members present and voting in each House and under the procedures set forth in section 153, a concurrent resolution approving the extension of such authority, and such resolution does not name such country as being excluded from such authority. Such authority shall cease to be effective with respect to any country named in such concurrent resolution on the date of the adoption of such concurrent resolution. If before the end of such 18-month period, a concurrent resolution approving the extension of such authority is not adopted by the House and the Senate, but both the House and Senate vote on the question of final passage of such a concurrent resolution and—

(A) both the House and the Senate fail to pass such a concurrent resolution, the authority granted by subsection (c)(1) shall cease to be effective with respect to all countries at the end of such 18-month period;

(B) both the House and the Senate pass such a concurrent resolution which names such country as being excluded from such authority, such authority shall cease to be effective with respect to such country at the end of such 18-month period; or

(C) one House fails to pass such a concurrent resolution and the other House passes such a concurrent resolution which names such country as being excluded from such authority, such authority shall cease to be effective with respect to such country at the end of such 18-month period.

(3) If the President recommends under pargraph (1) the extension of the waiver authority granted by subsection (c)(1), and at the end of the 18-month period referred to in subsection (c)(1) the House of Representatives and the Senate have not adopted a concurrent resolution approving the extension of such authority and subparagraph (A) of paragraph (2) does not apply, such authority shall continue in effect for a period of 60 days following the end of such 18-month period with respect to any country (except for any country with respect to which

such authority was not extended by reason of the application of subparagraph (B) or (C) of paragraph (2)), and shall continue in effect for a period of 12 months following the end of such 18-month period with respect to any such country if, before the end of such 60-day period, the House of Representatives and the Senate adopt, by an affirmative vote of a majority of the Members present and voting in each House and under the procedures set forth in section 153, a concurrent resolution approving the extension of such authority, and such resolution does not name such country as being excluded from such authority. Such authority shall cease to be effective with respect to any country named in such concurrent resolution on the date of the adoption of such concurrent resolution. If before the end of such 60-day period, a concurrent resolution approving the extension of such authority is not adopted by the House and Senate. but both the House and Senate vote on the question of final passage of such a concurrent resolution and—

(A) both the House and the Senate fail to pass such a concurrent resolution, the authority granted by subsection (c)(1) shall cease to be effective with respect to all countries on the date of the vote on the question of final passage by the House which votes last;

(B) both the House and the Senate pass such a concurrent resolution which names such country as being excluded from such authority, such authority shall cease to be effective with respect to such country at the end of such 60-day period; or

(C) one House fails to pass such a concurrent resolution and the other House passes such a concurrent resolution which names such country as being excluded from such authority, such authority shall cease to be effective with respect to such country at the end of such 60-day period.

(4) If the President recommends under paragraph (1) the extension of the waiver authority granted by subsection (c)(1), and at the end of the 60-day period referred to in paragraph (3) the House of Representatives and the Senate have not adopted a concurrent resolution approving the extension of such authority and subparagraph (A) of paragraph (3) does not apply, such authority shall continue in effect until the end of the 12-month period following the end of the 18-month period referred to in subsection (c)(1) with respect to any country (except for any country with respect to which such authority was not extended by reason of the application of subparagraph (B) or (C) of paragraph (2) or subparagraph (B) or (C) of paragraph (3)), unless before the end of the 45-day period following such 60-day period either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of the Members present and voting in that House and under the procedures set forth in section 153, a resolution disapproving the extension of such authority generally or with respect to such country specifically. Such authority shall cease to be effective with respect to all countries on the date of the adoption by either House before the end of such 45-day period of a resolution disapproving the extension of such authority, and shall cease to be effective with respect to any country on the date of the adoption by either House before the end of such 45-day period of a resolution disapproving the extension of such authority with respect to such country.

(5) If the waiver authority granted by subsection (c) has been extended under paragraph (3) or (4) for any country for the 12-month period referred to in such paragraphs, and the President determines that the further extension of such authority will substantially promote the objectives of this section, he may recommend further extensions of such authority for successive 12-month periods. Any such recommendations shall—

(A) be made not later than 30 days before the expiration of such authority;

(B) be made in a document transmitted to the House of Representatives and the Senate setting forth his reasons for recommending the extension of such authority; and

(C) include, for each country with respect to which a waiver granted under subsection (c) is in effect, a determination that continuation of the waiver applicable to that country will substantially promote the objectives of this section, and a statement setting forth his reasons for such determination.

If the President recommends the further extension of such authority, such authority shall continue in effect until the end of the 12-month period following the end of the previous 12-month extension with respect to any country (except for any country with respect to which such authority has not been extended under this subsection), unless before the end of the 60-day period following such previous 12-month extension, either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of the Members present and voting in that House and under the procedures set forth in section 153, a resolution dis-

approving the extension of such authority generally or with respect to such country specifically. Such authority shall cease to be effective with respect to all countries on the date of the adoption by either House before the end of such 60-day period of a resolution disapproving the extension of such authority, and shall cease to be effective with respect to any country on the date of the adoption by either House before the end of such 60-day period of a resolution disapproving the extension of such authority with respect to such country.

(e) This section shall not apply to any country the products of which are eligible for the rates set forth in rate column numbered 1 of the Tariff Schedules of the United States on the date of the enactment of this Act.

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SEC. 409. FREEDOM TO EMIGRATE TO JOIN A VERY CLOSE RELATIVE IN THE UNITED STATES.

(a) To assure the continued dedication of the United States to the fundamental human rights and welfare of its own citizens, and notwithstanding any other provision of law, on or after the date of the enactment of this Act, no nonmarket economy country shall participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, directly or indirectly, and the President of the United States shall not conclude any commercial agreement with any such country, during the period beginning with the date on which the President determines that such country—

(1) denies its citizens the right or opportunity to join permanently through emigration, a very close relative in the United States, such as a spouse, parent, child, brother, or sister;

(2) imposes more than a nominal tax on the visas or other documents required for emigration described in paragraph (1); or

(3) imposes more than a nominal tax, levy, fine, fee, or other charge on any citizen as a consequence of the desire of such citizen to emigrate as described in paragraph (1),

and ending on the date on which the President determines that such country is no longer in violation of paragraph (1), (2), or (3).

(b) After the date of the enactment of this Act, (A) a nonmarket economy country may participate in any program of the Government of the United States which extends credits or credit guarantees or investment guarantees, and (B) the President may conclude a commercial agreement with such country, only after the President has submitted to the Congress a report indicating that such country is not in violation of paragraph (1), (2), or (3) of subsection (a). Such report with respect to such country shall include information as to the nature and implementation of its laws and policies and restrictions or discrimination applied to or against persons wishing to emigrate to the United States to join close relatives. The report required by this subsection shall be submitted initially as provided herein and, with current information, on or before each June 30 and December 31 thereafter, so long as such credits or guarantees are extended or such agreement is in effect.

(c) This section shall not apply to any country the products of which are eligible for the rates set forth in rate column numbered 1 of the Tariff Schedules of the United States on the date of enactment of this Act.

(d) During any period that a waiver is in effect with respect to any nonmarket economy country under section 402(c), the provisions of subsections (a) and (b) shall not apply with respect to such country.

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International Development and Food Assistance Act of 1975, Public Law 94–161, December 20, 1975

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"Sec. 116. Human Rights.—(a) No assistance may be provided under this part to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person, unless such assistance will directly benefit the needy people in such country.

"(b) In determining whether this standard is being met with regard to funds allocated under this part, the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives may require the Administrator primarily responsible for administering part I of this Act to submit in writing information demonstrating that such assistance will directly benefit the needy people in such country, together with a detailed explanation of the assistance to be provided (including the dollar amounts of such assistance) and an explanation of how such assistance will directly benefit the needy people in such country. If either committee or either House of Congress disagrees with the Administrator's justification it may initiate action to terminate assistance to any country by a concurrent resolution under section 617 of this Act.

"(c) In determining whether or not a government falls within the provisions of subsection (a), consideration shall be given to the extent of cooperation of such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States.

"(d) The President shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, in the annual presentation materials on proposed economic development assistance programs, a full and complete report regarding the steps he has taken to carry out the provisions of this section.".

* * * * * * *

An Act To Establish a Commission on Security and Cooperation in Europe
Public Law 94–304, June 3, 1976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is established the Commission on Security and Cooperation in Europe (hereafter in this Act referred to as the "Commission").

Sec. 2. The Commission is authorized and directed to monitor the acts of the signatories which reflect compliance with or violation of the articles of the Final Act of the Conference on Security and Cooperation in Europe, with particular regard to the provisions relating to Cooperation in Humanitarian Fields. The Commission is further authorized and directed to monitor and encourage the development of programs and activities of the United States Government and private organizations with a view toward taking advantage of the provisions of the Final Act to expand East-West economic cooperation and a greater interchange of people and ideas between East and West.

Sec. 3. The Commission shall be composed of fifteen members as follows:

(1) Six Members of the House of Representatives appointed by the Speaker of the House of Representatives. Four members shall be selected from the majority party and two shall be selected, after consultation with the minority leader of the House, from the minority party. The Speaker shall designate one of the House Members as chairman.

(2) Six Members of the Senate appointed by the President of the Senate. Four members shall be selected from the majority party and two shall be selected, after consultation with the minority leader of the Senate, from the minority party.

(3) One member of the Department of State appointed by the President of the United States.

(4) One member of the Defense Department appointed by the President of the United States.

(5) One member of the Commerce Department appointed by the President of the United States.

Sec. 4. In carrying out this Act, the Commission may require, by subpena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as it deems necessary. Subpenas may be issued over the signature of the Chairman of the Commission or any member designated by him, and may be served by any person designated by the Chairman or such member. The Chairman of the Commission, or any member designated by him, may administer oaths to any witness.

Sec. 5. In order to assist the Commission in carrying out its duties, the President shall submit to the Commission a semiannual report,the first one to be submitted six months after the date of enactment of this Act, which shall include (1) a de-

tailed survey of actions by the signatories of the Final Act reflecting compliance with or violation of the provisions of the Final Act, and (2) a listing and description of present or planned programs and activities of the appropriate agencies of the executive branch and private organizations aimed at taking advantage of the provisions of the Final Act to expand East-West economic cooperation and to promote a greater interchange of people and ideas between East and West.

SEC. 6. The Commission is authorized and directed to report to the House of Representatives and the Senate with respect to the matters covered by this Act on a periodic basis and to provide information to Members of the House and Senate as requested. For each fiscal year for which an appropriation is made the Commission shall submit to Congress a report on its expenditures under such appropriation.

SEC. 7. There is authorized to be appropriated to the Commission for each fiscal year and to remain available until expended $350,000 to assist in meeting the expenses of the Commission for the purpose of carrying out the provisions of this Act, such appropriation to be disbursed on voucher to be approved by the Chairman of the Commission.

SEC. 8. The Commission may appoint and fix the pay of such staff personnel as it seems desirable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates.

INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT CONTROL ACT OF 1976, PUBLIC LAW 94–329, JUNE 30, 1976

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HUMAN RIGHTS

SEC. 301. (a) Section 502B of the Foreign Assistance Act of 1961 is amended to read as follows:

"SEC. 502B. HUMAN RIGHTS.—(a)(1) It is the policy of the United States, in accordance with its international obligations as set forth in the Charter of the United Nations and in keeping with the constitutional heritage and traditions of the United States, to promote and encourage increased respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion. To this end a principal goal of the foreign policy of the United States is to promote the increased observance of internationally recognized human rights by all countries.

"(2) It is further the policy of the United States that, except under circumstances specified in this section, no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights.

"(3) In furtherance of the foregoing policy the President is directed to formulate and conduct international security assistance programs of the United States in a manner which will promote and advance human rights and avoid identification of the United States, through such programs, with governments which deny to their people internationally recognized human rights and fundamental freedoms, in violation of international law or in contravention of the policy of the United States as expressed in this section or otherwise.

"(b) The Secretary of State shall transmit to the Congress, as part of the presentation materials for security assistance programs proposed for each fiscal year, a full and complete report, prepared with the assistance of the Coordinator for Human Rights and Humanitarian Affairs, with respect to practices regarding the observance of and respect for internationally recognized human rights in each country proposed as a recipient of security assistance. In determining whether a government falls within the provisions of subsection (a)(3) and in the preparation of any report or statement required under this section, consideration shall be given to—

"(1) the relevant findings of appropriate international organizations, including nongovernmental organizations, such as the International Committee of the Red Cross; and

"(2) the extent of cooperation by such government in permitting an unimpeded investigation by any such organization of alleged violations of internationally recognized human rights.

"(c)(1) Upon the request of the Senate or the House of Representatives by resolution of either such House, or upon the request of the Committee on Foreign Relations of the Senate or the Committee on International Relations of the House of Representatives, the Secretary of State shall, within thirty days after receipt of such request, transmit to both such committees a statement, prepared with the assistance of the Coordinator for Human Rights and Humanitarian Affairs, with respect to the country designated in such request, setting forth—

"(A) all the available information about observance of and respect for human rights and fundamental freedom in that country, and a detailed description of practices by the recipient government with respect thereto;

"(B) the steps the United States has taken to—

"(i) promote respect for and observance of human rights in that country and discourage any practices which are inimical to internationally recognized human rights, and

"(ii) publicly or privately call attention to, and disassociate the United States and any security assistance provided for such country from, such practices;

"(C) whether, in the opinion of the Secretary of State, notwithstanding any such practices—

"(i) extraordinary circumstances exist which necessitate a continuation of security assistance for such country, and, if so, a description of such circumstances and the extent to which such assistance should be continued (subject to such conditions as Congress may impose under this section), and

"(ii) on all the facts it is in the national interest of the United States to provide such assistance; and

"(D) such other information as such committee or such House may request.

"(2)(A) A resolution of request under paragraph (1) of this subsection shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(B) The term 'certification,' as used in section 601 of such Act, means, for the purposes of this subsection, a resolution of request of the Senate under paragraph (1) of this subsection.

"(3) In the event a statement with respect to a country is requested pursuant to paragraph (1) of this subsection but is not transmitted in accordance therewith within thirty days after receipt of such request, no security assistance shall be delivered to such country except as may thereafter be specifically authorized by law from such country unless and until such statement is transmitted.

"(4)(A) In the event a statement with respect to a country is transmitted under paragraph (1) of this subsection, the Congress may at any time thereafter adopt a joint resolution terminating, restricting, or continuing security assistance for such country. In the event such a joint resolution is adopted, such assistance shall be so terminated, so restricted, or so continued, as the case may be.

"(B) Any such resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(C) The term 'certification', as used in section 601 of such Act, means, for the purposes of this paragraph, a statement transmitted under paragraph (1) of this subsection.

"(d) For the purposes of this section—

"(1) the term 'gross violations of internationally recognized human rights' includes torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, and other flagrant denial of the right to life, liberty, or the security of person; and

"(2) the term 'security assistance' means—

"(A) assistance under chapter 2 (military assistance) or chapter 4 (security supporting assistance) or chapter 5 (military education and training) of this part or part VI (assistance to the Middle East) of this Act;

"(B) sales of defense articles or services, extensions of credits (including participations in credits, and guaranties of loans under the Arms Export Control Act);

"(C) any license in effect with respect to the export of defense articles or defense services to or for the armed forces, police, intelligence, or other internal security forces of a foreign country under section 38 of the Arms Export Control Act.".

(b) Section 624 of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new subsection:

"(f)(1) There is established in the Department of State a Coordinator for Human Rights and Humanitarian Affairs. The Coordinator shall be appointed by the President with the advice and consent of the Senate. He shall be responsible to the Secretary of State for matters pertaining to human rights and humanitarian affairs (including matters relating to refugees, prisoners of war, and members of the United States Armed Forces missing in action) in the conduct of foreign policy. The Secretary of State shall carry out his responsibility under section 502B of this Act through the Coordinator for Human Rights and Humanitarian Affairs.

"(2) The Coordinator for Human Rights and Humanitarian Affairs shall maintain continuous observation and review of all matters pertaining to human rights and humanitarian affairs (including matters relating to refugees, prisoners of war, and members of the United States Armed Forces missing in action) in the conduct of foreign policy including—

"(A) gathering detailed information regarding humanitarian affairs and the observance of and respect of internationally recognized human rights in each country to which requirements of sections 116 and 502B of this Act are relevant;

"(B) preparing the statements and reports to Congress required under section 502B of this Act;

"(C) making recommendations to the Secretary of State and the Administrator of the Agency for International Development regarding compliance with sections 116 and 502B of this Act; and

"(D) performing other responsibilities which serve to promote increased observance of internationally recognized human rights by all countries.".

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LIMITATIONS ON ECONOMIC ASSISTANCE, MILITARY ASSISTANCE, SALES, AND SALES CREDITS FOR CHILE

SEC. 406. (a)(1) No military or security supporting assistance and no military education and training may be furnished under the Foreign Assistance Act of 1961 for Chile; and no credits (including participations in credits) may be extended and no loan may be guaranteed under the Arms Export Control Act with respect to Chile. No deliveries of any such assistance, credits, or guaranties may be made to Chile on or after the date of enactment of this section.

(2) No sales (including cash sales) may be made and no export license may be issued under the Arms Export Control Act with respect to Chile on or after the date of enactment of this section.

(b)(1) Notwithstanding any other provision of law, the total amount of economic assistance which may be made available for Chile during the period beginning July 1, 1976, and ending September 30, 1977, may not exceed $27,500,000. For purposes of this subsection, economic assistance includes any assistance of any kind which is provided, directly or indirectly, to or for the benefit of Chile by any department, agency, or other instrumentality of the United States Government (other than assistance provided under chapter 2, 4, or 5 of part II of the Foreign Assistance Act of 1961 or credits or guaranties extended under the Arms Export Control Act), but does not include commodities furnished under title II of the Agricultural Trade Development and Assistance Act of 1954. This subsection shall not be construed to authorize the furnishing of any assistance which is prohibited under any other provision of law.

(2) The $27,500,000 limit set forth in paragraph (1) of this subsection may be increased by not to exceed $27,500,000 if the President certifies in writing to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate that the Government of Chile—

(A) does not engage in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges or trial, or other flagrant denials of the right to life, liberty, or the security of person;

(B) has permitted the unimpeded investigation, by internationally recognized commissions on human rights (including the United Nations Commission on Human Rights and the Inter-American Commission on Human Rights of the Organization of American States) of alleged violations of internationally recognized human rights (as described in subparagraph (A) of this paragraph); and

(C) has taken steps to inform the families of prisoners of the condition of and charges against such prisoners.

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KOREA

SEC. 412. The Congress views with distress the erosion of important civil liberties in the Republic of Korea and requests that the President communicate this concern in forceful terms to the Government of the Republic of Korea within sixty days after enactment.

FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATIONS ACT, 1977, PUBLIC LAW 94–441, OCTOBER 1, 1976

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SEC. 505. None of the funds appropriated or made available pursuant to this Act shall be used to provide military assistance, international military education and training, or foreign military credit sales to the Government of Uruguay.

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INTER-AMERICAN DEVELOPMENT BANK AND AFRICAN DEVELOPMENT FUND, PUBLIC LAW 94–302, MAY 31, 1976

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SEC. 103(a) * * *

"SEC. 28. (a) The United States Executive Director of the Bank is authorized and directed to vote against any loan, any extension of financial assistance, or any technical assistance to any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person, unless such assistance will directly benefit the needy people in such country.

"(b) In determining whether this standard is being met with regard to activities of the Inter-American Development Bank, the Committee on Foreign Relations of the Senate or the House Committee on International Relations, or the House Committee on Banking, Currency and Housing, may require the United States Governor of the Bank to submit in writing information demonstrating that such loan of assistance will directly benefit those persons in such country to which such loan or assistance is supposed to be directed, together with a detailed explanation of the assistance to be provided (including the dollar amounts of such assistance) and an explanation of how such assistance will directly benefit such persons in such country.

"(c) In determining whether or not a country falls within the provisions of subsection (a), the Senate Committee on Foreign Relations and the House Committee on International Relations and the House Committee on Banking, Currency and Housing shall give consideration to the extent of cooperation of such country in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States.".

* * * * * * *

SEC. 211. (a) The United States Governor of the Fund is authorized and directed to cause the Executive Director representing the United States to vote against any loan, any extension of financial assistance, or any technical assistance to any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhumane, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty, and the security of person, and including providing refuge to individuals committing acts of international terrorism such as the hijacking of an aircraft, unless such assistance will directly benefit the needy people in such country.

(b) In determining whether this standard is being met with regard to activities of the African Development Fund, the Committee on Foreign Relations of the Senate or the House Committee on International Relations, or the House Committee on Banking, Currency and Housing may require the United States Governor of the Bank to submit in writing information demonstrating that such loan or assistance will directly benefit those persons in such country to which such loan or assistance is supposed to be directed, together with a detailed explanation of the assistance to be provided (including the dollar amounts of such assistance) and an explanation of how such assistance will directly benefit such persons in such country.

(c) In determining whether or not a country falls within the provisions of subsection (a), the Senate Committee on Foreign Relations and the House Committee on International Relations and the House Committee on Banking, Currency and Housing shall give consideration to the extent of cooperation of such country in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross, or groups or persons acting under the authority of the United Nations or of the Organization of American States.

Other

Foreign Assistance Act of 1974, Public Law 93–559, December 30, 1974

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LIMITATION UPON ASSISTANCE TO OR FOR CHILE

Sec. 25. Notwithstanding any other provision of law, the total amount of assistance that may be made available for Chile under the Foreign Assistance Act of 1961, and the Foreign Military Sales Act during fiscal year 1975, may not exceed $25,000,000 none of which may be made available for the purpose of providing military assistance (including security supporting assistance, sales, credit sales, or guaranties or the furnishing by any means of excess defense articles or items from stockpiles of the Department of Defense).

LIMITATION ON MILITARY ASSISTANCE AND EXCESS DEFENSE ARTICLES TO KOREA

Sec. 26. (a) The aggregate amount of—

(1) funds obligated or reserved for military assistance, including supply operations, under chapter 2 of part II of the Foreign Assistance Act of 1961;

(2) the acquisition cost of excess defense articles, if any, ordered under part II of the Foreign Assistance Act of 1961 and not charged against appropriations for military assistance;

(3) credits, including participation in credits, extended pursuant to section 23 of the Foreign Military Sales Act; and

(4) the principal amount of loans guaranteed pursuant to section 24(a) of the Foreign Military Sales Act;

with respect to South Korea shall not exceed $145,000,000 for fiscal year 1975 until the President submits a report to the Congress after the date of enactment of this Act stating that the government of South Korea is making substantial progress in the observance of internationally recognized standards of human rights.

(b) After the submission of the report under subsection (a), the aggregate amount described in paragraphs (1), (2), (3), and (4) of such subsection with respect to South Korea shall not, exceed $165,000,000 for fiscal year 1975.

(c) The provision of section 506 and section 614 of the Foreign Assistance Act of 1961, or of any other law, may not be used to exceed the limitation under subsection (a) or (b).

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SECURITY ASSISTANCE AND HUMAN RIGHTS

Sec. 46. Chapter 1 of part II of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"Sec. 502B. Human Rights.—(a) It is the sense of Congress that, except in extraordinary circumstances, the President shall substantially reduce or terminate security assistance to any government which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or

cruel, inhuman or degrading treatment or punishment; prolonged detention without charges; or other flagrant denials of the right to life, liberty, and the security of the person.

"(b) Whenever proposing or furnishing security assistance to any government falling within the provisions of paragraph (a), the President shall advise the Congress of the extraordinary circumstances necessitating the assistance.

"(c) In determining whether or not a government falls within the provisions of subsection (a), consideration shall be given to the extent of cooperation by such government in permitting an unimpeded investigation of alleged violations of internationally recognized human rights by appropriate international organizations, including the International Committee of the Red Cross and any body acting under the authority of the United Nations or of the Organization of American States.

"(d) For purposes of this section 'security assistance' means assistance under chapter 2 (military assistance) or chapter 4 (security supporting assistance) of this part, assistance under part V (Indochina Postwar Reconstruction) or part VI (Middle East Peace) of this Act, sales under the Foreign Military Sales Act, or assistance for public safety under this or any other Act."

NOTE: Section 46 of Public Law 93–559 is superseded by section 301 of Public Law 94–329, the International Security Assistance and Arms Export Control Act of 1973.

INTERNATIONAL DEVELOPMENT AND FOOD ASSISTANCE ACT OF 1975, PUBLIC LAW 94–161, DECEMBER 20, 1975

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SEC. 313.(a) Section 302 of the Foreign Assistance Act of 1961 is amended—

"(2) The Congress reaffirms its support for the work of the Inter-American Commission on Human Rights. To permit such Commission to better fulfill its function of insuring observance and respect for human rights within this hemisphere, not less than $357,000 of the amount appropriated for fiscal year 1976 and $358,000 of the amount appropriated for fiscal year 1977, for contributions to the Organization of American States, shall be used only for budgetary support for the Inter-American Commission on Human Rights.";

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LIMITATION ON ASSISTANCE TO CHILE

SEC. 320. Notwithstanding any other provision of law, the total amount of economic assistance (including but not limited to housing guaranties and sales under title I of the Agricultural Trade Development and Assistance Act of 1954) that may be made available to Chile may not exceed $90,000,000 during the fiscal year 1976.

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