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HUMAN RIGHTS AND U.S. FOREIGN ASSISTANCE

Experiences and Issues in Policy Implementation
(1977-1978)

A REPORT

PREPARED FOR THE

COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

BY THE

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(II)

FOREWORD

At the request of the Senate Committee on Foreign Relations, the Congressional Research Service has prepared this study entitled, "Human Rights and U.S. Foreign Assistance: Experiences and Issues in Policy Implementation (1977-1978)." The study was prepared under the direction of Stanley J. Heginbotham, Assistant Chief of the Foreign Affairs and National Defense Division.

The study contains a number of conclusions, including the following:

- In executing its human rights policies, the administration has avoided designing a comprehensive system of guidelines or principles. Rather, the structure of the administration's overall human rights policy has evolved from a series of decisions based on individual cases, in which the particular needs of U.S. foreign policy and capabilities of U.S. influence are both considered. In short, the human rights policy is not based solely on the magnitude of the human rights abuse occurring abroad, but rather on a host of categories—some of which are defined to meet the broader strategic interests of the United States. This has led to public and Congressional concern over the consistency with which the President's policy is being pursued.

- Although public pressure and direct leverage can be effective instruments of human rights policy, quiet diplomatic efforts and indirect hints of linkage between human rights conditions and U.S. support are sometimes likely to be more successful in improving the human rights condition in a country.

- The availability of information, combined with the level of public interest, seems to have played a significant role in the disproportionate attention received by some countries concerning their human rights practices.

- Although the administration has avoided identifying as such governments that engage in a "consistent pattern of gross violations of internationally recognized human rights," legislation containing this language seems, nevertheless, to be a significant legal consideration in U.S. foreign assistance deliberations.

- Positive means of reinforcing improvements in human rights performance are less available to U.S. policymakers than are negative measures for expressing dissatisfaction with poor human rights conditions.

The foregoing conclusions of this study do not necessarily represent the views of the undersigned or of any member of the Committee on Foreign Relations. However, the study appears to us to be comprehensive and to contain useful information and, therefore, to be worthy of publication by the committee in order to further public consideration of this important subject.

FRANK CHURCH,
Chairman.

JACOB K. JAVITS,
Ranking Minority Member.

LETTER OF TRANSMITTAL

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., February 27, 1979.

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to submit herewith a CRS study on "Human Rights and U.S. Foreign Assistance: Experience and Issues in Policy Implementation (1977-1978)" prepared at the request of the former chairman of the Senate Foreign Relations Committee, Senator John Sparkman. In his letter of April 30, 1978, Senator Sparkman asked us to "undertake a detailed study of the implementation and effectiveness of the * * * legislation passed by the 94th and 95th Congresses" that established a linkage between U.S. foreign assistance and foreign military sales, on one hand, and human rights conditions in countries receiving such assistance and sales.

This report is based on extensive interviewing with officials of the Department of State and other agencies concerned with U.S. foreign assistance programs and on analytical studies of a sample group of countries, all the work of the Foreign Affairs and National Defense Division. Stanley J. Heginbotham, Assistant Chief of that division, directed the study and wrote major portions of it. He was assisted by Hugh W. Wolff, specialist in U.S. foreign policy, who served as coordinator and wrote one of the chapters. Other principal authors of the study were Vita Bite, analyst in international relations, Allan S. Nanes, specialist in U.S. foreign policy, Robert D. Shuey, analyst in U.S. foreign policy, and Joel M. Woldman, specialist in U.S. foreign policy.

The task of interviewing at least 50 officials of various agencies and preparing independent analyses of a selected group of countries involved many other members of the Foreign Affairs and National Defense Division. Country reports were written by Brenda M. Branan, Raymond W. Copson, Rosemary P. Jackson (consultant), Marjorie Niehaus, Larry A. Niksch, Roslyn D. Roberts, and Robert G. Sutter. Virtually all of these analysts also took part in the necessary interviewing. Their efforts were supplemented by contributions from Barry A. Sklar, specialist in Latin American affairs, and Richard M. Preece, specialist in Middle East affairs.

Valuable research on the underlying legislation was contributed by Larry Q. Nowels, and Mrs. Eleanor A. Fullerton provided essential assistance as editor in the final stages of the project. Members of the support staff who ably handled the production under Louisiana S. Jones, research production assistant, were Carolyn E. Colbert, Sondra L. Hunt, Jacqueline M. Daniels, Cheryl E. Powell, and Marcia E. Roberts.

I should add that in all phases of the work on this study, CRS analysts received excellent cooperation from officials of the Department of State and other agencies, particularly in terms of the time, attention, and openness in the course of many personal interviews. Indeed, in this respect, I think this study exemplifies the type of policy-oriented research and analysis that should be possible through the cooperative efforts of the legislative and executive branches of our Government.

I hope that this study will be helpful to the committee in its consideration of the legislation on foreign assistance.

Sincerely,

GILBERT GUDE,
Director.

PREFACE BY THE CONGRESSIONAL RESEARCH SERVICE

This study was prepared for the use of the Committee on Foreign Relations of the U.S. Senate in February 1979. Its subsequent release as a committee print makes it more widely available but underlines the need for clarification of the currency of the data and analysis it contains. Interviews with sources in the executive branch were conducted, for the most part, during the summer and early fall of 1978. The country reports (appendix C) were prepared as bases for the analytic text and were current as of October 1978. The Department of State reports on human rights conditions in specific countries that are referred to in appendix C are the ones published in early 1978. The main body of the report was largely drafted by the end of 1978, and has not been updated subsequently.

A number of events of considerable significance for U.S. human rights policy have thus taken place since the empirical and analytic work for this study was carried out. What were then opposition pressures and civil disorders in Iran and Nicaragua have since evolved into successful revolutionary movements. The then-Republic of China is no longer recognized as such by the U.S. Government and the "authorities on Taiwan" who have replaced it deal with the United States through unofficial intermediaries. Bolivia has successfully carried out national elections and the Central African Empire has been widely criticized for the deaths of a group of students at the hands of government soldiers leading most recently to the overthrow of the Emperor Bokasso.

U.S. human rights policy has also undergone substantial evolution. The level of tensions that were initially generated by the policy seem to have continued to abate. The volume of reports on human rights conditions in countries receiving U.S. assistance that appeared in February 1979 is substantially more detailed than the one produced the preceding year. The Introduction to the volume also makes a significant contribution to specification of U.S. policy. In May 1979, 2 months after the substance of the executive summary of this study was presented as testimony before the Senate Foreign Relations Committee, Deputy Secretary of State Warren Christopher, in testimony before the International Organizations Subcommittee of the House Foreign Affairs Committee, identified five principles of U.S. policy that clearly address some of the ambiguities pointed to in this study.

These changes notwithstanding, many of the characteristics and issues associated with U.S. human rights policy implementation that are pointed to in this study retain their currency. Reflecting as it does an unusual convergence of congressional and executive branch initiatives in foreign policy, human rights policy implementation merits continued close assessment from those interested in both branches of Government and in the interaction between them.

PREFACE BY THE CONGRESSIONAL RESEARCH SERVICE

The report was prepared for the use of the Committee on Foreign Relations of the United States in its study of the situation in China. It is a preliminary report and is not intended to be a final statement of the Committee's views. It is based on the information available to the Committee at the time of its preparation. It is the responsibility of the Committee to keep the report up to date as more information becomes available.

The report is divided into two main parts. The first part, "The Political Situation in China," discusses the political situation in China from 1949 to the present. It covers the establishment of the People's Republic of China, the role of the Chinese Communist Party, and the relationship between the Chinese Communist Party and the Chinese Nationalist Government. The second part, "The Economic Situation in China," discusses the economic situation in China from 1949 to the present. It covers the role of the Chinese Communist Party in the economy, the role of the Chinese Nationalist Government in the economy, and the relationship between the Chinese Communist Party and the Chinese Nationalist Government in the economy.

The report is based on the information available to the Committee at the time of its preparation. It is the responsibility of the Committee to keep the report up to date as more information becomes available. The report is divided into two main parts. The first part, "The Political Situation in China," discusses the political situation in China from 1949 to the present. It covers the establishment of the People's Republic of China, the role of the Chinese Communist Party, and the relationship between the Chinese Communist Party and the Chinese Nationalist Government. The second part, "The Economic Situation in China," discusses the economic situation in China from 1949 to the present. It covers the role of the Chinese Communist Party in the economy, the role of the Chinese Nationalist Government in the economy, and the relationship between the Chinese Communist Party and the Chinese Nationalist Government in the economy.

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EXECUTIVE SUMMARY*

In 1976 Congress passed legislation declaring that, 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.¹

The joint efforts of Congress and the Executive to implement this goal are the focus of this report. Four major questions have directed the inquiry:

- How, and how effectively, is human rights policy managed?
- On what bases are human rights policies applied, and to what extent are they applied consistently?
- What has been the impact of U.S. human rights initiatives?
- What has been the role of existing legislation in the evolution of U.S. human rights policies, and what are appropriate options for future congressional roles?

The report is based on extensive interviews with working-level officials in the agencies and bureaus concerned with U.S. human rights policy implementation. In order to narrow the scope of inquiry, attention was focused primarily on the relationship between human rights and U.S. foreign assistance programs in 15 countries of Latin America, Africa, and East Asia.

The Carter administration's human rights initiatives were built on an extensive history of congressional interest and involvement in human rights policy. Frustrated with the apparent unwillingness of the Nixon and Ford administrations to make human rights conditions abroad a significant consideration in its foreign policy, Congress passed, in the form of what have become known as Harkin amendments, legislation prohibiting, with some qualifications, foreign assistance transfers to any country whose government engaged in a consistent pattern of gross violations of human rights. It also singled out some individual countries for specific prohibitions. The Carter administration made it clear that it wanted to go beyond the identification of a limited number of egregious violators and use its influence incrementally to improve human rights conditions in a wide range of countries.

Faced with the options of immediately developing a complex set of principles to guide human rights decisionmaking or evolving a policy out of the experience of handling a long series of individual cases, administration officials followed the latter course. A policy review memorandum, issued in early summer 1977, and a subsequent Presidential directive, issued in February 1978, provided some general policy guidelines, particularly on the relative advantages of different types of aid as instruments of human rights policy, but major issues on which policy determinations would have to be made were not

*Prepared by Stanley J. Heginbotham, Specialist in International Politics.

¹Section 502B(a)(1) of the Foreign Assistance Act of 1961 as amended by Section 301(a) of the International Security Assistance and Arms Export Control Act, Public Law 94-329, June 30, 1976.

addressed. A high-level decisionmaking body, the Interagency Group on Human Rights and Foreign Assistance, under the chairmanship of Deputy Secretary of State Warren Christopher, became the focal point of human rights conflicts. Arguing that the application of human rights initiatives had to be flexible and responsive to the uniqueness of each situation, the so-called Christopher Group avoided the extensive formulation of principles to guide its decisionmaking. Rather, each case, in the views of many with whom we talked, seemed to be reviewed on its own merit, and individual decisions did not seem to produce principles on which subsequent cases could be decided.

The resulting process was time-consuming and contentious. Small and seemingly insignificant transfers became the focus of lengthy discussions. Regional bureaus often argued against direct use of foreign assistance leverage, but were generally opposed by officials from the Bureau of Human Rights and Humanitarian Affairs. Proposals for transfers of military and security items were scrutinized with great care to determine if their use would be likely to contribute to the repressive functions of internal security forces. Forthcoming votes on multilateral bank projects were assessed and instructions conveyed to the U.S. executive directors. Public Law 480 food transfers to regimes thought to be repressive were reviewed and procedures formulated to assure that they would directly benefit the poor of the country concerned.

Frustration with this process—and often with the results it produced—was frequently expressed to us in the course of our interviews with working level officials. Many in regional bureaus and aid program agencies argued that the Human Rights Bureau officials considered only human rights and were blind to other foreign policy considerations. They were concerned that the project-by-project approach weakened the coherence of policy toward and development programs in individual countries. Those in the Human Rights Bureau expressed concern that many in the regional bureaus were affected by clientism and were more interested in maintenance of cordial relations with other governments—even those controlled by repressive regimes—than with advancing broader U.S. foreign policy interests.

There was general acceptance on both sides, however, of the view that the Christopher Group—and the Deputy Secretary in particular—were making a conscientious effort to find a very narrow middle ground between two competing sets of demands, and gradually the tensions and antagonisms that characterized the first year of the process began to abate somewhat. On the one hand, congressional mandates directed that the increased observance of internationally recognized human rights by all countries should be a “principal goal” of U.S. foreign policy and that assistance to the government of any country which engaged in a consistent pattern of gross violations of internationally recognized human rights should be prohibited except under certain narrowly defined circumstances. The President, moreover, had indicated on numerous occasions his commitment to advancing the status of human rights. Though there was great reluctance formally to identify governments that engaged in consistent patterns of gross violations of human rights, there was equal reluctance to provide assistance that could be considered in violation of this language. Positive responses, both domestically and among significant groups in the international community, suggested that the policy had struck a responsive chord.

On the other hand, early experiences with the direct use of human rights pressures provoked strong reactions from affected governments and seemed to promise further adverse consequences with respect to other significant U.S. foreign policy interests. Not only were bilateral negotiations affected, but U.S. standing within the multilateral development banks was alleged to have suffered because of the introduction of a political issue into decisionmaking processes that, by charter, are supposed to be shaped only by economic considerations.

The case-by-case approach followed by the Administration, combined with the reluctance to articulate—indeed, apparently even to formulate—principles of sufficient specificity to guide individual decisions, contributed to public and congressional concern over the consistency with which the policy was being pursued. Were U.S. allies being singled out for criticism? Why did U.S. reactions to violations in Kampuchea, the People's Republic of China and Vietnam seem to be so muted? Why did friendly and anti-Communist governments of Latin America and East Asia so frequently seem to be criticized when the equally bad or worse human rights records of socialist governments of Africa were rarely mentioned?

In an effort to explore such questions, it seemed useful to differentiate between two types of consistency. *Consistency as commensurate response* requires that the United States, in reacting to human rights violations worldwide, gauge the severity of its response to the severity of the violations. The Carter administration has effectively rejected this type of consistency as an impractical basis for decisionmaking. *Consistency as policy coherence*, in contrast, requires that a set of general principles, consistently applied, guide decisionmaking. Though such a set of principles has not been publicly articulated by the administration, interviews we conducted suggest that a significant measure of consensus has begun to emerge among working level officials as to certain generalizations that seem to shape the making of human rights-related decisions.

First, severe violations of integrity of the person—widespread killing or severe, life-threatening torture—should receive high priority in U.S. policy concerns.

Second, levels of human rights performance can be expected to differ from country to country. The relative degree of past successes in managing competitive political systems and legal systems that protect the rights of individuals provides a useful basis for establishing appropriate levels of expectation. The Philippines can be expected to do better than Indonesia, for example, and Chile better than Haiti. Countries that have been supported extensively in the past by U.S. programs are appropriately scrutinized with particular care.

Third, human rights initiatives should be suspended or curtailed when they threaten other significant U.S. interests. Relations with countries that are critical to U.S. well-being—Iran, the People's Republic of China, and Saudi Arabia, for example—should not be jeopardized by human rights initiatives. Moreover, short-term efforts to bring about significant changes in bilateral relations should not be compromised by ill-timed human rights efforts. The appearances of consistency further require that, when a country is exempted from human rights initiatives, other countries with which clear parallels can be made should also be exempted. Thus, North Korea and Vietnam are argued to be comparable to the People's Republic of China, and

a number of Middle East countries to be comparable to Saudi Arabia and/or Egypt.

Fourth, the leverage available to the United States with respect to specific countries should be a significant factor in determining the amount of human rights attention they receive. Both the legislative mandate and the practical requirements of developing a policy that is more than simply rhetorical provide important support for this principle within the bureaucracy.

Fifth, human rights initiatives will be responsive to incremental changes in levels of violations as well as to absolute levels. Thus, it has been considered appropriate at times to abstain on, rather than to vote against multilateral loans to Argentina as a signal of U.S. recognition of marginal improvements in what was still recognized to be a highly repressive human rights situation. At the other end of the scale, it was thought appropriate to bring strong pressures to bear on the Government of the Dominican Republic not to abort a national election that seemed likely to result in a turnover in national leadership.

Sixth, though public pressures and direct leverage can be effective instruments of human rights policy, quiet diplomatic efforts and indirect hints of linkage between human rights conditions and U.S. support are often likely to be more successful.

And seventh, in determining the appropriateness of different policy instruments for human rights purposes, consideration should be given to the direct effect an action would have on human rights conditions in a country, to the likely cost of an action to U.S. interests, and to the amount of leverage an action affords the United States. In general, these criteria have led to increasing reliance on the manipulation of the levels of bilateral aid programs and careful screening of proposed transfers of police and military equipment that might have internal security uses, in conjunction with quiet diplomatic efforts. They have led apparently to less emphasis on negative votes on multilateral bank loans and fewer rejections of Export-Import Bank loans and Overseas Private Investment Corporation insurance and guarantees.

Using these guiding notions, then, one can develop a plausible interpretation of U.S. human rights initiatives involving foreign assistance that shows a significant measure of policy coherence. The focus on certain anti-Communist governments (for example, Korea and the Philippines) is seen as a product of greater U.S. leverage, higher expectations, and concerns that our assistance not directly strengthen repressive capabilities. The focus on much of Latin America is seen as reflecting a high level of expectation in light of considerable past experience with competitive political systems under a rule of law. And the limited pressure in Africa is seen as reflecting a relatively low level of expectation given the newness of many nations, and the opportunity to improve significantly the character of bilateral relations in some cases—Guinea, perhaps most notably.

Confusion and uncertainty still surround some important issues, however. Priorities in human rights goals beyond elimination of severe violations of integrity of the person are unclear. Legislative language refers to 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. Some within the bureaucracy,

however, see movement toward competitive political processes as the primary goal. Criteria for establishing levels of expectation of human rights performance in different countries remain ill defined. And the grounds for determining when other policy concerns should take precedence over human rights considerations are highly ambiguous.

Within these broad areas of uncertainty, initiatives seem often to be shaped by information flows, chance, and bureaucratic politics. In the absence of an information-collecting system that provides equitable coverage of problems in different countries, some countries are subject to careful scrutiny because they are the focus of extensive journalistic and private institutional reporting, as well as the concern of sizable expatriate populations in the United States. For other countries, reporting on human rights conditions is very limited.

In addition to the availability of information, the level of public interest seems to have played a significant role in determining that some countries would receive disproportionate attention. The initiatives of interest groups concerned with conditions in specific countries or regions have stimulated government action. And, the frequency and character of aid decisions for specific countries have influenced the level of attention those countries received. In short, there remain significant areas where more systematic procedures and greater clarity in goals and criteria could substantially strengthen the coherence of human rights policy.

Assessments of the impact of the first 2 years of Carter administration human rights initiatives must be qualified. The coverage of this report is incomplete in that it does not assess the effect on global public opinion of U.S. human rights policy. Recent developments in Iran and Nicaragua, moreover, serve to emphasize how limited our understanding of political processes in the Third World is and how volatile the liberalization of repressive regimes can be. The significance of a decision to release large numbers of political prisoners, of a relaxation of press censorship, or of the holding of competitive elections can only be determined from a time perspective much greater than 1 or 2 years. Nevertheless, some generalizations seem possible. Reviews of human rights conditions in the 15 countries on which we focused attention suggest a broad pattern of tentative and marginal improvements in human rights conditions. The question of the extent to which these changes are a product of U.S. human rights policy is much more difficult to answer. In general it seems reasonably clear that U.S. policy has sensitized foreign governments to human rights issues and has been a contributing factor in many situations where conditions have improved. The record on direct and explicit use of foreign assistance as leverage to bring about specific improvements in human rights conditions is hardly encouraging. In only five or six instances did we find evidence that actual or explicitly threatened reductions in aid played a significant roll in bringing about changes in human rights conditions. Direct pressures seem often in the short term to provoke counterproductive reactions. Chile, Argentina, Ethiopia, and the Philippines represent cases in which such pressures clearly contributed to significant deterioration of bilateral relations, though possibly also in the longer term to greater caution of the part of the foreign government in pursuing repressive policies.

That is not to say, moreover, that the use of leverage has been without significant positive consequence. A number of cases, drawn from countries as diverse as Guinea, the Dominican Republic, Indonesia, Korea, and Tanzania, illustrate a general pattern in which a country that was interested in obtaining some form of benefit from the United States made an effort to improve its human rights conditions. The extent to which such an effort represented a response to U.S. human rights initiatives has generally been cloaked in ambiguity. Sometimes explicit U.S. concerns had been expressed through quiet diplomatic channels, sometimes not. Sometimes negotiations had been progressing, but seemingly stalled; sometimes they had not even begun. Sometimes the U.S. Government had been a primary source of diplomatic pressure; sometimes international organizations had taken the lead in raising the human rights issues. In most of these cases, however, there is at least some evidence that the foreign government recognized that U.S. aid decisions had in the past been directly affected by human rights conditions, and that improvements in human rights conditions could well improve their chances of obtaining support.

The ways in which leverage from foreign assistance combines with quiet diplomacy to produce impact on human rights conditions, then, are subtle, and ambiguous. Many governments seem prepared to respond to—or even anticipate—diplomatic U.S. expressions of concern with marginal measures designed to enhance human rights. The extent to which these actions are motivated by calculations that they will increase the flow of U.S. aid must remain a matter of conjecture. Even where there is reasonably firm evidence that such is the motivation, State Department officials generally avoid taking credit for the change, lest the national leader concerned be offended.

International public opinion is a significant area of impact not empirically investigated in this study. The displeasure of governments that have been subjected to human rights-related sanctions is reflected in perceptions of many regional bureau officials who were interviewed. Much more difficult to reflect and assess is the extent and significance of positive reactions to the policy among opposition groups and supporters of individual freedoms and competitive political processes throughout the world.

The congressional impact on U.S. human rights policy seems, on the basis of our interviews, to have been significant, but sometimes in unexpected ways. A number of officials emphasized the strength that accrued to the policy from its joint congressional and executive support. Though the administration has avoided identifying countries with governments that engage in consistent patterns of gross violations of human rights, legislation containing this language seems nevertheless to be a significant legal consideration in policy deliberations. The country reporting requirements, though they are a source of time-consuming and sometimes contentious negotiation between regional bureaus and the Bureau of Human Rights and Humanitarian Affairs, were important in building up an initial information base on human rights and still serve to force a periodic State Department assessment of overall human rights conditions in a wide range of countries. Finally, we found that Congress is occasionally used as a rationale for the diplomatically unpalatable. On a number of occasions when we asked how diplomats handled situations in which they had to confront foreign

leaders on human rights abuses, they noted that it was useful to be able to emphasize that their actions were necessary because of congressional requirements and concerns.

A range of issues in human rights policy provides scope for possible future congressional attention.

First, in hearings and other oversight activities, Members may wish to press administration representatives for greater clarity and specificity in defining principles guiding U.S. human rights policy. Some will argue the virtues of ambiguity: It permits flexibility, change, and adaptation to the unexpected. This must be weighed against the costs of confusion and perceived inconsistency that are at least in part a product of ambiguity.

Second, Members may wish to explore—and encourage the administration to explore—means of strengthening the foundations of respect for human rights throughout the world. Developmental political scientists have long argued that strong institutions—political parties, labor unions and other interest groups, and court systems—are essential if a government is to be able to minimize repression and grant increasing freedom without unleashing forces that get completely out of control. The extent to which U.S. assistance programs can—and should—be engaged in efforts to strengthen these and other foundations of human rights might appropriately be assessed.

Third, there is some indication from our interviews that positive means of reinforcing improvements in human rights performance are less available to policymakers than are negative measures for expressing dissatisfaction with poor human rights conditions. Members may be interested in exploring this issue further and perhaps in developing legislative means for increasing flexibility in the use of resources for this purpose.

Fourth, Members may wish to reassess the legislative requirements for country reports on human rights conditions. Though many argue the importance and value of these documents, others stress the inherent tension that results when a diplomatic establishment is required to publish documents that are critical of domestic political conditions in countries with which it is supposed to maintain friendly relations. The possibility of transferring the reporting function to another type of institution has been suggested as one means of reducing this tension. Concern has also been expressed that the mandate for coverage of countries excludes many severe violators, including Communist countries and some that no longer receive U.S. aid because of earlier conflicts over human rights conditions.

Fifth, Members may wish to reassess existing legislation prohibiting assistance to governments of countries that engage in consistent patterns of gross violations of human rights. Some will argue that this legislation provides an effective underpinning for current administration policy; others maintain that a more flexible mandate for incremental use of policy instruments—such as aid levels—to influence human rights conditions in a broader range of countries would be appropriate.

Finally, of course, Members may wish to reassess, in light of more than 2 years of experience, the much broader question of whether—or to what extent—it is appropriate to try to use foreign assistance

as a mechanism for influencing human rights conditions in other countries. Some will argue that the marginal and uncertain impact of such efforts is inadequate reward for the complications in bilateral relations, the costs in bureaucratic time and conflict, and the distortions in aid programs that are the byproducts of those efforts. Others will maintain that the impact on human rights conditions marks the beginning of a significant trend, and that the credit that will accrue to the United States for its contribution to this process will far outweigh transient diplomatic costs.

This report makes no attempt to recommend policy on any of these issues. Rather, it attempts to identify how existing policy has been implemented and what consequences it appears to be having, in the hope that the resulting material will strengthen the empirical basis and the analytic focus of congressional efforts to further shape these and other aspects of U.S. human rights policy.

CHAPTER I

INTRODUCTION*

One source of continuing debate in American diplomacy has been the extent to which the domestic political and economic policies of foreign governments should be major determinants of foreign policy. From one perspective, diplomacy should be directed toward advancing the security and economic interests of the United States. Influencing the domestic policies of foreign governments should be of concern only insofar as such efforts advance those goals. The rationale for such an approach is clear: attempts to influence domestic policies of other governments are extremely difficult to carry out successfully and frequently irritate and alienate foreign leaders, thereby at best complicating the management of bilateral relations and frequently compromising substantive U.S. interests in the process.

From another perspective, however, U.S. foreign policy cannot effectively be divorced from the values that this country espouses for its domestic system. Maintenance of close bilateral relationships with regimes that practice unconscionable domestic policies, in this view, represents practical support for such regimes and in the long term not only weakens U.S. standing, credibility and influence with world public opinion but also weakens the fabric of our own political and economic systems.

To pursue seriously a diplomacy that incorporates effective application of human rights considerations in bilateral and multilateral relations is to identify firmly with this latter perspective. Congress did this in 1974 when it amended the Foreign Assistance Act of 1972 to read:

* * * 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.

The Carter administration did this in 1977 when, in his inaugural address, the new President proclaimed:

Our commitment to human rights must be absolute.* * *
Our moral sense dictates a clear-cut preference for those societies which share with us an abiding respect for individual human rights.

In both cases, moreover, statements of intent have been followed up by a series of actions that, when taken together, have evolved into a major new dimension in American foreign policy.

Because this new dimension inevitably comes into conflict with other goals of U.S. foreign policy, human rights initiatives in U.S.

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diplomacy raise a series of complex problems. Though it is too early to provide a definitive assessment of even the early years of these initiatives, this study represents a preliminary and partial effort in that direction.

Several considerations delimit and shape the focus of this research. First, the primary orientation is congressional. Both in its legislative and its oversight roles, Congress has been concerned with human rights aspects of U.S. foreign policy. It is to facilitate congressional understanding and awareness of the state of policy and policy implementation that this study is primarily directed.

Second, the emphasis is on human rights policy as it relates to various aspects of U.S. foreign assistance programs. Much of the early congressional involvement in human rights matters was tied to the legislative leverage of Congress over such problems as bilateral and multilateral economic program aid, Public Law 480 food aid, and security assistance. These programs have subsequently become key instruments in Carter administration human rights initiatives, and their use for this purpose is a central concern of Congress. Other significant aspects of Carter administration human rights policy, especially as they relate to the Helsinki accords and the Commission on Security and Cooperation in Europe, are not addressed in this study.

Third, the focus of this analysis is not on whether human rights initiatives are good or bad, *per se*, but rather on identifying how the policy is being implemented and what consequences it appears to be having. These assessments can appropriately be read quite differently by different individuals, depending on their values and goals. They can also be used to support quite divergent legislative and policy prescriptions, again depending upon individual orientations. The purpose of this study is not to direct policy, but rather to strengthen the empirical base and the analytic sophistication of the debates that shape policy.

Finally, this study, though it inevitably draws on experience that the United States has had in its relations with specific individual countries, focuses on four major substantive sets of questions that cut across geographic concerns: the management of policy, the consistency of policy, the impact of policy, and the role of Congress in the formulation and oversight of policy.

First, how—and how effectively—is human rights managed?

The formal lines of organization charts often disguise patterns of very real conflict over policy and tactics. The regional bureaus of the Department of State along with posts in the field manage much of U.S. bilateral relationships, while functionally focused bureaus—Politico-Military Affairs and Economic and Business Affairs, for example—try to provide global coherence to specific policy concerns. Many conflicts between these two types of perspectives are worked out between bureaus; those that cannot be resolved are referred to higher levels of the Department for mediation consistent with broad policy directives. Human rights initiatives not only have fostered cleavages between the functional Bureau of Human Rights and Humanitarian Affairs (HA) and the regional bureaus, but as well between HA and other functional bureaus whose programs have been affected. The conflicts often have been intensified because participants

disagree as to the appropriateness of making the domestic political and economic policies of other governments a major factor in U.S. diplomacy. The need to manage these conflicts, and, in the process, to develop coherent and effective policy has provided a major challenge to U.S. foreign policy agencies.

Second, on what bases are human rights policies applied, and to what extent are they applied consistently?

The issue of consistency with respect to an aspect of foreign policy is an unconventional one, but it derives directly from the character of human rights policy. Economic or security assistance policy, cultural policy, and trade policy are all designed with identifiable political, economic, and security interests of the United States in mind. Thus, the relevant question for these is to what extent do their design and implementation advance those interests. Human rights policy, in contrast, is widely seen not as designed directly to further specific U.S. interests, but rather as directed at pressuring specific regimes to make changes in their domestic policies.

Where a regime is the object of such pressure, it cannot content itself with—or be consoled by—assurances that the action was taken because it was in the U.S. interest to do so. Rather the concerns become ones of fairness and consistency: “Why were this regime’s actions singled out?” “Are not other governments worse violators, yet the objects of less severe pressures?” “Do not the domestic challenges and threats to this regime explain and legitimize the constraints on human rights that have been imposed?” “Are not the distinctive cultural traditions on which this regime is based accepted as a basis for domestic policies that conflict with the culturally and ideologically based American notions of ‘human rights’?” “Does not the longstanding friendship of this regime to the United States give it some special consideration in the form of tolerance for domestic policy?”

Consistency, however, is an elusive goal in human rights policy. If consistency means that U.S. policy actions toward every country should be commensurate with the severity of human rights violations in those countries, then other foreign policy goals must systematically be sacrificed to human rights goals. If, on the other hand, consistency means adherence to a set of human rights policy principles, then principles must be formulated to answer some perplexing questions:

- what is included within the term human rights and what is the relative importance of different types of violations?
- do assessments of severity of violations take into account the differences in countries, and if so, how does one establish appropriate levels of expectations for individual countries?
- where does human rights stand in the hierarchy of U.S. foreign policy interests?
- what actions does one take in response to severe violations in countries with which the United States has minimal relationships?
- does one respond primarily to the severity of human rights violations, or to changes in the severity of those violations?
- what is the relationship between public and private diplomacy in human rights initiatives?
- what range of U.S. policy instruments should be used for human rights purposes, and what is the appropriate mix?

Third, what has been the impact of U.S. human rights initiatives?

In an important sense, the answer to this question provides the test against which human rights policy must be measured. As is frequently the case with policy analysis, however, the question is more complex than it appears to be on the surface, and the data on which answers must be based are more ambiguous than one might anticipate. The impact of human rights policy is multifaceted; consequently, the broad question must be broken down into a number of more specific ones:

- what has been the impact on human rights conditions in countries that have been targets of the policy?
- what has been the impact on other aspects of U.S. bilateral and multilateral relations?
- what has been the impact on global public opinion of the United States?

With respect to all three of these areas of impact, issues of significance are central. How significant for human rights over the long term is the release of a large number of prisoners in a specific country? How significant is the holding of free elections? Or how valuable is the emergence of political opposition to a regime, recognizing that it may well lead to the accession of an equally repressive one? How does one assess the significance of cordial bilateral or multilateral relations? And finally, how much does it matter that major segments of global public opinion see the United States Government as supportive of human rights?

Fourth, what has been the role of existing legislation in the evolution of U.S. human rights policies, and what are appropriate options for future congressional roles?

Congress showed interest in, and took specific actions to mandate, human rights initiatives as part of U.S. foreign policy during the period when Henry Kissinger's view that such matters should not impinge on U.S. diplomacy was dominant. General restrictions against assistance to gross and consistent violators of human rights were supplemented by specific restrictions against support of individual countries, and the diplomatic establishment was mobilized to produce reports on human rights conditions in countries receiving U.S. assistance and to create positions in the bureaucracy that would be devoted to furtherance of human rights policy goals.

The advent of the Carter administration, however, changed dramatically the relative positions of the two branches on human rights policy issues. Instead of resisting congressional pressure, the administration initiated its own activities in support of human rights improvements, clearly building on the congressional leadership, but often appearing to act independently of the congressional mandate. This evolution raises a number of questions with respect to the congressional role:

- to what extent has existing legislation stimulated and supported activities taken within the administration?
- are there aspects of existing legislation that are seen within the bureaucracy as impeding human rights policy initiatives?
- in what areas might Congress most usefully explore new types of legislative initiatives?

This report is directed toward the preliminary survey of these four broad issues, specifically within the context of foreign assistance-related policy instruments: bilateral aid, multilateral aid, Public Law

480 aid, and security assistance. Though no definitive answers are possible at this early point, a significant body of experience with implementation of human rights policy has accumulated. It is the function of this study to sample that experience in order to provide a preliminary assessment of the status of human rights policy implementation.

The methodology for this study has been significantly constrained by limits of time and resource. A primary means for focusing research efforts has been the selection of a sample of countries for specific study. Diversity in experience with respect to three factors seemed significant in this selection:

(1) *Region*.—Roughly equal coverage of several regions made possible inquiries into differences among regional bureaus in handling of human rights issues and in their relations with the Bureau of Human Rights and Humanitarian Affairs. It also assured that U.S. initiatives with respect to human rights problems in countries with radically different backgrounds could be compared.

(2) *Severity and variety of human rights violations*.—Two gross categories of types of violations—violations of the integrity of the individual and violations of political and civil rights—seemed especially significant in defining U.S. initiatives. Since violations in one area do not necessarily imply violations in the other, we developed criteria on which countries could be categorized as severe, moderate, or less than moderate violators for each type of violation. Since almost no countries fell within the combination of severe violators of individual rights and moderate violators of political and civic rights, that combination was excluded. Further, combinations in which violations of either type of human rights were less than moderate were also excluded in order to minimize attention to countries that did not have significant human rights problems. The result was the identification of three categories of country violators: Severe political/civil and severe individual; severe political/civil and moderate individual; and moderate political/civil and moderate individual.

(3) *The severity of strain in the country's relations with the United States resulting from human rights initiatives*.—Since strain is likely to reflect variations both in pressures on regimes and in their responsiveness, assuring variation in the amount of apparent strain resulting from human rights issues seemed likely to yield an interesting range of both positive and negative impacts. In light of the limited amount of information available to us during the design phase of the study, we attempted only to differentiate among three rough levels of strain: severe, moderate, and minimal.

Ideally, it would have been useful to include analysis of at least one country representing every possible combination of region, type and severity of violation, and degree of strain. Such a strategy, however, would have yielded 36 countries; well beyond resources available for the study. Consequently, we determined to focus primary attention on the three regions that seemed to have been primary centers of human rights activities—the Inter-American Affairs Bureau, the East Asian and Pacific Affairs Bureau, and the African Affairs Bureau—and to select only six (rather than nine) countries in each region, eliminating a type and severity of violation from consideration in each of the three regions. This left us with a wide range of human rights problems to consider and the capacity for comparing each of the

3 roughly comparable human rights situations across 2 regions, while reducing the number of countries in the design to 18.

A set of coding instructions for each dimension was established and specialists within the Congressional Research Service categorized countries accordingly. (For details of coding instructions, see app. A.) Where considerable uncertainty or ambiguity resulted, outside experts were also consulted. This initial screening produced a number of choices among countries that fell within the same categories. The selection of specific countries was then based on the degree of confidence in the categorizations, the significance of the country to the United States, the extent of U.S. involvement with the country, and the impressionistic sense of professional analysts as to the interest and significance of the human rights issues that arose in relation to the countries. Because 3 cells turned out to be empty—that is, no countries fit within the criteria that defined them—the result of this exercise was a set of 15 countries for initial focus (see table 1).

TABLE 1

Type and severity of violations	Severity of strain in bilateral relations	Region		
		Latin America	Africa	East Asia
High civil/political, high individual.	High	Chile	Ethiopia	
	Moderate	Nicaragua	Guinea	
	Low	Haiti	Somalia	
High civil/political, moderate individual.	High		Central African Empire	Philippines.
	Moderate		Ghana	Korea.
	Low		Tanzania	Republic of China.
Moderate civil/political, moderate individual.	High	(1)		(1).
	Moderate	Honduras		Indonesia.
	Low	Bolivia		(1).

¹ No country receiving or considered for U.S. assistance meets criteria.

Clearly, this design provided a basis for assuring a range of experience in human rights policy implementation, not a means of singling out most severe violators. Indeed, our assessment suggested that in a number of countries the severity of human rights violations was far greater than in many countries we included in this analysis. There may well be need to develop measures that systematically identify levels of violations across a wide range of countries. This study, however, is not based on either the methodological sophistication and testing or the range of data that would be necessary for such an exercise. Thus, the categorizations we present should be seen only as rough estimates that facilitate research needs, not as definitive identification of countries' human rights status. Though the countries identified through this procedure provide the primary focus for this study, we included discussion of other countries where they seem to illustrate key points.

The data on which this study is based come mainly from interviews with working level officials in the policy community. Since we are most concerned with problems of implementation, we went directly to individuals most involved in those problems. Providing assurances that their comments could be "not for attribution," we explored with individuals having a range of responsibilities their experiences in policymaking on human rights issues and their perceptions of issues and problems that arise in efforts to formulate effective and consistent

policy. Clearly, this approach elicits a limited range of views and perceptions. The issues raised by human rights policy implementation are sufficiently contentious and remain sufficiently unresolved within the policymaking community, however, that a remarkable diversity of approaches and concerns came out in these interviews. The competing perspectives of many bureaucratic positions, when combined with the variety of personal orientations and goals of their incumbents, thus provide a useful range of approaches to the problem of policy implementation that are well grounded in experience. These are set, moreover, within the context of our own analysts' knowledge of human rights conditions in various countries and our independent assessment of the management, consistency, impact, and legislative role requirements of effective foreign policymaking on an issue such as human rights.

The body of this report is organized around the substantive issues identified in this chapter. Chapter II establishes the legislative basis on which human rights policy implementation has proceeded, emphasizing the development of provisions relating to foreign assistance instruments. Chapter III explores the question of management, providing descriptions of how different types of issues are handled within the bureaucracy. Chapter IV takes up issues of consistency, drawing individually and in combination on specific policy decisions to illustrate dilemmas in consistency that inevitably arise in policy implementation, and the types of approaches that are being taken to cope with those dilemmas. In Chapter V, problems of assessing the multifaceted impacts of human rights policy are examined and several types of impact reviewed. Chapter VI explores issues in congressional-executive relations in light of the transition from an administration that resisted human rights initiatives to one that has been vigorous in pursuing such initiatives. Finally, in Chapter VII, an attempt is made to focus on the implications of this research for the problems and options faced by Congress in identifying appropriate legislative and oversight functions.

CHAPTER II

THE LEGISLATIVE MANDATE*

This chapter discusses congressional initiatives on international human rights since 1973 and analyzes briefly several types of human rights legislation in force: a general policy directive, limitations on foreign assistance on human rights grounds, programs to promote human rights, and legislation establishing informational and investigatory requirements. Congressional initiatives mandating the establishment of institutional mechanisms to implement human rights policy is discussed in chapter III, and a description of legislation relating specifically to human rights conditions in designated countries appears in appendix B.

A. GENERAL LEGISLATION ON HUMAN RIGHTS ENACTED SINCE 1973

EARLY INITIATIVES

In recent years, the human rights issue has been a constant and pervasive theme in congressional debate and action. Human rights provisions have been incorporated into major legislation relating to U.S. foreign policy, and most especially into economic and security assistance legislation. Moreover, these human rights provisions have undergone revision, amendment, and expansion at frequent intervals during this period.

Current congressional initiatives in the international human rights area began in 1973. During that year, the House Foreign Affairs Subcommittee on International Organizations and Movements, "concerned over rampant violations of human rights and the need for a more effective response from both the United States and the world community,"¹ began a series of extensive and wide ranging hearings on international protection of human rights. The main impulse for legislative action during the formative period from 1973 through 1975 came from a small number of Members of Congress, including Senators Abourezk, Cranston, Humphrey, and Kennedy, and Representatives Fraser and Harkin. In the *Foreign Assistance Act of 1973*, Congress began, through legislation, the so-called "new directions in development aid," placing emphasis on meeting basic human needs and expressing greater concern about the needs of the poor majority in developing countries. The 1973 act also contained some very limited provisions relating to individual civil and political rights:

*Prepared by Vite Bite, Analyst in International Relations.

¹ 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: a report*. Washington, U.S. Government Printing Office, 1974, 54 pages. (93d Congress, 2d session, committee print), p. 1. Hereafter cited as committee print on Human Rights in the World Community.

Section 32 expressed the sense of Congress that the President deny economic or military assistance to any country which interned or imprisoned its citizens for political purposes;

Section 112 prohibited use of funds available under the Foreign Assistance Act for police training or related programs in a foreign country; and

Section 35 expressed the sense of Congress that the President should take certain actions relating to protection of human rights in Chile.²

Despite the Nixon administration's response³ to these human rights initiatives, Congress in 1974 added a new section 502B to the *Foreign Assistance Act*. This section, which has undergone many subsequent changes and additions, in its 1974 appearance expressed:

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.

If assistance were to be furnished despite human rights violations, the President was required to advise Congress of the extraordinary circumstances necessitating the assistance. Extraordinary circumstances were, however, not defined.

The State Department reportedly had planned to respond to the requirements of this section by submitting to Congress a country-by-country analysis of how prospective aid recipients handled human rights problems and why security requirements dictated continued aid. However, such a draft was not submitted. Instead a more general summary report, entitled "Report to Congress on the Human Rights Situation in Countries Receiving U.S. Security Assistance," was transmitted on November 14, 1975, to the Senate Foreign Relations and House International Relations Committees.

The report stated that the Department viewed section 502B as an authoritative expression of congressional concern for human rights in all countries receiving assistance. Because of this, the State Department had earlier issued a series of instructions to U.S. missions in the field calling for comprehensive reports on the human rights situations in each country. Such (classified) reports had been submitted and extensively analyzed by the Department.

The report remarked that:

² Public Law 93-189, December 17, 1973.

³ In response to questions during 1974 foreign assistance hearings about how the State Department was implementing section 32, Deputy Secretary of State Robert Ingersoll provided a description of State Department activities. On Apr. 4, 1974, the State Department cabled instructions to U.S. Embassies in 68 aid-recipient countries asking for an assessment on the applicability of section 32 to the status of the foreign aid programs in each country. Later in 1974 Embassies in the East Asian and Pacific region were asked to transmit the text of section 32 to the governments of those countries and to explain the seriousness with which the United States regarded this action. The requests for information were subsequently broadened to include respect for the full range of human rights.

See U.S. Congress. House. Committee on Foreign Affairs. Fiscal year 1974 Foreign Assistance Request. Hearings. 93d Congress, 2d session, June, July 1974. Washington, U.S. Government Printing Office, 1974, pp. 280-287.

Repressive laws and actions, arbitrary arrests and prolonged detention, torture or cruel, inhuman or degrading treatment or punishment, unfair trials or other flagrant denials of the rights of life, liberty and the security of the person are not extraordinary events in the world community. These are all too common, occurring within both those countries receiving U.S. security assistance and those that do not.

Moreover, the report continued:

Experience demonstrated that the political, social, and cultural problems which cause seemingly intractable human rights abuses to occur need to be resolved before real improvements in human rights conditions can apparently take place—with or without bilateral or international pressure. In most of the world the problems associated with poverty and the evolution from traditional to more modern societies seem to take precedence over respect for human rights.

Thus,

In view of the widespread nature of human rights violations in the world, we have found no adequately objective way to make distinctions of degree between nations. This fact leads us, therefore, to the conclusion that neither the U.S. security interest nor the human rights cause would be properly served by the public obloquy and impaired relations with security assistance recipient countries that would follow the making of inherently subjective U.S. Government determinations that “gross violations” do or do not exist or that a “consistent” pattern of such violation does or does not exist in such countries.

The report concluded that “quiet but forceful diplomacy” continued to be the most effective way to promote human rights in other countries.

LEGISLATION IMPOSES A MANDATE

Adverse congressional reaction ⁴ to the Department's report was an element in the continued strengthening of the human rights provisions in foreign assistance legislation. Thus, during the 94th Congress the *International Development and Food Assistance Act of 1974* (Public Law 94-161) added section 116 to the Foreign Assistance Act. This provision, known as the Harkin amendment (for its principal House sponsor, Representative Tom Harkin), no longer expressed simply the “sense of Congress” but specifically prohibited U.S. development assistance:

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.

⁴ See, for example, Congressional Record [daily edition], vol. 121, Nov. 19, 1975: S20403-S20404, and Dec. 5, 1975: S21241-S21244.

The provision further stipulated that:

(a) in determining whether this standard was being met, either the House International Relations Committee or the Senate Foreign Relations Committee could require a written report demonstrating that such assistance would directly benefit the needy people;

(b) if either committee or House of Congress disagreed with the justification, action to terminate assistance might be initiated;

(c) in determining whether a country was a human rights violator under this section, consideration was to be given to the extent of cooperation of such government with investigations by international organizations; and

(d) the President was annually to transmit to Congress a report on compliance with these provisions.

On March 5, 1976, the Agency for International Development [AID], submitted a report describing steps taken to carry out this section. The conclusion to the two-page report was that "while in future years, we will conduct a more comprehensive review, we are satisfied that development assistance programs as now proposed for fiscal year 1977 comply, in good faith, with the requirements of section 116."

To carry the human rights program into the field of multilateral aid, during the spring of 1976 Congress enacted legislation authorizing and directing the U.S. Executive Directors of the Inter-American Development Bank and the African Development Fund:⁵

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 House and Senate Foreign Relations Committees and the House Committee on Banking, Currency, and Housing were authorized to require information which would specify whether and how the proposed assistance to a particular country would directly benefit its needy people.

Also during 1976 the most detailed and directive human rights provisions enacted to that time were passed by Congress. As finally enacted, the human rights provisions of the *International Security and Arms Export Control Act*:⁶

(a) established within the Department of State a Coordinator for Human Rights and Humanitarian Affairs to be appointed by the President with the advice and consent of the Senate;

(b) 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;

⁵ Public Law 94-302, May 31, 1976, sections 28 and 211.

⁶ Public Law 94-329, June 30, 1976.

(c) required, upon request of either House or of either foreign relations committee, the Secretary of State to prepare, with the assistance of the Coordinator, a statement on a designated country's human rights practices including information on the steps the United States had taken to promote human rights in that country;

(d) established that, if such a statement on a designated country is not transmitted within 30 days, security assistance to that country would cease until the statement was transmitted; and

(e) provided that after the requested statement was transmitted, Congress might reduce or cut off security assistance to the designated country by adoption of a joint resolution.

As initially passed, this measure allowed Congress to terminate military assistance to a country on human rights grounds by concurrent resolution, that is, by a simple majority vote in both Houses of Congress without any presidential role in the process.⁷ President Ford vetoed the initial version of this measure on May 7, 1976, citing among his principal objections the fact that it would allow Congress by concurrent resolution to terminate military assistance. This, he felt, infringed on Presidential prerogatives in foreign affairs. Moreover, according to the veto message, such restrictions "would most likely be counter-productive as a means for eliminating discriminatory practices and promoting human rights. The likely result would be a selective disassociation of the United States from governments unpopular with the Congress, thereby diminishing our ability to advance the cause of human rights through diplomatic means."⁸

The measure was finally signed by the President after Congress altered the terms of the bill so that termination of military aid required a joint resolution of both Houses rather than a concurrent resolution. A joint resolution requires Presidential signature, or in the case of a veto, a two-thirds vote of both Houses of Congress to override the veto.

During September and October 1976 the House International Relations Committee requested statements under this provision on human rights practices in Argentina, Haiti, Indonesia, Iran, the Philippines, and Peru.⁹ The statements, classified Confidential, were submitted to the committee. Subsequently, at the request of the committee, unclassified versions of the reports on the six countries were prepared by the State Department and published by the committee.¹⁰

⁷ According to one congressional authority, concurrent resolutions "are not normally legislative in character but are used merely for expressing facts, principles, opinions and purposes of the two Houses. They are not equivalent to a bill and their use is narrowly limited within these bounds." Zinn, Charles J. *How our Laws Are Made*. Revised and Updated by Edward F. Willett, Jr. (94th Congress, 2d session. House. Document No. 94-509) U.S. Government Printing Office, 1976, p. 7.

⁸ Congressional Record [daily edition], v. 122, May 10, 1976, p. S6715-S6716.

⁹ In a separate action, on September 3, 1976, Senator Hubert Humphrey, as chairman of the Senate Foreign Relations Subcommittee on Foreign Assistance, wrote the Secretary of State seeking information on the steps taken to implement the new human rights provisions. The Department replied that posts abroad had been asked to supply the necessary information on human rights observances in each country. Senator Humphrey also requested data on the observance of human rights in 17 countries: Argentina, Brazil, Chile, Uruguay, Paraguay, Korea, Indonesia, Philippines, Iran, Ethiopia, Nigeria, Mozambique, Zaire, India, Pakistan, Bangladesh, and Spain. However, he stated that his request was not to be considered a formal request which could trigger the joint resolution procedure.

¹⁰ U.S. Congress. House. Committee on International Relations. *Human Rights and U.S. Policy: Argentina, Haiti, Indonesia, Iran, Peru, and the Philippines*. Washington, U.S. Government Printing Office, 1977, 37 pages. (95th Congress, 1st session, Committee print.)

In each case the Department of State was of the opinion that security assistance to the country in question should be continued

THE 95TH CONGRESS AND THE CARTER ADMINISTRATION

The inauguration of President Carter, who, in contrast to his immediate predecessors, had committed himself to the promotion of international human rights, brought a new dimension to U.S. human rights activities. However, even while pursuing a strong human rights policy, the Carter administration soon found itself differing over some human rights measures proposed by the 95th Congress. Congress, for its part, during 1977 and 1978 continued to press for a stronger U.S. position by enacting new human rights provisions and expanding existing ones.

*The International Development and Food Assistance Act of 1977*¹¹ revised section 116 of the Foreign Assistance Act, requiring the Administrator of AID, in determining whether to provide assistance, to consider any actions taken "by the President or Congress relating to multilateral or security assistance to a less developed country because of human rights practices or policies in such country." The existing reporting requirement was also revised, mandating that the Secretary of State transmit by January 31 of each year a full report on the status of basic human rights in countries receiving U.S. development assistance, including the steps the Administrator had taken to alter U.S. programs in any country because of human rights considerations. Not less than \$750,000 of development assistance funds was earmarked for studies to identify and carry out programs to encourage or promote increased adherence to civil and political rights as enunciated in the Universal Declaration of Human Rights.

The legislation also added a new section 112 to title I of the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), prohibiting entry into an agreement to finance the sale of agricultural commodities to the government of any country which was engaged in a consistent pattern of human rights violation, unless such agreement would directly benefit the needy people in that country. Under this provision, the President could be required to submit in writing information demonstrating that a particular agreement would directly benefit the needy in a country.

During 1977 the Carter administration differed with Congress, and the two Houses of Congress differed with one another, on other general human rights provisions included in foreign assistance legislation. For example, the appropriate tactic on the part of the United States for encouraging multilateral banks to limit lending to countries with poor human rights records was a topic of major congressional debate during consideration of funding authorizations for such international financial institutions (IFI's). The House agreed to an amendment sponsored by Representative Herman Badillo that directed the U.S. representatives at all the banks to oppose loans to human rights violators unless the credit was directed specifically to programs which served the basic needs of the citizens of the recipient country. The Senate, however, accepted a milder provision that directed the U.S. representatives merely to use their voice and vote to seek to channel assistance to countries other than those that show a consistent pattern of human

¹¹ Public Law 95-88, Aug. 3, 1977.

rights violations. The Foreign Relations Committee felt that (1) directives should "not be issued which would place the United States in a position of a mandated 'no' vote, thus obviating U.S. negotiating strength and influence in an institution," and (2) the stated objective was to improve human rights, rather than concentrate on punitive measures toward countries committing violations.¹²

This approach was also favored by the President, who in an April 18 letter to Senator Humphrey expressed (a) support for such a human rights provision, and (b) opposition to the House-passed provision which required the United States to *vote against* any loan to a country in which human rights were violated.

As finally enacted, the legislation authorized and instructed U.S. Executive Directors of the IFI's to oppose loans, financial assistance or technical assistance to countries violating human rights unless such assistance would serve basic human needs. The measure also required the Government to initiate consultations with other nations to develop a standard for meeting basic human needs and protecting human rights and a mechanism to insure "that the rewards of international economic cooperation" would be available, especially to those subscribing to such standards.¹³

There was other legislation enacted during 1977 relating to U.S. human rights activities. Section 109(a) of the Foreign Relations Authorization Act, 1978 (Public Law 95-105) elevated the State Department Coordinator for Human Rights and Humanitarian Affairs to Assistant Secretary status. It also required the Secretary of State to transmit to Congress by January 31, 1978, a comprehensive report on the office of the new Assistant Secretary, "including its current mandate and operations, the mandate and operations of its predecessor offices, and proposals for the reorganization of the Department of State that would strengthen human rights and humanitarian considerations in the conduct of U.S. foreign policy."

The measure, as enacted, also contained a Senate provision calling on the United States to make a major effort toward reforming and restructuring the U.N. system, including consideration of various proposals which would improve coordination of and expand U.N. activities on behalf of human rights.

Also during 1977 by Public Law 95-143 Congress amended the *Export-Import Bank Act of 1945* to include human rights provisions. Section 2 of that legislation required the Board of Directors to "take into account, in consultation with the Secretary of State, the observance of and respect for human rights in the country to receive the exports supported by a loan or financial guarantee and the effect such exports may have on human rights in such country."

During its second session, some actions by the 95th Congress indicated a disposition to limit the broadening of human rights provisions on U.S. trade, for example. Although Congress continued adding human rights provisions to foreign assistance and other legislation, the House, supporting the Administration's position, voted overwhelmingly (286-103) against the addition of a Harkin amendment to

¹² U.S. Congress. Senate. Committee on Foreign Relations. Omnibus Multilateral Development Institutions Act of 1977; a report to accompany H.R. 5262. Washington, U.S. Government Printing Office, 1977, 83 pages.

¹³ A similar divergence in congressional and executive views arose over provisions in the Foreign Assistance and Related Programs Appropriations Act, 1978. Since the contentious provisions in that legislation related to prohibitions of assistance to specific countries, it is discussed in appendix B, Legislation Directed at Problems in Specific Countries.

Export-Import Bank legislation.¹⁴ The basic argument against the amendment was that the Bank was concerned not with aid but trade. In this view, although Congress might have no particular hesitation about restricting U.S. aid, it was another matter to place restrictions on an institution whose purpose was to promote the export of American goods and thus to help both unemployment and the balance of payments.¹⁵

Section 4 of the *Export-Import Bank Act of 1978*¹⁶ deleted the human rights provision added by the 1977 legislation (Public Law 95-143) and provided instead that "only in cases where the President determines that such would clearly and importantly advance U.S. policy" in areas such as human rights, should the Export-Import Bank deny applications for credit for nonfinancial or noncommercial considerations.

At the same time Congress did enact legislation adding human rights provisions to the *Overseas Private Investment Corporation (OPIC) Amendments Act of 1978*.¹⁷ Under its provisions OPIC was to take into account observance and respect for human rights in all its programs and the effect OPIC's programs would have on human rights in any country.¹⁸ The provisions of section 116 of the Foreign Assistance Act were to apply to all OPIC programs, and, in addition to the exception about benefiting needy people, "the Corporation may support a project if the national security so requires." The legislation also required an annual report to Congress describing any project for which the Corporation (1) refused to provide insurance, reinsurance, guaranty, financing, or other financial support, because of human rights violations, or (2) notwithstanding violations, provided support because the project would directly benefit the needy or because of national security requirements.

Other human rights measures enacted during 1978 included section 109 of the *International Development and Food Assistance Act of 1978*¹⁹ which authorized and encouraged the President to use not less than \$1.5 million of development assistance funds in fiscal year 1979 for programs and activities to encourage or promote increased adherence to civil and political rights.

The *Foreign Relations Authorization Act*²⁰ expressed the sense of Congress that news dissemination and the free flow of information be encouraged. Deploring the harassment of and restrictions on foreign journalists in many countries, it also expressed the sense of Congress that the President should raise the issue of treatment of journalists in bilateral and international forums and directed the President to report to Congress by January 20, 1979, on steps taken to carry out this section.

The most significant changes in foreign aid legislation pertained to the military assistance program. *The International Security Assistance Act of 1978*²¹ amended the wording of the first three paragraphs of section 502B of the Foreign Assistance Act, deleting what had been

¹⁴ See chapter III for a more detailed discussion of the effect of human rights legislation on the Export-Import Bank (Ed.).

¹⁵ See debate in Congressional Record (daily edition) v. 124, July 27, 1978: H7422-H7429.

¹⁶ Public Law 95-630, Nov. 10, 1978.

¹⁷ Public Law 94-268, Apr. 24, 1978.

¹⁸ See Chapter III, p. 30.

¹⁹ Public Law 95-424, Oct. 10, 1978.

²⁰ Public Law 95-426, Oct. 7, 1978. As submitted to the House, this measure contained provisions for establishment of an Institute for International Human Rights. On May 31, 1978, the House voted (202-164) to delete these provisions.

²¹ Public Law 95-384, Sept. 26, 1978.

merely a statement of policy on human rights and substituting a legal requirement to *deny* security assistance to any government which engaged in a consistent pattern of gross violations of internationally recognized human rights. Also added was a provision that security assistance could not be provided to the police, domestic intelligence, or similar law enforcement forces of a country—and that licenses could not be issued under the *Export Administration Act of 1969* for the export of crime control and detection instruments and equipment to a country—if that country engaged in human rights violations unless the President certified in writing that extraordinary circumstances warranted the provision of such assistance and the issuance of such licenses. The act also stipulated that assistance should not be provided for international military education and training for a country engaging in a consistent pattern of gross violations of internationally recognized human rights. In addition, the legislation added a subsection specifying that one of the purposes of international military education and training was “to increase the awareness of nationals of foreign countries participating in such activities of basic issues involving internationally recognized human rights.”

As finally enacted, legislation on the *International Monetary Fund Supplementary Financing Facility*²² required the Secretary of the Treasury, in consultation with the Secretary of State, to prepare and to submit to Congress an annual report on the observance of internationally recognized human rights in countries using the facility.

Section 113 of the *Foreign Assistance and Related Programs Appropriations Act, 1979*, repeated the provisions adopted by Congress in 1977 (see Public Law 95-148) prohibiting assistance to any country “for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.”²³ Furthermore, section 611 of this legislation required the President to direct U.S. representatives to the international banks to propose and seek adoption of amendments to the articles of agreement of such institutions to establish human rights standards to be considered in connection with loan applications.

The general legislation on human rights discussed above established the framework for a more assertive U.S. policy, leaving some room for discretionary action by the executive branch. However, during this same period, Congress enacted legislation that has limited, terminated, or placed conditions on assistance to certain countries or, at the very least, has expressed open disapproval of human rights practices in named countries. Appendix B summarizes the most important legislation of this type, dealing with each country separately.

The rest of this chapter analyzes briefly the general legislation described above in terms of the type of requirements imposed on the executive; that is, overall policy, limitations on foreign assistance, ways and means of promoting human rights, and informational and investigatory requirements.

²² Public Law 95-435, Oct. 10, 1978.

²³ Public Law 95-481, Oct. 18, 1978. A member of the conference committee on this measure, Congressman Matthew McHugh, stated that the substantial reductions in this measure in foreign military credit sales and the international military education and training program in part “reflect our continuing concern about human rights violations throughout the world. Although the conferees generally refused to engage in country specific sanctions, it was clearly our intention that human rights considerations be taken into account by the administration in programing these reductions.” Congressional Record [daily edition], v. 124, Oct. 12, 1978: H12618.

B. ANALYSIS OF EXISTING LEGISLATION

GENERAL POLICY DIRECTIVE

Section 502(B)(a)(1) of the Foreign Assistance Act (as amended by the International Security Assistance Act of 1978) set forth an overall directive for conduct of U.S. foreign policy:

The United States shall, 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, promote and encourage increased respect for human rights and fundamental freedoms throughout the world without distinction as to race, sex, language, or religion. Accordingly, a principal goal of the foreign policy of the United States shall be to promote the increased observance of internationally recognized human rights by all countries.²⁴

It is to be noted that this general policy statement directs the United States to promote respect for human rights "by *all* countries," [emphasis added] not simply recipients of U.S. assistance.

The section also clearly affirms the obligation of the United States under the U.N. Charter to promote and encourage respect for human rights and fundamental freedoms.²⁵ It ties U.S. human rights activity to the standards and criteria established by the international community, that is to "internationally recognized human rights."

The role of the international community in the protection of human rights is, however, a relatively recent phenomenon and, indeed, is far from universally recognized. Many states continue to interpret their international obligations in relation to their own cultural, social, economic, and political priorities and perspectives. Moreover, while the charter obligates U.N. members to promote respect for human rights and states as a primary purpose of the Organization the promotion of human rights and fundamental freedoms for all, it also recognizes the doctrine of non-intervention. Thus, article 2, paragraph 7, of the U.N. Charter states that nothing in the charter authorizes the "United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state * * *" States accused of human rights violations often cite this provision in response to criticisms by other states (or international organizations) relating to human rights conditions within their borders.

At the same time there is substantial justification for state responsibility for the protection of the human rights of individuals and for some level of "interference" by the international community on behalf of those whose rights have been infringed. Thus, human rights advocacy has been a source of tension between accusing and accused states on the basis of conflict between the doctrine of nonintervention and the obligations of the state to protect individual human rights and fundamental freedoms.

²⁴ The International Security Assistance Act of 1978 strengthened the existing policy statement by changing the wording of sec. 502B(a)(1) from "It is the policy of the United States, in accordance" * * * to "The United States shall, in accordance" * * *. Sec. 502B(a)(2) was similarly strengthened by eliminating, "it is further the policy of the United States that, except" * * * and beginning the section simply with "except" * * *.

²⁵ In fact, the words "promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion" are found in art. 1 (purposes and principles) of the U.N. Charter.

President Carter appears to give priority to the latter concept. In a speech at the United Nations on March 17, 1977, he came down firmly on the side of human rights as a legitimate matter of international concern:

All signatories of the U.N. Charter have pledged themselves to observe and respect basic human rights. Thus, no member of the United Nations can claim that mistreatment of its citizens is solely its own business. Equally, no member can avoid its responsibilities to review and to speak when torture or unwarranted deprivation of freedom occurs in any part of the world.

LIMITATIONS ON FOREIGN ASSISTANCE

The sanctions required in sections 116 and 502B of the Foreign Assistance Act seem never to have been applied directly to cut off U.S. assistance. While both sections 116 and 502B require denial of aid to countries on the basis of poor human rights conditions, the provisions in each case are such as to leave some discretion to the executive branch. The provisions come into play only if a country is officially stated to have demonstrated a "consistent pattern of gross violations of internationally recognized human rights." The reports prepared by the State Department on the status of human rights in countries receiving U.S. assistance, which were submitted to Congress in 1977 and 1978, have carefully avoided citing any countries in this manner. Congress in turn has described only one country—Uganda—in those terms, though it came close to doing so in the case of Cambodia. In these cases, however, no automatic termination of bilateral aid would follow, since none had been authorized.

In any case, the executive branch has some latitude in supplying economic aid to a country, despite a consistent pattern of gross violations of human rights, by demonstrating that the aid will directly benefit the "needy people." In the case of security assistance, as we have seen, the wording of the law is such that, notwithstanding a country's human rights practices, assistance may be supplied if either extraordinary circumstances or U.S. national interest require continuation of such assistance.

Congress, for its part, has on several occasions taken matters into its own hands to limit or cut off aid to certain countries by means of specific provisions included in foreign aid authorization and appropriation measures. Not all such congressional restrictions have been based entirely on human rights considerations, but such considerations have often been an important factor.²⁶ This has meant that rather than a careful, across-the-board followthrough to carry out the broad human rights provisions, Congress itself has added a crosscutting and often confusing pattern of statutory restrictions and limitations on foreign aid. A further difficulty for Congress and the administration has been, and continues to be, finding a mechanism for controlling or influencing foreign assistance through multilateral channels to countries violating human rights. This is discussed further in subsequent chapters.

²⁶ For a description of legislation directed to specific countries, see app. B.

PROGRAMS TO PROMOTE HUMAN RIGHTS

Although prohibitions of and limitations on aid have undoubtedly had some beneficial effects in terms of human rights, the overall impact on U.S. relations with affected countries has not always been favorable. Many people have argued that reducing and cutting off aid—or even threatening to do so—has a more negative impact on U.S. relations and perhaps on respect for human rights in other countries than does the formulation of positive programs to promote human rights. Congress has not been unaware of such criticism and has included in the legislation general provisions calling for aid restructuring or a reappraisal of U.S. aid programs and their impact on advancement of international human rights. Thus, section 502B (a)(3) orders the President to structure security assistance programs so as to further human rights:

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.

While section 116 does not contain a similar provision relating to economic assistance programs, the required annual reports on countries receiving economic assistance are to describe “the steps the [AID] Administrator has taken to alter U.S. programs under this part in any country because of human rights considerations.”²⁷

Section 116(e) authorizes and encourages the President to use certain foreign assistance funds for studies to identify and openly carry out programs and activities to promote civil and political rights set forth in the Universal Declaration of Human Rights.

The legislation on international financial institutions directs the U.S. representatives to these institutions to seek to channel assistance toward countries other than those whose governments engage in consistent human rights violations. It also directs the Secretaries of State and Treasury to begin a wide consultation in order to develop a viable standard for the meeting of basic human needs and the protection of human rights, and a mechanism for acting together to insure that the rewards of international economic cooperation are available especially to those countries subscribing to such standards.

Indeed, recent legislation seems to acknowledge that foreign assistance programs themselves may have important human rights impacts, that economic aid may result in greater economic inequality and political repression, and that U.S. military training and weapons may be used in political repression. Congress has thus required OPIC to consider the effects the operation of its programs will have on human rights and fundamental freedoms in recipient countries.

²⁷ Sec. 116(d) (2).

Congress has also recently subjected the supply of weapons and training to foreign police, domestic intelligence or similar law enforcement forces to special scrutiny. The International Security Assistance Act of 1978 prohibits provision of security assistance to such law enforcement forces or the issuance of licenses for the export of crime control and detection instruments and equipment to a country violating human rights. The legislation prohibits assistance for international military education and training programs for such countries. In addition, one of the purposes of international military education and training should be "to increase the awareness of nationals of foreign countries participating in such activities of basic issues involving internationally recognized human rights." Thus, Congress appears to be attempting to assure not only that torture, for example, is not being facilitated but also that positive human rights education is being underwritten by U.S. security assistance programs.

INFORMATIONAL AND INVESTIGATORY REQUIREMENTS

The informational requirements in legislation on foreign aid and human rights have been continually widened so that by now a wide array of reports is required annually, and still other reports are required on a one-time basis or on request of Congress. One of the basic requirements is contained in sections 116 and 502B of the Foreign Assistance Act, which require annual reports on the status of human rights in all countries proposed as aid recipients.

Past human rights reports by the executive branch have in general been poorly received in Congress. The first report submitted by the Ford administration in 1976 was a summary report that failed to mention any country by name. As a result, human rights legislation was tightened, with the addition of a requirement for annual reports on countries receiving security assistance. The 1977 report²⁸ on 82 countries proposed as recipients of security assistance was submitted by the Carter administration but had been compiled for the most part by its predecessor. Human rights activists criticized both these reports as too cautious and bland.

The 1978 report²⁹ covered 105 countries proposed as recipients of economic and development assistance. The descriptions in this report were somewhat more detailed, but varied widely from country to country and region to region. Overall congressional reaction was still one of dissatisfaction. Some wanted reports on all countries, including the Soviet Union, the People's Republic of China, and Cuba. Others wanted inclusion of countries like Brazil and Chile (which had not been proposed as fiscal year 1979 aid recipients under the section 116 and 502B reporting requirements). Those favoring strong public action

²⁸ U.S. Congress. Senate. Committee on Foreign Relations. Subcommittee on Foreign Assistance. Human rights reports prepared by the Department of State in accordance with section 502B of the Foreign Assistance Act, as amended. March 1977. Washington, U.S. Government Printing Office, 1977, 143 pages (95th Congress, 1st session, committee print.)

Nevertheless, in response to these reports, a number of Latin American countries—Argentina, Brazil, Guatemala, Uruguay, and El Salvador (the last acting also in response to the House International Organizations Subcommittee's hearings on human rights in El Salvador)—renounced any further U.S. military aid.

²⁹ U.S. Congress. House. Committee on International Relations. Senate. Committee on Foreign Relations. Country reports on human rights practices; joint report submitted by the U.S. Department of State in accordance with secs. 116(d) and 502B of the Foreign Assistance Act of 1961, as amended. Washington, U.S. Government Printing Office, 1978, 425 pages (95th Congress, 2d session, joint committee print.)

by the United States on human rights found the State Department report too cautious; on the other hand, critics of the program pointed to the danger and impracticability of requiring State to write open "report cards" on countries with which it was trying to maintain good relations. Most observers agreed that under these circumstances, objective, forthright public reports could not be expected. Some have proposed that such reports be prepared by a nongovernmental organization.

However, one effect of the reporting requirement has been to insure that the State Department reviews its human rights policy on a country-by-country basis, requiring full participation of U.S. overseas missions in this process.

Other programs requiring annual reports on the fulfillment of the human rights provisions are: The Public Law 480 program, international financial institutions, OPIC, and the IMF supplementary financing facility. In addition, some one-time reports have been required:

On U.S. consultations with other nations to develop (1) a standard for meeting basic human needs and protecting human rights and (2) a mechanism to insure that the rewards of international economic cooperation are received by countries subscribing to such standards;

On the staffing and operations of the Office of the Assistant Secretary of State for Human Rights and Humanitarian Affairs;

On proposals for reforming and restructuring the United Nations, including improving coordination of and expansion of U.N. activities on behalf of human rights;

On U.S. actions taken in regard to harassment and restriction of foreign journalists in other countries; and

On U.S. policies toward human rights conditions in the Soviet Union, how improved Soviet respect for human rights might be more effectively encouraged, and commenting on the question of linkages between various elements of United States-Soviet relations, such as arms control negotiations, human rights issues, and economic and cultural exchanges.

In addition to requiring executive branch reports, Congress can, of course, investigate and gather information on its own. Indeed, during the past 5 years the holding of hearings to gather information on human rights situations in various countries and to scrutinize U.S. assistance and other policies toward such countries has been an often used oversight mechanism of congressional committees. Such hearings have had some impact and have at times been perceived by other countries as expressions of U.S. official positions (for example, El Salvador and Argentina both strongly protested hearings by the House Subcommittee on International Organizations, and El Salvador rejected U.S. military assistance after hearings on the human rights situation there.)

Certainly the wide-ranging hearings on human rights over the past few years have afforded an opportunity for wide dissemination of evidence concerning human rights abuses and for discussion of U.S. policy in this respect.

CHAPTER III

EXECUTIVE INSTITUTIONS AND PROCEDURES

A. FACTORS TENDING TO COMPLICATE POLICY MANAGEMENT*

The human rights policy created unusually complex management problems for the executive branch. As a global problem, primary responsibility for it has been appropriately vested in a "functional"—as opposed to regional—bureau within the Department of State. Indeed, Congress, in its efforts to pressure the State Department during the Ford administration to pay greater attention to human rights issues, in 1976 established a Coordinator for Human Rights and Humanitarian Affairs and in 1977 elevated that position to that of an Assistant Secretary of State.

As with other functionally focused bureaus of the State Department, the Bureau of Human Rights and Humanitarian Affairs must for the most part make its will felt through the regionally focused bureaus which have direct channels to and responsibility for the field operations of the Department. Tension between the interests and concerns of regional bureaus and functionally focused elements of the foreign affairs bureaucracy—whether bureaus within the Department of State, quasi-independent agencies such as the Agency for International Development or the International Communication Agency, or offices within the Departments of Agriculture and Defense—have been common; indeed, they are virtually built into the structure of executive branch foreign policy institutions.

The tensions caused by the creation and assertiveness of the State Department's Bureau of Human Rights and Humanitarian Affairs have been extraordinarily severe, however, in part because of three institutional factors:

First, the Bureau injected not just a new interest into the multiplicity of considerations that were already being taken into account in U.S. bilateral and multilateral relations, but it injected a principle that conflicted with traditional perceptions of diplomatic thought concerning nonintervention in the domestic matters of other countries. Rather than offering to the regional bureaus potential benefits that could facilitate bilateral relations—such as economic or security assistance programs or food aid—the human rights operation promoted a series of efforts that would, for the most part, complicate and strain bilateral and multilateral relations.

Second, unlike the efforts of other functional institutions that had their own program—foreign assistance for AID, security assistance for

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the Politico-Military Affairs Bureau, and multilateral banking affairs for the Department of the Treasury, for examples—much of the human rights effort was directed toward gaining leverage from programs that were overseen by other functional entities. As a consequence, this Bureau's programs were, by institutional definition, in potential conflict not only with those of regional bureaus but with those of a number of other functionally oriented agencies as well.

Third, as a relatively new area of initiative, human rights activities should presumably have begun to take shape as a coherent policy with certain clear precepts and standards. However, because the legislative framework was necessarily general and there was an acute sense on the part of the State Department that measures to implement this policy would have to be carefully tailored to individual situations, policy evolved very slowly out of a long series of specific decisions. Consequently, the conflict among those with competing perspectives was prolonged in the absence of a set of broad policy principles on which issues relating to the human rights policy could be resolved, country by country.

In the following pages this chapter describes briefly the roles of the principal agencies that have been responsible for administering this policy, the major aid programs involved, and the means developed for interagency coordination.

B. THE DEPARTMENT OF STATE*¹

As noted above, a new Bureau of Human Rights and Humanitarian Affairs (HA) was established in the Department of State as a result of provisions of the Foreign Relations Authorization Act for Fiscal Year 1978 (Public Law 95-105, section 109). The HA Bureau has become the focal point for the advocacy of human rights concerns within the State Department. It is involved in day-to-day policy development and implementation of policy decisions. The Bureau's ideas and recommendations are taken into account in the preparation of the Department's briefing and action memoranda, cables, letters, press statements and speeches which reflect policy implementation. The Bureau also monitors allegations of discrimination by foreign governments on the basis of race, religion, national origin or sex against U.S. citizens participating in security assistance transactions, as required by Congress in a 1976 amendment, now a part of section 501 of the Foreign Military Sales Act.

The Bureau includes three divisions—the Office of Human Rights, the Office of Refugee and Migration Affairs, and a separate section responsible for Prisoners of War and Missing in Action (POW/MIAs)—each with its own Deputy Assistant Secretary. In addition, since mid-1978, there has been a Deputy Assistant Secretary for Human Rights and Security Assistance located in the Human Rights Office.

*Prepared by Joel Woldman, Specialist in U.S. Foreign Policy.

¹ This section is based on information obtained from the following: "New Bureau at State Outlines Its Operations." Department of State Newsletter, No. 199, March 1978: 24-26; and U.S. Secretary of State, Report to the Congress of the United States Regarding the Operations and Mandate of the Bureau of Human Rights and Humanitarian Affairs [Jan. 31, 1978], 22 pages.

THE OFFICE OF HUMAN RIGHTS

Human rights officers assigned to the HA Bureau have both functional and geographic responsibilities. These include: (1) Monitoring the security assistance, foreign arms sales programs, and other aspects of the U.S. military relationships with other countries; (2) bilateral economic assistance (including Public Law 480), U.S. participation in the IFI's, and other U.S. foreign economic activities such as the Export-Import Bank, the Overseas Private Investment Corporation (OPIC), and the Commodity Credit Corporation; (3) information gathering for preparation of the annual country reports to Congress; (4) U.S. human rights policy in international organizations; (5) U.S. participation in the (Helsinki) Commission on Security and Cooperation in Europe; and (6) liaison with international nongovernmental organizations active in the human rights field.

THE OFFICE OF REFUGEE AND MIGRATION AFFAIRS

This was an existing office that was given a new permanent home in the HA Bureau. It underwent less structural changes than the new human rights office and also has a larger staff, reflecting the continuing problems of refugees and international migration of peoples. This office works closely with the Department's regional bureaus, Consular Affairs and the Office of the Legal Adviser, as well as U.S. diplomatic posts abroad and the U.S. Immigration and Naturalization Service.

PRISONERS OF WAR AND MISSING IN ACTION

This function was previously handled by a special assistant to the Secretary. In addition to MIA affairs, the office has responsibility for liaison and cooperation with the International Committee of the Red Cross (ICRC), which is broadly concerned with the gamut of international human rights problems. The Bureau's ICRC liaison function also relates to its responsibility for coordination with AID's Disaster Assistance Office. The U.S. Government's annual contribution to the ICRC's regular budget is funded through the appropriation for this office.

HUMAN RIGHTS ELSEWHERE IN THE STATE DEPARTMENT

Human rights officers have also been designated in each of the State Department's geographic bureaus. In addition, the position of Assistant Legal Adviser for Human Rights was created in the Department's Legal Adviser's Office. These assignments date back to the Kissinger secretaryship and resulted from a number of organizational recommendations made by the [Fraser] International Organizations and Movements Subcommittee of the House International Relations Committee in 1973.²

C. THE AGENCY FOR INTERNATIONAL DEVELOPMENT*

The bilateral aid program is the core component of U.S. foreign assistance. Hence, the manner in which the Agency for International Development (AID), implements its responsibilities under the human

*Prepared by Allan S. Nanes, Specialist in U.S. Foreign Policy.

² See chapter VI for additional discussion of the Fraser subcommittee recommendations.

rights program is most important. AID officials who were interviewed indicated that the Agency is cognizant of its obligations to carry out the human rights goals which have been set by both the Executive and Congress, and that it participates actively in the procedures which have been established toward that end.

In attempting to assure that its assistance conforms with human rights goals, AID reviews the overall human rights record of a country when it is drawing up programs of assistance for that country. Since it is often difficult to obtain up-to-the-minute information in this area, AID tends to look at the overall trends. But the Agency is reluctant to use assistance as a means of effecting compliance with human rights goals in the short term. In this regard AID's interest may on occasion run counter to that of the State Department, which may be more willing to use aid as a short-range tool to bring about compliance with human rights objectives although less drastic measures would certainly be applied first. As an operating agency, AID doesn't want assistance turned on and off—a procedure that disrupts the agency's planning and operations—but this stand in itself has political implications, as AID officials admit.

Proposed AID projects are considered in accordance with the procedures outlined above, and are generally scheduled for consideration by the Interagency Group on Human Rights and Foreign Assistance (commonly known as the Christopher Group)³ at least 3 months before they are expected to get underway. AID has been trying to have that lead-time extended to 6 months.

As indicated earlier in this paper, section 116 of the Foreign Assistance Act of 1961, as amended, includes a provision that no bilateral economic assistance will be furnished "to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights * * * unless such assistance will directly benefit the needy people in such country." Thus, the basic criterion used by the Christopher Group with respect to bilateral and other assistance is whether the aid in question will go to help needy people. If that claim can be sustained, the aid is likely to be approved even if the country's human rights record is not very good. In such a case the government of the particular country will be informed that the aid is going through only because it will be assisting those in need. However, if a country is such a flagrant violator of human rights or the aid program is of such a nature that U.S. aid will not reach the needy, assistance to that country may simply be cut off by executive determination without resort to the review machinery set forth above. This happened several years ago in the case of Uganda. If such a cutoff occurs, anything in the pipeline, or funds already obligated, will usually be allowed to go forward, but no new programs will be undertaken. In some cases, however, shipments on the high seas have actually been stopped and turned back.

It sometimes happens that the internal procedures for project approval can be used to delay the implementation of aid agreements already reached. Delay thus becomes a sanction against a country considered to be an egregious violator of human rights. An example of this occurred in the case of Nicaragua in September 1977. The Christopher Group felt that the reported violations of human rights in Nicaragua were serious enough to warrant blocking the approval

³ For a discussion of the Christopher Group, see section F of this chapter.

of certain projects at that time. Economic assistance could be deferred (rather than canceled) because, under the existing foreign aid appropriations legislation, funds made available in one fiscal year could be carried over and expended in the next year. This could not be done in the case of projected military sales to Nicaragua, however, for under the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329) military assistance (in the broad sense of the term) had to be made available before September 30, 1977, or the funds would revert to the Treasury. Hence the Arms Export Control Board, which is the coordinating agency on military assistance, went ahead and obligated funds for credit sales to Nicaragua but because of concern over the state of human rights in that country, the Board also put conditions on the drawdown of funds which prevented the assistance in question from going to Nicaragua. This fact was not brought out by the press, however, so that the impression was given that the United States was withholding economic aid from the people of Nicaragua while proceeding with military assistance to its repressive regime.

The human rights coordinator of AID stressed that the budget review process, in which human rights officers participate, is now more important than project review in bringing foreign assistance programs into line with the human rights goals of U.S. foreign policy. The point is that budget review plays an important role in the allocation of funds on a country-by-country basis and is a more comprehensive process than the project-by-project approach of the past. Furthermore, as the coordinator also noted, the budget is a policy symbol, and the amount of aid allocated to individual countries on an annual basis is more significant than the individual projects.

Each year, starting in July, interagency budget meetings are held on every country scheduled to receive foreign aid. Staff members of the Bureau of Human Rights sit in on all these meetings, both at the country and regional levels, and plans are made as to how much assistance will be requested for a particular country in the ensuing fiscal year. After the country allocations are approved in this fashion, they are forwarded to the Christopher Group. After review by the group they are forwarded to the AID Administrator and then to the Secretary of State. In the process, the Human Rights Bureau of State will note their objections, if any, to these allocations. Within the Department of State, final approval rests with the Secretary, but before the aid proposals are submitted to Congress, they are also subject to review and approval by the Office of Management and Budget.

D. THE FOOD FOR PEACE PROGRAM (PUBLIC LAW 480)*

The same human rights requirements that pertain to bilateral economic assistance apply to food assistance under the Public Law 480 program. The International Development and Food Assistance Act of 1977 amended Public Law 480 to deny title I aid to countries engaging "in a consistent pattern of gross violations of internationally recognized human rights." Once again, however, this prohibition does not apply if it is determined that such aid will directly benefit the needy people of the recipient country.

*Prepared by Allan S. Nanes, Specialist in U.S. Foreign Policy.

After this requirement was enacted (Public Law 95-88, August 3, 1977), the State Department began investigating the human rights records of the 28 countries that were scheduled to receive title I shipments in fiscal year 1978. This meant a delay of several weeks in the conclusion of the bilateral agreements which were necessary if the Public Law 480 sales were to go forward. This delay disturbed not only the various countries concerned but also the Agriculture Department and farm State representatives in Congress, who were concerned because it offered an opportunity for foreign competitors to cut into the U.S. market in some of the developing countries.

Indeed, interviews with officials of the Agriculture Department revealed a somewhat ambivalent attitude with respect to the human rights program. The Department endorses the program. Yet some Agriculture officials, particularly among those with responsibility for food sales, argued that the most basic human right was the right to food and that if the United States delayed or cut back food shipments to offending countries, this impacted less on the regimes involved than on the people of those countries. Furthermore, the argument went, many developing countries were living on limited supplies and had inadequate storage capabilities. These countries counted on the United States to keep food supplies moving in. When there was an interruption, the people of the affected countries suffered an almost immediate decline in their food supplies.

The Human Rights and Humanitarian Affairs Bureau of the State Department saw Public Law 480 assistance in a different perspective. From its point of view title I assistance was a transfer of dollars, not food.⁴ Such assistance added to the dollar reserves of the receiving countries, reserves which had historically been used for a variety of purposes, including political purposes. The Bureau was concerned that food assistance reflect the U.S. Government's human rights objectives. It believed that a receiving country's commitment to assist its needy should be the criterion for the allocation of such assistance, and it sought to have provisions assuring assistance to the needy incorporated in the various Public Law 480 agreements.

The diverging views of the Human Rights Bureau and some officials of Agriculture, plus the natural difficulties in getting a new program off the ground, were in part responsible for the delays in implementing Public Law 480 assistance in the autumn of 1977 to which reference has previously been made.⁵ Certain officials of the Agriculture Department contended that State dominated both the interagency group and the working group, with Agriculture's advice sought only on technical matters. These officials further maintained that the Bureau of Human Rights played a predominant role within State on this issue because the Bureau had the ear of the White House. While relations between State and Agriculture have improved over the past year, interviews with officials at the working level of the latter agency revealed that resentment over earlier delays still lingered.

After investigation of human rights conditions in countries for which Public Law 480 aid was contemplated, it was apparent that there would be difficulties in getting agreement on programs for a number of

⁴ Interview with official of Bureau of Human Rights and Humanitarian Affairs.

⁵ John White, then Deputy Secretary of Agriculture and now Chairman of the Democratic National Committee, wrote a letter to the State Department at that time advancing the view that while human rights were an important facet of U.S. policy there were other important policy considerations which should not be outweighed by the human rights factor.

countries. After considerable debate among the U.S. agencies concerned over these troublesome cases, certain countries were asked to accept special provisions in their Food for Peace agreements, committing them to distribute food to their most needy citizens or to use the funds from its sales to assist the needy. In the end no country was denied food because of dissatisfaction with its human rights record.

In a press interview in January 1978 the Administrator of AID, John J. Gilligan, stated that the United States, in allocating aid, was giving preferential treatment to those countries attempting to do a better job of protecting their citizens' rights. He stated the hope that linking food aid to human rights would persuade governments to display a decent regard for human rights, but he also acknowledged that it would not help the poor of those countries if the United States added to their suffering by denying shipments of food on human rights grounds.

The coordinator of the Food for Peace Program at AID indicated, in an interview, that she believed that the Development Coordination Committee (DCC) would play an increasingly significant role in coordinating human rights requirements and foreign assistance programs. The Development Coordination Committee was a relatively moribund institution, originally established to comply with a provision in the Foreign Assistance Act of 1973, which was rejuvenated by a National Security Council directive in the spring of 1978 as the Executive's response to the challenge of the Humphrey bill, S. 2420. That bill called for the establishment of a single foreign aid agency to administer both bilateral and multilateral programs. Treasury did not wish to lose its jurisdiction over the multilateral programs, and State did not wish to lose its jurisdiction over AID, with the result that the Executive's response was to argue that an active DCC could effect coordination just as well as the proposed single aid agency.

The DCC has several subcommittees, including one on food and one on human rights. That latter designation is filled by the working group of the Christopher group, which thus wears two hats. (It was decided not to designate a separate human rights subcommittee since the working group was in effect fulfilling that function.)

According to several sources, the DCC has been primarily concerned thus far with building its operational effectiveness. In the future it may be looking at larger questions of human rights policy as they affect foreign assistance. At the present time, however, it has not displaced the Interagency Group on Human Rights and Foreign Assistance in reviewing proposed foreign assistance projects and programs in light of human rights criteria mandated by Congress.

E. THE SECURITY ASSISTANCE PROGRAM*

In matters concerning human rights, "Security Assistance" is defined as including aid to foreign governments under any of the following programs:

- Military Assistance Program (MAP), which is grant aid;
- Economic Support Program (ESP), formerly Security Supporting Assistance;
- International Military Education and Training (IMET);
- Peacekeeping operations;

*Prepared by Robert D. Shuey, Analyst in Foreign Affairs.

Foreign Military Sales (FMS) for cash, credit or guaranteed funds, that is, government-to-government arms sales under the Arms Export Control Act; and

Commercial arms sales, or the issuance of any license for the export of defense articles or services.⁶

Executive branch institutions and procedures for the administration of these programs have been designed to facilitate the consideration of human rights issues at several organizational levels and at several phases of the policymaking and programing processes. It is the responsibility of the Secretary of State to determine which countries the United States will join in security assistance relationships, and such decisions are generally based on extensive analysis of U.S. foreign policy, national security, economic, arms control, and human rights considerations.

An interagency Arms Export Control Board (AECB), was established in 1977 to facilitate the coordination of these determinations and the integration of the various forms of security assistance into an effective package consistent with the new arms transfer policy announced by President Carter on May 19, 1977. The AECB is an advisory group charged with policy planning and review functions. Chaired by the Under Secretary of State for Security Assistance, Science, and Technology, it is composed of representatives from the Departments of State—including the Bureau of Human Rights and Humanitarian Affairs—Treasury, and Defense—including the Joint Chiefs of Staff—and the Arms Control and Disarmament Agency, National Security Council, Central Intelligence Agency, Agency for International Development, and Office of Management and Budget. Other agencies, such as the Departments of Commerce, Energy, and Labor and the National Aeronautics and Space Administration, are included in deliberations if appropriate. The Board has established several working groups for the conduct of day-to-day coordination and the preparation of policy and program proposals for AECB consideration. These groups have no independent staffs, and much of their work consists of informally coordinating the positions developed in the concerned agencies.

Most of the programs—MAP, ESP, IMET, peacekeeping programs, and FMS credits—require legislative authorization and appropriations. In preparing the Federal budget proposal, the Secretary of State is responsible for determining the amount of funding to be requested for security assistance programs in particular nations. Each September the concerned agencies and State Department bureaus submit their recommendations for the fiscal year that will begin 13 months later. The Department of Defense employs an especially intensive and iterative planning, programing, and budgeting system (PPBS) to arrive at its recommendations and, later, to apply necessary adjustments.⁷

According to DOD officials, the Office of the Assistant Secretary for International Security Affairs (ISA) takes human rights considerations into account, but with particular stress on such basic rights as freedom from foreign domination, internal security, and freedom of

⁶ 22 USC 2304, Foreign Assistance Act of 1961, as amended, section 502B(d)(2). Excluded from this definition are the exports of items with potential military, police, or intelligence application that are not included on the U.S. Munitions List.

⁷ The entire DOD security assistance planning cycle is explained in detail in the Military Assistance and Sales Manual, Directive 5105.38M.

person. Some DOD officials have even suggested that their department is the primary protector of international human rights, considering its role in exercising U.S. power, deterring war and preventing the expansion of Communist rule. DOD analysis of human rights issues is based on the same U.S. Embassy reports available to other government agencies.

When all the proposals have been received by the Department of State, the Bureau of Politico-Military Affairs integrates them into a preliminary budget statement that indicates country priorities for MAP, ESP, IMET, and FMS credits. Peacekeeping funds, which have been used to support the early warning system in Sinai and other activities designed to facilitate peace in the Middle East are considered as a separate program. The combined security assistance plan is distributed to AECEB working group members, including HA. Foreign policy, national security, economic, arms control, and human rights considerations are discussed among the group members, and some revisions are generally made. The full AECEB then reviews the budget proposal, and, upon approval by the Secretary of State and the Secretary of Defense, it is submitted to the Office of Management and Budget (OMB), usually about mid-October. OMB drafts a Government-wide budget proposal that is reviewed by the President, becomes the basis for the Presidential budget decision and, eventually, the congressional presentation document.

After congressional action, culminating in the passage and Presidential approval of authorizations and appropriations for the security assistance programs, the Department of State, in consultation with the Department of Defense and other agencies, makes necessary adjustments in program levels to reflect any changes made by Congress.

MAP, ESP, IMET, and peacekeeping operations are then implemented by the Department of Defense and subordinate agencies and services. However, foreign military sales for cash, credit, or guaranteed funds, and commercial arms sales are considered on a case-by-case basis as specific requests are made during the year. The more significant and controversial FMS requests must be approved by the Departments of State and Defense, while requests for less significant items or from less controversial purchasing states are sent to the cognizant DOD component for action. Currently, foreign military sales of significant combat equipment⁸ to all but 13 nations and all international organizations other than NATO require State and Defense approval. When the AECEB working group considers an FMS request for cash or credit sale, the Bureau of Human Rights and Humanitarian Affairs (HA), is represented and may comment on the advisability of the sale. If the sale is referred to the AECEB, HA is again represented and included in the discussions. Although the primary responsibility for arguing the human rights position lies with the HA representative, it is common practice for other participants from regional affairs bureaus, the Department of Defense, et cetera, to include human rights considerations in their analysis of U.S. interests in connection with the proposed sale.

If agreement cannot be reached on a particular proposal (for instance, if the HA representative opposes a sale that others believe is necessary for national security or foreign policy reasons), the matter

⁸ As defined in 22CFR121.03, ITAR.

is raised before the full Board and, if still not resolved, is carried to the Deputy Secretary of State or to the Secretary. In the past year, for example, disposition of a request by Nicaragua to buy about \$1,000 worth of carbine sling swivels (at 0.36 cents each) was elevated to the Acting Secretary of State level as a result of human rights-related issues that it had raised. Usually, such issues are resolved at lower levels through discussion of the issues and negotiation by the various participants.

In at least two cases, security assistance issues have taken an unusual route in that they were referred to the Christopher Group. In one of the cases, the AECB had failed to reach agreement on a proposed security assistance program. In two other cases, involving the termination of security assistance to Nicaragua and Bolivia, the decision was apparently made in the Department of State without fully consulting the Department of Defense. Normally, however, such decisions are cleared by officials in the key agencies.

Requests for commercial arms sales and export licenses are referred to State Department's Office of Munitions Control (MC). The more significant or controversial proposals are staffed out by MC to various State Department bureaus, including HA, to the Departments of Defense, Commerce, and Treasury, the National Aeronautic and Space Administration, and the Central Intelligence Agency, as appropriate. If a difference of opinion occurs that cannot be resolved by MC, the matter is referred to higher authorities in the Department, generally the Deputy Secretary. Commercial sales are not referred to the AECB reportedly because they are not covered by the President's arms transfer policy.

The export of items not on the U.S. Munitions List is controlled by the Department of Commerce, which seeks State Department review of requests for export licenses to certain countries, including several suspected of human rights violations, for items that have applications in military, police, or intelligence operations.

Among those making and implementing security assistance policy, there is apparently a widespread understanding of and agreement with the U.S. policy on human rights. However, there have been differences of opinion on the weight that should be given to some human rights infringements in the formulation of policy. While most officials seem to agree that countries such as Korea, the Philippines, and Iran have violated certain internationally recognized standards of human rights, many argue that more important security considerations, such as the regional balance of power, U.S. base rights, and continued constructive bilateral political relations, require continuing the flow of U.S. security assistance to these countries. The point is also made that human rights conditions might deteriorate significantly if assistance programs were terminated. Such officials contend that, with good working relationships and a bit of latitude, U.S. officials in Washington and abroad are afforded continuing opportunities to discuss human rights issues with foreign leaders and policy makers. The rulers of Korea, the Philippines, and Iran, for instance, have been repeatedly told of the displeasure of the U.S. Government regarding the status of human rights in their countries. According to this argument, without U.S. security assistance programs such opportunities might be lost, but a greater risk is that these countries might be weakened militarily and thereby made more vulnerable to attack or insurrection.

There seems to be general agreement that a carrot-and-stick approach to influencing human rights considerations through security assistance programs can have a marginal impact. The threat of program reduction or termination has been made clear and has been exercised, but many believe that not enough attention has been given to using the security assistance programs in a positive way. Implied linkage of human rights observation in Indonesia to the sale of U.S. military aircraft is credited by some government officials with helping to bring about the release of a large number of political prisoners. It is widely felt that some flexibility and discretion are required for the executive branch to be able to encourage compliance and to react to changing situations. The length of the DOD security assistance planning cycle—28 months—and the additional months or years required to negotiate contracts, produce equipment, and export it to the purchasing country highlight the problems that are created when programs are completely terminated. State Department officials maintain that once military aid is cutoff, it is very difficult to get it started again. Even if assistance is resumed, a long wait is likely before deliveries begin.

Furthermore, while the judicious application of incentives and punishments in the area of security assistance could bring a marginal improvement in human rights conditions in some countries, many government officials warn that such measures will not bring an end to, or even a drastic reduction in, human rights violations. These officials point to many foreign leaders who, in order to maintain their positions of authority and the sovereignty of their governments, rely on repression and the use of force against their own people. In some instances, moreover, the overthrow of these leaders might lead to even worse conditions.

F. THE INTERAGENCY GROUP ON HUMAN RIGHTS AND FOREIGN ASSISTANCE*

The machinery for coordinating human rights objectives with U.S. bilateral and multilateral economic and food assistance programs was established by a National Security Council Directive on April 1, 1977. This directive set up an Interagency Group on Human Rights and Foreign Assistance, which was given a mandate to examine U.S. bilateral and multilateral foreign assistance programs in the light of human rights conditions, to provide guidance with respect to specific decisions on assistance, and in general to coordinate the administration's position in the area. The directive also stipulated that the group should be chaired by a representative of the Secretary of State and that it should include a representative of the Treasury Department, plus officials from the Defense Department, the National Security Council staff, and the Agency for International Development (AID). Shortly after the issuance of this directive, Secretary of State Cyrus Vance designated the Deputy Secretary of State, Warren Christopher, to chair this Interagency Group, which has come to be known unofficially as the "Christopher" Group.

This group has met since April 1977 on the average of once a month. As matters have worked out, other concerned agencies, including Agriculture, Commerce, and the Export-Import Bank, have also been

*Prepared by Allan S. Nanes, Specialist in U.S. Foreign Policy.

represented at those meetings. Indeed, when programs in which an agency has an interest are under discussion, the chairman has taken great pains to see that the agency was represented. When U.S. contributions to international financial institutions (IFI's) have been under consideration, not only has the Assistant Secretary of the Treasury for International Affairs (or his deputy) been present but most likely the U.S. Executive Directors of the institutions concerned have also been there.

Proposed projects about which the Christopher Group may have to make a decision go first to a subordinate working group, which has met as often as once a week but has averaged about two meetings a month. The working group reviews both bilateral and multilateral projects, the latter having been forwarded from the Treasury. The working group functions by consent, and a "consent calendar" is actually circulated in advance. Projects on this "consent calendar" are normally approved by the working group after appropriate discussion, and the calendar is forwarded to the full Interagency Group. If one member of the working group objects, however, a project can be removed from the consent calendar. Thus, all projects, whether approved at the working group level or not, are forwarded to the Christopher Group. Those projects which have received unanimous consent at the working level tend to go forward without further question, and their referral to the Christopher Group is more or less *pro forma*. In the case of the more controversial projects, the Christopher Group is the forum at which opinions and advice from the interested agencies are heard and considered.

After its discussions, the Interagency Group may recommend that a loan or grant be approved because human rights conditions in the recipient country are good or improving or because the assistance will benefit the needy. If it is deemed appropriate, the Group may advise that the approval be accompanied by a diplomatic demarche explaining U.S. human rights concerns and clearly indicating that human rights considerations are taken into account in the making of foreign aid decisions. If the Group believes that the human rights situation in the proposed recipient country is poor and not improving, the Group may recommend that the United States not implement the proposed assistance. In such a case a demarche would be made to the recipient country to explain the U.S. human rights position and to urge improvements on the would-be recipient.

In practice, the number of projects which the Interagency Group has recommended be deferred or canceled has been quite small as compared to the number which have been approved. This applies to both bilateral and multilateral assistance. Since the Group attempts to stay abreast of human rights developments in the countries receiving U.S. assistance, some loans or programs that had previously been rejected have been reinstated after the human rights situation in the particular country improved sufficiently.

According to two individuals interviewed in the preparation of this study, Deputy Secretary Christopher exercises the ultimate authority to decide which projects can go forward. Each man indicated that on occasion he had gone against the opinion of the majority of the Group, particularly when he felt that those urging a particular course of action had not solidly documented their point of view.

As this brief description suggests, the Christopher Group does not have a highly developed managerial structure and a large staff. Further, the procedures that have been elaborated relate primarily to how and when projects should be brought forward for consideration and hardly at all to the standards of measurement that might be applied. The Group has no agreed definition of what constitutes a consistent pattern of gross violations of human rights, although a member of the Group indicated that, as far as the Group was concerned, violations of integrity of the person, such as torture and cruel and degrading treatment and other offenses mentioned in section 116 of the Foreign Assistance Act of 1961, as amended, carried no extenuating circumstances. Yet, according to an escape clause in the same section of the law, such violations may be ignored if the proposed assistance "will directly benefit the needy people" in the recipient country.

Thus, the ad hoc manner in which the Christopher Group proceeds may well be an outgrowth of the legislation under which it functions. Whether the cause of human rights or U.S. foreign relations would be better served by a more formalistic approach is open to question. Some would contend that such an approach is neither necessary nor feasible, given the legislative escape clause on economic aid cited above.⁹ The Group's informal methods seem to reflect a conscious decision by the administration not to have rigid criteria simply because human rights issues are so complex and, in many cases, are so interlaced with other U.S. interests in the aid-recipient countries.

It is true that by operating on a case-by-case basis the Christopher Group has to make a great many decisions, sometimes on relatively unimportant matters. The fact that the criteria for making those decisions have not been well defined or standardized has led to criticism and internal disputes and has sometimes been used as a handle with which to attack particular decisions. However, many of those interviewed for this study thought that the problem would be largely overcome by the move to incorporate human rights considerations into the annual foreign aid budget process. As indicated in subsequent sections of this paper, such a procedural change has now been made, and apart from this there does not appear to be significant pressure from any member agency for the adoption of a different managerial technique by the Group.

G. THE OVERSEAS PRIVATE INVESTMENT CORPORATION AND THE EXPORT-IMPORT BANK*

Neither the Overseas Private Investment Corporation (OPIC) nor the Export-Import Bank of the United States (Eximbank) fall into the more conventional categories of U.S. foreign assistance agencies on which this study concentrates. Yet their programs and the degree to which their activities have become subject to provisions of human rights legislation in the recent past point up some of the continuing problems involved in determining the priority of human rights in the totality of U.S. foreign policy.

⁹ Conversation with official of General Counsel's Office, AID, on legislative history of human rights provisions.

*Prepared by Joel Woldman, Specialists in U.S. Foreign Policy.

THE OVERSEAS PRIVATE INVESTMENT CORPORATION (OPIC)

OPIC was created by the Foreign Assistance Act of 1969 and formally organized early in 1971 as an independent agency intended to assist U.S. private investors to make profitable investments in about 80 less developed countries (LDC's). Some of its programs had originally been organized under AID and were then transferred to the new agency. OPIC helps U.S. investors (including financial institutions) to find investment opportunities in the LDC's, offers insurance to protect these investments, and provides loans and loan guarantees to help finance the projects. The LDC's are often unattractive to U.S. investors because of potential political and economic instability, possible expropriation of foreign properties, inconvertibility of local currency holdings, and possible war, revolution, or insurrection. OPIC insures U.S. investors against these risks.

OPIC was first directly affected by human rights legislation in April 1978, under the terms of the Overseas Private Investment Corporation Amendments Act of that year (Public Law 95-268). Section 8 of that act provides that the Corporation, in consultation with the Secretary of State, take into account in the conduct of all its programs in a country, all available information about observance of and respect for human rights and fundamental freedoms in such country. In addition, the provisions of section 116 of the Foreign Assistance Act of 1961 are to apply to any insurance, reinsurance, guaranty, or loan issued by the Corporation for projects in a country except that, in addition to the exception with respect to benefiting needy people, "the Corporation may support a project if the national security interest so requires."

The legislation also requires that OPIC report annually to Congress on applications rejected because of section 116(a) violations and projects supported, notwithstanding such violations, on the basis of a determination that the project will directly benefit the needy people or is required on grounds of U.S. national security. The first such report was due at the end of calendar 1978.

OPIC AND HUMAN RIGHTS CONSIDERATIONS

Although it was not yet required by legislation, OPIC began to participate in the Interagency ("Christopher") Group on Human Rights and Foreign Assistance and its staff-level working group (in observer status) in spring 1977. Between that time and April 24, 1978—when OPIC's enabling legislation for fiscal year 1979-81 was enacted, including the above-mentioned amendment requiring that human rights considerations be taken into account in granting insurance, loans, et cetera—only two human rights questions arose in connection with OPIC activities. In both cases, the questions involved renewal of the bilateral agreements which is generally required with any country in which OPIC operates. In the case of Uruguay, the Interagency Group recommended against seeking such an agreement, and the OPIC Board of Directors concurred. The second case involved Brazil, and resulted in a decision to terminate OPIC programs for investors in that country in response to Brazilian Government opposition to foreign assistance programs that carried with them requirements for human rights country reports.

Since the enactment of the OPIC human rights provisions, all OPIC projects are screened by the Corporation's Insurance or Finance Departments (depending on the nature of the project) to ascertain whether OPIC should turn them down for any statutory reasons of its own. OPIC's Development Office then reviews and refers all other projects to the State Department's Bureau of Human Rights and Humanitarian Affairs (HA).

If HA expresses no reservation, OPIC is free to move forward. If HA has reservations about a project, it may refer the project to the Interagency Group. The additional step of first sending the proposal to the working group is not followed with OPIC projects, since OPIC considers it more efficient to submit problem cases (as determined by HA) directly to the Interagency Group.

In addition to reviewing the human rights aspects of problem projects, the Department of State, in the person of Deputy Secretary Warren Christopher, takes into account whether the project in question would significantly benefit the host government, directly or indirectly, the size of the project, and other political and economic considerations. It is also OPIC policy to consider resubmitting at a later date projects rejected by the Interagency Group, should the human rights situation in the country improve. Alternatively, OPIC could ask its Board of Directors to consider appealing the Interagency Group's decision to the Secretary of State.

THE EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States (Eximbank) was created by Executive Order 6581, February 2, 1934. It was made an independent executive agency by the Export-Import Act of 1945, which expressed the policy of Congress that the Bank should supplement and encourage and not compete with private capital but that the financing provided should be competitive with that provided by principal foreign competitors. The Bank's programs are based on the premise that governmental assistance to U.S. exports is justified when the private sector is incapable of providing sufficient financing for a foreign customer's requirements, on the basis of either portion financed, interest rate, or maturity.

Eximbank facilitates and aids in financing exports of U.S. goods and services through a number of programs. These include direct lending or the issuance of guarantees and insurance, so that exporters and private banks can extend appropriate financing without taking undue risks. Eximbank's direct lending program is limited to larger sales of U.S. products and services. The guarantees, insurance, and discount programs have been designed to assist exporters in smaller sales. Unlike OPIC, however, Eximbank programs are available for exports of goods and services to developed, as well as developing, countries.

EXIMBANK AND HUMAN RIGHTS CONSIDERATIONS

Human rights requirements were first levied on Eximbank under the terms of Public Law 95-143, the Export-Import Bank Act of 1945 Amendments, enacted October 26, 1977. Section 2 of that act amended the Export-Import Bank Act of 1945 relating to U.S. policy on loans by requiring the Bank's Board of Directors to—

* * * take into account, in consultation with the Secretary of State, the observance of and respect for human rights in the country to receive the exports supported by a loan or financial guarantee and the effect such exports may have on human rights in such country.

Even before these human rights provisions were enacted into law, it had been standard procedure in recent years for the Bank to refer loan or guarantee proposals to the State Department's Bureau of Economic and Business Affairs (EB), the relevant country desk, and the Office of Human Rights. Eximbank is regularly represented on the Interagency ("Christopher") Group on Human Rights and Foreign Assistance by its General Counsel, who also occasionally attends meetings of the working group. When an Eximbank case is being considered by the Interagency Group, a Bank Director attends. Applications being processed are sent to Eximbank's Board of Directors for final action only after receiving State's comments.

The Department of State seldom objects to Eximbank proposals even when there are possible human rights problems. There is general agreement that Eximbank loans are the last U.S. Government programs that the State Department would halt, and that human rights violations would have to be extreme and State Department efforts would have to have reached a serious impasse before approval would be withheld.

To date, only three countries—Chile, Uruguay, and Argentina—are closed or automatically denied Eximbank loans on human rights grounds. Even these countries are eligible for loans of up to \$750,000, but that figure is so relatively low that it would not be of interest to most potential beneficiaries. Once businessmen or foreign governments know that the Eximbank will not go above the \$750,000 level, they seldom bother to submit requests for loans relating to such countries. In addition, South Africa has been denied direct loans since 1964, although Eximbank does provide guarantees and insurance for privately financed U.S. exports there and provides discount loans to U.S. commercial banks against obligations of U.S. exporters relating to sales to South Africa.

A July 17, 1978, State Department decision to deny Eximbank credits for the purchase by Argentina of \$270 million worth of turbine engines manufactured by the U.S. firm Allis-Chalmers for a dam on the Parana River between Argentina and Paraguay was criticized by opponents of the Carter administration's human rights policy as an example of too zealous an application of the principle. Perhaps as a result of public criticism of the decision by such widely read columnists as Rowland Evans and Robert Novak,¹⁰ the administration subsequently lifted its objection to the credit "in anticipation of human rights improvements."¹¹ Unnamed administration sources said that the changes in Argentine human rights policy would be most noticeable in the expected release of political prisoners, and a loosening of press censorship. Announcing the change in policy, Eximbank Chairman John L. Moore, Jr., also disclosed that an additional \$25 million loan for a Beloit Co. paper plant in Argentina was also being made available. This loan decision was said by the same unnamed sources to reflect

¹⁰ "Human-Rights Zeal That Costs U.S. Jobs," *Washington Post*, Sept. 18, 1978: A23.

¹¹ "U.S. Lifts Objections on Argentina Credit," *Washington Star*, Sept. 30, 1978, A3.

new concern by the administration that its human rights policy not adversely affect the U.S. dollar or increase the U.S. international trade deficit.

In addition, Eximbank has turned down three cases primarily on human rights grounds: (a) a request for a direct loan to assist in financing a mobile production drilling platform and other related equipment with a U.S. contract value of \$5.5 million to a national government buyer in Chile; (b) a request to provide insurance in support of a transaction involving computers for the storage of fingerprints with a U.S. contract value of \$6 million to the State Police of Sao Paulo, Brazil; and (c) a request for a direct loan to assist in financing the purchase of power transmission and distribution equipment with a U.S. contract value of \$10,220,000 to a national government buyer in Uruguay.

On the other hand, a recent case involving the Republic of Korea—considered by many human rights advocates to be a violator because of restriction of the civil rights of some of its citizens—was decided favorably by the State Department. An Eximbank proposal dealing with a \$1 billion nuclear powerplant for South Korea was approved. While the HA Bureau recognized that there were human rights problems in that country, no objection was interposed to the Bank's proceeding with the project.

According to Eximbank officials, the Bank does not consider itself to be an aid agency. It sees its purpose as helping U.S. manufacturers to sell their products abroad in an increasingly competitive world. At the same time, the Bank views its loans, guarantees, and insurance programs as a relatively poor means of exerting leverage on human rights violators. Except in situations in which the United States has a proprietary technology unavailable elsewhere, Bank officials argue, other governments will step in when the United States does not underwrite its own exports. Moreover, credits offered by foreign counterparts of the Eximbank are sometimes more favorable in terms of interest charged or other conditions.

There is also another possible interpretation, however, which holds that the denial of credits and financial support such as that available through Eximbank, is indeed an effective means of applying leverage to governments to change or modify their human rights policies. The Argentine Government's reported decision to improve human rights conditions in that country following the U.S. denial of credits could be viewed as an example of what such leverage can accomplish.

In an interview prior to the reversal of the earlier decision to deny the hydroelectric project loan to Argentina, Eximbank officials called the incident very difficult and painful for both the Bank and the Department of State. The action would have denied the United States a large sale, they argued, and what for? Nevertheless, they found the then current legislation acceptable, but felt that anything more restrictive would be detrimental to overall U.S. objectives.

Bank officials consider the defeat this year of Representative Tom Harkin's amendment, which, in effect, would have applied the same human rights standards that cover economic assistance (section 116 of the Foreign Assistance Act of 1961) to Eximbank programs, to be a significant victory for the administration. These officials argue that the compromise human rights language of last year's legislation seems to be working, so they felt it should not be made any more stringent than it already is.

CHAPTER IV

THE PROBLEM OF CONSISTENCY*

A. INTRODUCTION

The Carter administration's implementation of its human rights policy has been criticized repeatedly for its lack of consistency. At one level this criticism takes the form of attacks on what is perceived to be the ideological bias of policy implementation: Communist states such as the Soviet Union, the People's Republic of China (PRC), Cuba, Vietnam, and Kampuchea (Cambodia) are seen as largely exempted from criticism, but friendly governments that have demonstrated opposition to communism—such as the Republic of Korea, the Philippines, Chile, Brazil, Indonesia, South Africa, and Argentina—have been the primary foci of U.S. policy pressures. Congressman Larry McDonald has argued, "We roar at our friends and whisper accusations at the Communist nations. In fact we even ignore human rights violations in Communist China entirely. This policy has failed."¹ A variant of this criticism is the charge that the policy has been pursued more vigorously against anti-Communist dictatorships in Latin America and East Asia than against neutralist dictatorships in black Africa: "I find the administration's human rights policy vis-a-vis the various Marxist dictatorships in Africa to be wholly inconsistent with its actions toward Brazil, Chile, the Philippines, and South Korea."²

From a different perspective, the charge of inconsistency is based on a perception that the administration's human rights policy is so modified by other U.S. policy considerations that many serious violators—Iran under the Shah, Korea, the Soviet Union, and the People's Republic of China are among those often cited—are largely exempted from serious U.S. pressures. From this perspective, the bias seems not so much against right or left, but rather against the weak. Countries that are of key significance to the United States because of their geographic position, their power, or their resources are the objects of less pressure than countries that are of lesser concern to the United States.

Still another perspective suggests that perceived inconsistency in U.S. human rights policy is not a product of particular ideological or policy biases, but rather of inadequate coordination and management of what is admittedly a complex and intractable policy problem. From this viewpoint, the problem is less one of calculated policy bias than

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¹ Congressional Record, Sept. 23, 1978, p. E5189 (statement not spoken by the Member on the floor).

² Statement (not spoken on the floor) of Congressman Robert J. Lagomarsino, Congressional Record, Apr. 13, 1978, p. E1880.

of political and bureaucratic dynamics that, in the absence of clear policy guidelines, yield individual decisions that seem capricious, arbitrary, and inconsistent.

Most complaints about inconsistencies in the implementation of the administration's human rights policy seem rooted in an ill-defined but intuitively appealing view of consistency. Such a view generally suggests that the severity of U.S. responses to human rights violations in countries throughout the world should be—and should be perceived as being—commensurate with the severity of those violations. When an attempt is made to specify the policy principles that would support a policy based on such an approach to consistency, the potential costs of such a policy become clear. Though various formulations would certainly be possible, the following set of seven such principles are suggestive of the implications of a consistent human rights policy that is based on commensurate response:

First, clear priorities among types of human rights violations must be defined in order to provide the necessary basis for determining the relative severity of violations in different countries.

Second, equivalent violations in different countries must be considered to be of equivalent severity, irrespective of such other factors as levels of development, cultural traditions, and previous levels of protection of human rights.

Third, when the United States has important interests at stake in bilateral relations with countries that severely violate human rights, those interests should, if necessary, be subordinated to the need to apply sanctions in response to human rights violations.

Fourth, since the severity of the U.S. response to human rights violations must be consistent with the severity of the violations, the United States must be prepared, in responding to violations in countries with which it has minimal associations, to initiate provocative sanctions.

Fifth, absolute levels of human rights violations, rather than marginal improvements or deteriorations in conditions, must determine U.S. policy supports and sanctions.

Sixth, human rights policy must be consistent both in its quiet and in its public diplomacy.

Seventh, all elements of U.S. Government activities that impact favorably or unfavorably on an individual country must be incorporated in human rights policy implementation if consistency in overall impact is to be achieved.

Most administration officials and foreign policy professionals argue that a human rights policy thus defined and implemented would produce disastrous consequences for other foreign policy goals and would be unduly inflexible in limiting U.S. response and probably unfair in establishing common levels of expectation for all countries. Thus, it was not uncommon, even in discussions with firm advocates of a strong human rights policy in the executive branch, to hear arguments that consistency in human rights policy is impossible and that it poses a false issue. With respect to consistency as commensurate response, then, there is no real argument: U.S. policy does not, and does not pretend to, meet such a norm.

It does not follow, however, that consistency is irrelevant or impossible. Rather, it is still significant to determine the principles guiding decisions on human rights initiatives and the extent to which there is consistency in applying those principles. This is a view of

consistency as policy coherence. Though probably not satisfying to those who see the goal of a human rights policy as establishing morality in foreign policy, it does provide a relevant criterion for those who see the policy as designed to show that the United States is sensitive to moral considerations and committed to the view that a world of regimes which strengthen respect for human rights is consistent with the U.S. national interest.

The Carter administration, however, appears very reluctant to clearly define the principles that guide the implementation of its human rights policy. Though a Presidential review memorandum and a Presidential directive were issued on human rights, and numerous comments have been made and speeches have been given on various aspects of the policy, they have been far from adequate in defining principles for policy. Rather, the emphasis has been placed on the case-by-case approach as the only practicable one in what was new and uncharted policy terrain. Specificity with respect to principles guiding human rights initiatives, moreover, has been seen by some as threatening to unduly limit flexibility in application of policy. Indeed, strong arguments can be made for the benefits of vagueness in policy definition where policy evolution and change seem likely.

A further impediment to the development of the explicit policy guidelines on which consistency might be built has been the political realities of the bureaucracies in which the human rights policy has emerged. The Bureau of Human Rights and Humanitarian Affairs (HA), was a new and relatively powerless part of the Department of State at the time the Carter administration assumed office. Past experience provided good reason to believe that human rights initiatives would be vigorously resisted within the regional bureaus of the Department and, in the absence of extensive experience with such initiatives, the contradictory and often negative views on human rights policy principles would have made the development of consensus on policy a slow and difficult process that might well have resulted in a weak set of policy guidelines. Moreover, at least some efforts at specificity—explicit identification of specific countries as primary foci of human rights policy, for example—were strongly resisted at high levels within the Department of State. A case-by-case approach, then, gave the Human Rights Bureau the flexibility of choosing cases it thought it could win. It facilitated effective utilization of external human rights groups as sources of information and sources of support, often through Members of Congress, for strong administration action on specific problems. It also served to legitimize a human rights strategy that responded to human rights targets of opportunity such as the election crisis in the Dominican Republic and the growth of resistance to repression in Nicaragua. Focusing on individual countries further strengthened HA's hand in that it generally fragmented regional bureau opposition, and thus minimized opportunities for the building of an opposition coalition of regional bureaus that might have developed in a full-scale review of policy guidelines.

A lack of specificity in policy has not been without negative consequences, however. The sense that decisions on human rights initiatives are made arbitrarily, unsystematically, and in response to political pressures and unpredictable policy considerations is common not only in much public comment on the policy, but also among many

of the officials we interviewed as part of this research effort. Though there is no apparent way to measure the costs of such perceptions, it seems clear that the value of the policy as a demonstration of U.S. commitment to human rights principles has been significantly vitiated by the confusion and disillusionment it has engendered. To some extent the perceptions may well reflect the reality; but, in some measure at least, efforts to maintain consistency in application of policy principles go unrecognized because of the uncertainty and ambiguity as to what those principles are.

The approach of this study is to attempt to identify operative policy principles that seem to have evolved in the course of the implementation of U.S. human rights policy under the Carter administration. These principles, which are formulated as alternatives to the seven principles of a policy based on commensurate response, are then used as bases against which policy consistency in U.S. human rights initiatives can be assessed. It should be clear that these principles are not official U.S. policy and have not been enunciated as principles by the Department of State. Individually, however, they have been referred to by various officials with whom we spoke as views that, in their understanding of the policy, seem to shape the making of decisions.

B. TOWARD A SPECIFICATION OF U.S. HUMAN RIGHTS POLICY

1. *A broad range of human rights will be covered in the policy, but no systematic ranking or weighting will be applied to them.*

The question of scope of human rights to be emphasized in U.S. policy was first systematically dealt with in Secretary of State Vance's speech at the University of Georgia Law School on April 30, 1977. A number of considerations seem to have led to the adoption of a very broad definition, one encompassing not only rights of the integrity of the person, but also general political and civil rights associated with open and competitive political systems as well as economic and cultural rights. One element may well have been the desire to minimize criticisms of efforts to impose our own specific cultural values on other countries. Inclusion of economic human rights presumably demonstrated a recognition of the argument that political rights can seem to be of minimal consequence when individuals lack "such vital needs as food, shelter, health care, and education." Elizabeth Drew, in her extensive review of the early months of the Carter administration's human rights policy, argues that the inclusion of economic criteria "established grounds for aiding regimes that might be failing to live up to the criteria of the first category (governmental violation of the integrity of the person)."³

The decision not to establish clear priorities seems, moreover, to have been a conscious one. One official, in speaking with Elizabeth Drew of his approach to this problem, said, "My analysis was that you had to define each of those as worth working toward and also recognize that they would come at different stages in different countries."⁴ Mrs. Derian, as quoted by Drew, argued that, "Human rights are civil and political and also economic. You don't think of them in terms of priorities but as all of them being on the same

³ "Human Rights." *The New Yorker*, July 18, 1977, p. 42.

⁴ *Ibid.*

plane, moving at the same time.”⁵ This sense that three different types of rights were being recognized was further reflected in the comment of another official that, “Including economic rights allows us to support aid to repressive regimes.”⁶

The perceived separateness of types of human rights, as well as the multiplicity of rights included in the administration's definition, strongly militated against efforts to establish priorities for different types of violations. Thus, there is little inclination within the administration to argue that prolonged detention without trial of large numbers of individuals in Indonesia is a more or less severe problem than the denial of political freedom in Guinea; or that repression of opposition in Bolivia is a more or less severe problem than the inability of the government of the Central African Empire to provide for the basic economic needs of some of its citizens.

2. Expectations of levels of human rights performance will differ from country to country, depending on such factors as levels of development, prior success in maintaining respect for human rights, and degree of authentic domestic or external threat to the stability of the regime.

Closely related to the sense within the administration that it is not really possible or appropriate to establish priorities for different types of human rights violations, is the sense that levels of expectations should differ from country to country. The burden of the administration's approach has thus become not whether a country is achieving a minimal level of respect for human rights, but whether its protection of human rights is consistent with what it *should* be able to provide, given certain characteristics.

What those characteristics are, however, has not been made clear, and considerable doubt and difference of opinion exists within the bureaucracy as to bases for determining levels of expectation. Two factors seem to weigh heavily in such considerations, however. The first is prior levels of achievement in protecting human rights. Thus, imprisonment of regime opponents, limits on freedom of expression and procedural inadequacies in national elections in the Philippines are viewed with considerably greater concern than are comparable violations in Bolivia, Ghana, or Indonesia. Though no explicit and official explanations for what seem to many to be inconsistencies have been presented, individuals within the bureaucracy attribute the special concern with the Philippines in part to that country's period of democratic tutelage under the United States and its demonstrated capacity to sustain an open and competitive political process.

3. The amount of pressure applied by the United States in efforts to improve human rights conditions will depend in large measure on assessments of the extent to which such efforts would jeopardize other significant U.S. interests.

An early principle established in policy circles was that human rights goals would clearly be subordinated to other policy concerns of greater importance to the United States. The problem, however, has been to define which other concerns were of greater importance and at what level of human rights violations they became of greater concern. Conceptually, in other words, consistency then began to require not only an assessment of the levels of severity of violations in a country, but

⁵ Ibid. p. 55.

⁶ Ibid. p. 42.

also assessments of the potential relative costs to the United States of other foreign policy interests.

In practice, such judgments were rarely made explicit, and as a consequence decisions on specific cases evolved out of bureaucratic political battles. During the earliest phase of considering cutting military assistance on human rights grounds, according to a State Department official who spoke with Elizabeth Drew, "What happened was that if anyone, including one of the regional Assistant Secretaries or Habib (Philip Habib, the then Under Secretary of State for Political Affairs), put up a strong argument against zapping any of these countries, he won."⁷

4. *The amount of pressure applied by the United States in efforts to improve human rights conditions will depend in large measure on the amount of conventional diplomatic, foreign assistance, military assistance, and related forms of leverage available to the United States in its dealings with individual countries.*

Though the complex genesis of the Carter administration's human rights policy has yet to be fully charted, it seems clear that an important initial impetus was toward putting public pressure on the Soviet Union. The President's early comments and gestures with respect to the Soviet Union were soon displaced, however, by a pronounced focus on governments with which the United States had friendlier relations. For some this reflected an ideological shift. An alternative explanation, however, focuses on the dynamics of leverage. The Soviet Union, most analysts agree, treats as extremely serious any threat to its control over internal dissension, and consequently reacted very strongly to what seemed to be the gratuitous challenges implicit in the President's early statements and actions relating to human rights conditions in the Soviet Union. These initiatives achieved little at what was perceived as high cost to other U.S. goals with respect to the Soviet Union, goals that many saw as of much greater consequence than our human rights concerns.

At about the same time, initiative in human rights policy formulation began to shift to the Human Rights and Humanitarian Affairs Bureau in the Department of State. A product of congressional initiative, this Bureau had very limited authority under the Ford administration. Thus, a central challenge to its new leadership—specifically Patricia Derian, the Assistant Secretary in charge of the Bureau, and Mark Schneider, her Deputy for Human Rights Affairs—was to develop human rights initiatives that could survive the predictable resistance of the regional bureaus.

This Bureau has, from the beginning, been most visibly associated with pressures on non-Communist countries with which the United States had extensive relationships. Four factors seem to have contributed to this identification.

First, the focus of a long series of human rights hearings of the House Subcommittee on International Organization, chaired by Donald Fraser, was directed toward situations in which U.S. programs seemed to be contributing to and strengthening repressive regimes.

Second, the strongest congressional human rights mandate is for constraints on bilateral and multilateral economic foreign assistance as well as on security assistance to gross and consistent violators of

⁷ Ibid. p. 42.

human rights. Thus, the Bureau, in pursuing the implementation of such constraints, had legal backing.

Third, the Bureau had numerous specific and consequential assistance-related policy decisions—whether to provide a loan to a country, whether to support a multilateral development program in a country, or whether to permit the transfer of military equipment to a country—around which it could build its policy influence. The pragmatic tactics evolving out of a concern to make human rights more than simply a rhetorical component of U.S. foreign policy led, then, to a focus on countries with which the United States had or was contemplating assistance relationships.

Finally, U.S. pressures on Communist countries have been largely redirected into diplomatic channels that receive very little public notice.

5. Human rights initiatives will not be limited to reactions to absolute levels of violations, but also will be used to influence—both by sanctions and support—incremental changes in government respect for human rights.

One of the central conflicts in the implementation of human rights policy arises when a country that is a serious violator of human rights makes a significant improvement, but an improvement that does not raise it above the level of other serious violators. From an absolute perspective, that regime should still be subject to opprobrium and sanction; from an incrementalist perspective, it should be rewarded for its improvement. Those concerned with strict consistency in human rights policy are inclined to be particularly conscious of the problems with the incrementalist perspective, for it can result in rewarding a regime whose human rights performance is recognized to be unacceptable. Those concerned with the management of bilateral relations, on the other hand, find an absolute perspective frustrating because it severely limits flexibility in the use of leverage—whether positive or negative—when marginal policy decisions of other countries are at issue.

The issue of incremental policy arises as well, moreover, when a country with a relatively good human rights situation takes—or seems on the verge of taking—actions that would result in a significant deterioration of that situation. The resulting situation might constitute human rights conditions that were substantially better than those in other countries that were subject to human rights sanctions. In this case, the incrementalist perspective would call for sanctions to try to prevent or reverse a deterioration in human rights conditions; the absolutist would argue that the level of human rights performance exempted the country from such sanctions. Again, incrementalism tends to be associated with those desiring operational flexibility; but, in this case, they are often in the Human Rights Bureau, and those concerned with consistency are often regional bureau people who understand the perspective and motives of the regime.

In both types of situations, the advocates of policy flexibility have won out frequently enough to establish firmly the principle that incrementalism is an acceptable approach to human rights policy implementation. The United States has abstained on—rather than voted against—multilateral bank loans to Argentina at times, thereby seeming to signal U.S. recognition of marginal improvements in what is recognized as an extremely repressive regime. At the other end of the

scale, severe pressures were brought to bear on the Government of the Dominican Republic not to abort a national election that seemed likely to result in a turnover in national leadership.

An important consequence of incrementalism in human rights policy has to do with the stimulus for policy initiatives. If one is concerned with incremental improvements in policy, then it makes sense not only to respond to marginal changes in human rights conditions, but to attempt to induce such changes as well. Thus, each decision affecting U.S. support for a country becomes an opportunity to apply human rights leverage. It makes legitimate the question: "What specific improvements in human rights conditions would be appropriate to suggest in conjunction with negotiations over a specific loan application—or multilateral bank project vote, or transfer of security equipment—pending before the U.S. Government?"

6. Though public pressures can play a significant role in human rights policy, more discreet, private and indirect pressures should also be used because they are likely to have greater impact on the activities of some governments.

The ambiguity of public and private diplomacy is particularly intense in the field of human rights policy. During the Nixon and Ford administrations, "quiet diplomacy"—private entreaties directed at leaders of offending countries—was understood by many activists to be a rationale for inaction on human rights matters. Many of the early human rights initiatives of the Carter administration, in contrast, were highly public—and highly publicized—comments on violations of human rights in offending countries. Individuals concerned with maintaining bilateral relations, however, quickly began to point out the frequently counterproductive consequences of such activities, with respect to the effective use of leverage in those relations. Their argument was essentially that the leader of a sovereign country was likely to find it easier to improve human rights conditions when his actions seemed to be independent decisions than when they seemed to be the result of explicit U.S. pressures. Consequently, there has been a strong predisposition within the administration to downplay explicit human rights linkages to specific actions in order to avoid embarrassment to the leaders whose cooperation the administration is attempting to achieve. In general, then, public criticism of individual countries' human rights records has not been a central element in the administration's policy.

A further consequence of this policy direction has been to dilute the focus of foreign assistance as an explicit source of leverage in efforts to induce changes in human rights policies. The caution of diplomats charged with the maintenance of bilateral relations is likely to lead to personal entreaties and expressions of concern, but less frequent explicit use of specific foreign assistance actions as leverage.

7. Though no conventional instrument of U.S. foreign policy will be excluded as a potential tool in efforts to strengthen human rights conditions, primary focus will be on the use of military sales, bilateral aid levels, multilateral project assistance, and diplomatic entreaties.

From the perspective of those concerned with commensurate response in human rights initiatives, all aspects of U.S. relations must be considered with respect to their consistency with appropriate levels

of U.S. reactions to human rights conditions. Three primary considerations seem to have been significant in focusing the main thrust of U.S. initiatives into much narrower channels.

First, different types of U.S. programs have radically different potential impact on human rights conditions in individual countries. Programs that support police or internal security forces of repressive regimes, for example, generally clearly contribute to the capacity of—and serve to legitimize the efforts of—those regimes to control and suppress dissent. Programs that provide food aid directly to refugees, health care to the poor, or agricultural resources to small farmers, on the other hand, may contribute very materially to economic and social human rights of a population while only marginally strengthening the repressive regime under which it lives.

Second, U.S. programs vary in the consequences they have for U.S. interests other than human rights. Termination of a bilateral assistance project may have minimal impact on U.S. interests, but disallowance of an Export-Import Bank loan may result in the marginal reduction of U.S. exports, a worsening of the trade balance, and an increase in domestic unemployment.

Third, U.S. programs vary in the amount of leverage they afford. A vote against a multilateral bank loan by a U.S. executive director often is nullified by support of the majority of the bank's executive directors; cancellation of a bilateral development assistance program may deprive a regime, however, of technical and financial support for a project that is unavailable from other sources; disallowance of a weapons sale may lead a regime to turn to another supplier who is willing to provide comparable hardware.

These considerations have led to differential use of policy instruments in human rights initiatives. Bilateral economic aid programs under the congressional "new directions" mandate by definition are targeted on directly benefiting the poor and consequently were seen initially as inappropriate tools for human rights leverage. Since the overall levels of economic assistance invariably do influence the financial strength of regimes, however, recent efforts have been made within the Agency for International Development to make incremental changes in support levels to individual countries based on perceptions of human rights conditions in those countries. The case for use of sales and assistance to internal security forces of repressive regimes is seen as much stronger. Indeed, considerable attention seems to be devoted in individual cases to assure that even minor forms of assistance that would strengthen repressive capabilities not be given. Withholding U.S. support for multilateral bank programs was initially seen as a particularly appropriate form of explicit human rights pressure, in part because those programs frequently provided support for national economic infrastructure and could thus be seen as more directly supporting regimes. Since such actions generally did not prevent the banks' approvals of those programs and created hard feelings both within the banks' administrations and in the countries concerned, however, such actions seem more recently to have been used less frequently and without explicit reference to human rights considerations.

Perhaps the greatest bureaucratic controversy, however, has surrounded the appropriateness of private-sector-related initiatives in support of human rights objectives. Though approval of sales of military and police articles is widely accepted as an appropriate object of close scrutiny on human rights grounds, the use of nonsecurity related programs such as Export-Import Bank loans and Overseas Private Investment Corporation insurance and guarantees is much more widely resisted. The high domestic economic cost of using such mechanisms, in conjunction with the very limited leverage they provide, are frequently cited as arguments against use of such programs for human rights purposes. The dilemma was effectively illustrated in the dispute over rejection of an Export-Import Bank loan to Argentina, where the United States had few other policy levers with which to register dissatisfaction with continuation of a highly repressive political environment, but use of this lever could widely be interpreted as working more to the detriment of U.S. interests than to those of the Argentine Government.

Thus, were the administration to articulate the principles that seem to guide its individual human rights policy decisions, that statement might be in something approaching the following terms:

Recognizing that every country faces distinctive historical, economic, cultural and political constraints that limit efforts to strengthen respect for human rights; and

Recognizing that international pressures and U.S. interests with respect to individual countries will sometimes temporarily make human rights initiatives counterproductive for other U.S. foreign policy interests;

The United States will make known its concerns to every government that it feels is not taking advantage of reasonable opportunities to advance human rights conditions; and will assure each of those governments that U.S. policy decisions affecting the country—whether foreign assistance-related or not—will be shaped by its sense of how forthcoming the Government is being in taking specific steps that might reasonably be expected to foster long-term improvements in human rights conditions.

The Government will view as especially serious any situation characterized by extreme deprivation of basic aspects of integrity of the person, as evidenced in systematic and extensive torture or government complicity in widespread loss of life as well as any government action that seems likely to reduce or further constrain human rights in the absence of clear evidence of severe threat to a government's integrity or stability.

In other situations, the Government, in assessing what is reasonable, will consider previously achieved levels of stable political competitiveness, judicial procedure and respect for personal integrity; the extensiveness and resilience of political, administrative and legal institutions; and the character and extent of threats to national integrity and stability.

It will assess performance relative to reasonable expectations and will endeavor to express concern and use its influence to bring about change through measures that are commensurate with the disparity between actual conditions and reasonable levels of expectation in individual countries.

Such expressions of concern and efforts to use influence will be temporarily suspended or relaxed at times when the interests of the United States in other matters under negotiation or discussion between the United States and a country might significantly be compromised by untimely efforts to exert influence on human rights conditions.

Where possible the Government will endeavor to use its influence to bring about improvements in human rights conditions by means of ongoing aspects of bilateral relationships, using them not only as rewards and sanctions but also as means of strengthening institutions and values supportive of human rights.

The Government will review with particular scrutiny any program or action that might strengthen the domestic repressive capabilities of governments that systematically violate rights of individual integrity and political expression, as well as any program that is approved because it is designed to directly benefit the poor in a country where human rights are grossly and systematically violated.

Where U.S. bilateral relationships with a country are not of the character or the scope to make their use effective, or where such an approach has consistently failed to yield meaningful response, resort will be made to public pronouncements designed to intensify the pressure of world opinion on an offending government.

C. CONSISTENCY AS POLICY COHERENCE: AN ASSESSMENT

Interviews conducted within the executive branch for this research effort give strong support for the view that serious and conscientious efforts have been made within the administration to maintain a coherent human rights policy. Central to this effort has been the Christopher Group. Focusing on discrete decisions that have been brought to it from various points within the bureaucracy, this body has created a body of experience and precedents roughly comparable to case law. Though not codified, this institutional history has provided partial and implicit basis for policy consistency within the administration. The extent to which it has succeeded in providing effective guidelines for policy varies significantly, however.

Considerable attention appears to have been given to differentiating among the potential effects to U.S. policy instruments, for example. Cases were cited to us where lengthy disputes focused around whether a foreign agency was an authentic military force that would use hardware it had requested for legitimate national defense purposes or an internal security force that would use it to suppress domestic opponents of the Government.

Similarly, the potential conflict between human rights goals and other foreign policy goals has apparently been the subject of careful review. Assessments of the potential effects of alternative human rights initiatives were frequently reported to us as central elements in Christopher Group deliberations. The degree of sensitivity of a regime to public criticism and direct leverage, its responsiveness to indirection, and the potential costs of adverse responses have become key elements in human rights decisions.

Another point of focus for Christopher Group consideration has been consistency with legislation and congressional intent. Though the administration has avoided explicitly identifying individual countries as gross and consistent violators of human rights, the view was expressed that legislation constraining assistance to such countries was nonetheless influential in Christopher Group discussions. Thus, it was reported, the argument that, "if the U.S. Government were to make up a list of gross and consistent violators, the country under consideration would certainly be on the list," could be, if supported by effective evidence, a persuasive basis for denial of assistance.

The issue of appropriate responses to incremental changes in levels of respect for human rights also appears to have been closely scrutinized. Though it is indeed difficult to determine when a foreign administration is making conscientious efforts to improve conditions and when it is making cosmetic changes, the human rights bureaucracy has demonstrated sensitivity to this issue and seems, on the basis of our interviews, to have made efforts to find measured responses to ambiguous human rights actions.

Thus, though explicit and comprehensive comparative analysis of individual human rights policy choices does not seem, from the evidence available to us, to have been a characteristic of the human rights decisionmaking process, a significant measure of policy coherence has emerged from the handling of large numbers of decisions by the Christopher Group. Nevertheless, four major areas remain sources of ambiguity and confusion: The levels of expectations for individual countries, the priorities accorded to various types of human rights violations, the significance of non-human-rights policy goals, and the data bases on which human-rights-related decisions are made.

PRIORITIES FOR TYPES OF HUMAN RIGHTS VIOLATIONS

The very broad definition of human rights adopted by the Carter administration makes the issue of policy priorities among those rights both highly significant and highly complex. It is simply not adequate policy guidance to suggest that all violations are significant and that the U.S. Government is striving to achieve incremental improvements in human rights conditions across the board. The realities of policymaking and the limited capacity of the U.S. diplomatic establishment are such that choices must be made and emphases maintained. The question, again, is whether this is done with a reasonable degree of consistency.

Interviews with principals in the human rights policy process suggest that there has been great resistance to specifying priorities among human rights violations. We have found no explicit policy directives that would suggest how to go about determining relative levels of concern for different situations. There does appear to be reasonable consensus, however, with respect to certain principles that seem to govern—whether explicitly or implicitly—much of the human rights policy decisionmaking.

There is general acceptance of the principle that severe violations of integrity of the person should receive high priority. Government policies of, or flagrant government indifference toward, widespread killing or severe, life-threatening torture, particularly of political prisoners, are widely seen as conditions that are repugnant and that

can usually be remedied by relatively straightforward action on the part of the offending government. It is generally accepted that such conditions have existed in Chile, Argentina, Uruguay, Nicaragua, Cambodia, Ethiopia, and Uganda at times during the past 5 years, and there has been little dissent from the view that such circumstances merit top priority attention in U.S. human rights concern.

Below this initial level, however, ambiguities and differences in perception rapidly begin to appear. Selective physical torture of a severe and life-threatening nature, and the occasional taking of lives without due process, do not appear to be unusual instruments of policy in much of the world. One is then faced, however, with the problem of assessing the relative importance of such situations and situations in which less severe violations of integrity of the individual—such as imprisonment, separation of families, and enforced movement or exile—are practiced on a wide scale.

The issue of relative priorities is further complicated by the view—more widely accepted within the Human Rights Office than in the regional bureaus—that amelioration of the conditions of individuals is only a form of firefighting in a much broader battle for the fostering of more open and competitive political systems with judicial institutions that routinely protect the rights of individuals. It is clear, however, that progress toward this latter goal in most societies is achieved only incrementally and over long periods of time. For many, then, the most important priority is a long-term one on which limited policy flexibility and leverage exist in the short term. Operationally, as a consequence, day-to-day attention is frequently directed toward those matters that are susceptible to current action but that many would consider of lesser significance.

Perhaps one of the most sensitive issues with respect to priorities, however, concerns the basis of dissidents' opposition to a regime. Where opposition is based on a clear desire to liberalize an existing regime, the argument for support of such pressures is clear enough. Much more difficult are situations in which dissidents would fundamentally change—but not liberalize—the character of the regime, their policies would be inimical to U.S. interests, or they are pressing for the autonomy or independence of segments of an existing nation.

Iran presented a clear case of the first two problems. Though it was impossible to predict the kind of regime that might follow if liberalization led to the replacement of the Shah, it seemed clear that the advancement of competitive democratic processes and the strengthening of individual human rights was not central to the policy concerns of major opposition leaders. Moreover, though the attitudes of those leaders toward the United States were not well known, the closeness of U.S. relations with the Shah and the complexity and importance of relations between the two governments were such that a change in regime would almost certainly not improve and could very possibly do significant damage to U.S. interests. Consequently, the character of the dissidents in that situation led to a significant downgrading of the priority given to liberalization in Iran. In a similar though more ambiguous way, the characteristics of the Sandanistas became a central issue in debates as to whether further potentially destabilizing pressures for liberalization of the Somoza government should receive high priority.

The third type of problem—where dissidents represent political segments pressuring for autonomy or independence—presents extraordinarily difficult dilemmas. Thus, the position and treatment of the Muslim minority in the southern Philippines; of racial, tribal, or linguistic groups in Africa (the issue of the Somalis in the Ogaden, for example); of Indians in a number of South American countries; and, indeed, of blacks and Indians in our own society raise issues and questions that are fundamental to human rights but that also frequently strike directly at the legitimacy of a nation or of its well-established social, economic, and political patterns. There are no widely accepted criteria for differentiating between legitimate aspirations of distinct “nations” of people and dangerous divisiveness of disaffected racial, ethnic, or religious minorities. The administration seems to have shown understandable caution in taking initiatives that would strengthen primordial movements that host governments invariably see as dangerously divisive, but no substantive—as opposed to pragmatic—rationale for such caution is recognized within the bureaucracy. Press reports of recent quiet initiatives with respect to treatment of Muslims in the southern Philippines may reflect, however, an administration effort to deal more directly with this issue.

With respect to priorities in human rights violations, there appears to be a broad consensus that social and economic rights are of least concern as a focus of diplomatic leverage. It does seem to be widely accepted that the foreign assistance program, with its focus on basic human needs, is fundamentally directed at improving and strengthening economic and social human rights, and that, consequently, the explicitly human rights thrust of U.S. foreign policy can appropriately be directed at other concerns.

DETERMINATION OF REASONABLE LEVELS OF EXPECTATION

Though there is a general consensus among those interviewed that one must expect different levels of human rights protection in different societies, this consensus does not extend to the factors that determine appropriate levels of expectation. The notion of a case-by-case approach moreover, has generally been interpreted as meaning that each situation is unique and must be analyzed in its specific terms rather than in broader categories. There do appear to be, however, certain broadly defined factors that carry weight in arguments as to the expectations that can appropriately be established for different countries.

Primary among these is experience with democratic process and the rule of law. The Philippines, Chile, Uruguay, and the Dominican Republic are all cases for which the argument is made that at least reasonable levels of individual and civil human rights had been established and maintained in the recent past with some stability. This demonstrated experience is widely taken to represent evidence that, in these four cases, at least, it is reasonable to expect a relatively speedy improvement from repressive systems that had more recently characterized the governments of those countries. Chile and Uruguay both had prolonged experience with competitive political systems that respected individual rights. Argentina, though it has not succeeded in establishing firmly a stable system of competitive politics, did have a reasonably good record in the protection of individual rights. For all three, as a result, human rights pressures represent in some degree implicit comparisons of present with prior performance.

Though Brazil had also had significant experience with open and competitive political processes, the repression of individuals and institutions has persisted for a sufficiently long period that their rebuilding now seems likely to be a slower and longer term process.

Bolivia, in contrast, lacks a firm tradition of democratic process and has, consequently, been subject to more limited pressures. In this case, the contrast between the handling of U.S. policy toward the Dominican Republic and toward Bolivia during 1978 is instructive. Both countries held elections the results of which were in danger of invalidation by domestic forces. In the Dominican Republic, the government of President Balaguer was preparing to prevent the completion of the vote count when it became clear that the results were likely to produce a victory for the opposition. The United States put heavy pressure on the government to let the election count proceed and on the military not to intervene. In Bolivia, the United States welcomed the call for an election and put pressure on the regime to desist from its excessive support for the candidacy of Juan Pereda Asbun, but when Pereda moved into a position of leadership of an Air Force coup d'état that overthrew the existing government of General Hugo Banzer, the United States made no attempt to force restoration of the Banzer regime or the elections.

Those with whom we explored the differences in the handling of the two cases emphasized the relatively ordered, established, and correct character of the Dominican elections in contrast to the widespread fraud that they felt characterized the Bolivian elections. It was felt that the traditions of democratic process were sufficiently established and strong in the Dominican Republic that pressure had a reasonable chance of supporting forces that would preserve procedural requirements of a fair election. With respect to Bolivia, on the other hand, there was widespread consensus that further pressure would have been counterproductive because forces and institutions supportive of democratic processes were not sufficiently strong to withstand pressures for the reimposition of order and certainty.

Differences in approach to the Philippines and Indonesia seem also to reflect in some measure acceptance of the view that prior experience with the democratic process should create higher levels of expectation of human rights performance. The Philippines sustained a highly competitive and open political process with a reasonably independent judiciary and meaningful respect for individual rights for a quarter of a century prior to President Marcos' declaration of martial law. It certainly was not a political system without serious problems; but, compared to most other Asian countries that achieved their independence after World War II, it was an encouraging sign that post-colonial Asian regimes could respect political and civil human rights. Indonesia's experiment with a parliamentary democratic process, on the other hand, was a short-lived and chaotic one. The "Guided Democracy" of Sukarno that followed failed to develop competitive political processes, respect for individual rights, or economic progress. The current regime of General Suharto is thus seen as a small but significant improvement in the building of political structure and order as well as economic institutions in a society whose culture has yet to be plausibly reconciled with the institutions of complex and competitive political and legal systems.

Within the bureaucracy, then, the relative degree of past success in managing competitive political systems and legal systems that protect the rights of individuals provide a basis for differentiating among the expectations of future human rights performance in the two countries. Thus, whereas pressures on the Government of Indonesia have been limited largely to the release of political prisoners who had been in detention for more than a decade, pressures on the Government of the Philippines have also extended to a movement toward the reestablishment of a more open and competitive form of government.

A related perspective within the bureaucracy suggests that the extent of a country's experience with the United States should also influence levels of expectations of its human rights performance. Sometimes this argument implies that ideological change and institutional strengthening presumably resulted from this contact, and sometimes it reflects the view that U.S. strengthening of a regime through extended and extensive support carries with it a moral obligation to do what is possible to achieve a higher level of respect for human rights in that regime than in regimes for which the United States has not provided critical support.

The former argument is again frequently applied to the Philippines. The form of government and the legal institutions derive very substantially from a long period of U.S. colonial tutelage and it is argued that the United States laid a firmer foundation for democracy in the Philippines than did the Dutch in Indonesia or the French in Indochina.

The latter argument is frequently applied not only to the Philippines, but to Korea, Iran, and Nicaragua as well. It should be clear, however, that in this line of argument, expectations are not related to conditions within the country that determine the amount of open opposition and competitiveness the political processes can tolerate without excessive disorder and instability, but rather to the degree of U.S. responsibility for the protection of human rights in those countries. Certainly in the latter two cases, pressures for action based on this line of argument were greatly reduced in force by events that showed the regimes of the Shah and General Somoza to be extremely fragile in the face of the incremental opening up of competitive processes in their respective political systems.

A third argument that is often heard with respect to some countries is that their cultures and traditions are not easily adopted to the institutional and value prerequisites of respect for human rights. This basis for establishing levels of expectations is most frequently applied to countries in Africa and the Middle East. Rarely, however, is it expressed in terms sufficiently precise as to provide a basis for policy determinations.

The problems of establishing levels of expectations for the protection of economic and social human rights seems not to have been seriously addressed within the administration.⁸ There is a general recognition that the availability of resources to many countries severely limits their ability to assure minimal health facilities, nutritional requirements and shelter. Presumably some countries could be doing significantly better in assuring that the resources that are available are being distributed so as to meet minimal requirements of the

⁸ For an extended treatment of these problems, see "Measuring Social and Economic Human Rights Conditions," in *Human Rights Conditions in Selected Countries and the U.S. Response*. Committee Print. Committee on International Relations, July 1978.

poor, but few of the people we talked to seemed to believe that systematic use of policy pressures to induce better use of such resources was a central feature of the human rights policy. Consequently the establishment of criteria for levels of expectations has not been a matter of human rights policy concern.

Aside from these broad considerations, which can best be described as arguments that frequently carry weight in policy debates rather than as policy guidelines, there appears to be no clear basis for determining appropriate levels of expectation of human rights performance across countries. The case-by-case rhetoric of the Human Rights Office suggests the importance of existing levels of performance as a consideration, but in the absence of other criteria, it suggests a policy of broadspread pressures to make incremental improvements that are appropriate to each country, and consequently rough equality of attention to human rights among the entire spectrum of countries to which our policy applies. The realities of U.S. actions on human rights, however, suggest that such an approach is not the basis of current policy.

HUMAN RIGHTS INITIATIVES AND OTHER U.S. POLICY INTERESTS

Interviews suggest that the most powerful and far-reaching basis for shaping and delimiting U.S. human rights initiatives is potential conflicts between those initiatives and other foreign policy interests. It is a difficult task indeed, however, to categorize types of foreign policy interests in ways that will allow for any systematic determination of the point at which potential human rights initiatives should consequently be constrained or terminated. Again, our interviews provided no indication that systematic attempts at such categorization had been undertaken. This is not to suggest, however, that certain implicit standards and criteria have not evolved and that some measure of consensus has not emerged.

It is commonly believed, for example, that human rights initiatives will prejudice—at least in the short term—the full range of other interests that the United States has with another country. Thus, it is the scope and importance of those relations, rather than any specific policy problem, that determines the extent to which human rights initiatives should be limited. Early experience with the Soviet Union most impressively demonstrated this principle. The complications with respect to many aspects of bilateral relations that resulted from U.S. human rights initiatives led to a rapid limitation of those initiatives. Similarly, the administration accorded high priority to improvements of relations with the People's Republic of China, with the exchange of diplomatic recognition as a major near-term goal, and it was widely accepted within the bureaucracy that the People's Republic of China was not an appropriate target of human rights initiatives. Saudi Arabia, though it would likely be considered a significant violator of human rights, is clearly of major significance to the United States. When the stability of the Shah's regime in Iran was seriously challenged during the last months of 1978, tentative efforts to pressure him toward liberalization were quickly shelved out of concern for U.S. security and economic interests that were linked to his continuation in power.

A second principle that carries considerable weight in debates on human rights initiatives is that any short-term effort to bring about a significant change in bilateral relations with a country can be seriously compromised by ill-timed human rights efforts. Thus, for example, initiatives with respect to the People's Republic of China had significant implications for our relations with the Republic of China's Government on Taiwan, and it was generally accepted that human rights pressures on that government were relaxed during 1978.

An even clearer example has been Guinea, where the government has been undergoing significant modification of relations with both the Soviet Union and the United States. A very fortuitous set of circumstances created important opportunities for the strengthening of U.S. interests in western Africa, and human rights problems in that country seem to have been significantly downplayed during 1978 as a consequence. This policy was complicated by the issuance of an Amnesty International report that pointed out significant violations of human rights in Guinea, and the Department of State argued at some length with Amnesty officials that their report overstated the severity of human rights conditions in that country.

In U.S. dealings with Ethiopia, initially strong human rights initiatives were very significantly softened. Those with whom we talked pointed to two other U.S. interests that assumed greater importance. First, the deterioration of bilateral relations became so severe that it was feared that further human rights pressures could disrupt them entirely. Second, expropriation of extensive U.S. assets was cited as a problem on which negotiation could be jeopardized by strong human rights initiatives.

Similar calculations with respect to efforts to achieve a peace settlement in the Middle East led to widespread acceptance of the view that both Israel and Egypt should be essentially exempt from human rights pressures as long as such efforts were central to U.S. policy.

The realities of diplomacy and public pressures have led to acceptance of a third principle in assessing the threat to U.S. policy interests posed by human rights initiatives. That is, that restraint with respect to those initiatives must also be shown when a country is a logical parallel or analogue to one that has been exempted for other reasons. Thus, for example, cultures and regimes of North Korea and Vietnam bear many resemblances to those of the People's Republic of China, so to publicly raise human rights issues with respect to those countries would open the administration to highly plausible charges that it was being inconsistent in not calling attention to comparable violations in the People's Republic of China. Similarly, extensive public comment on Eastern European Communist countries would open the administration to arguments that it should be further emphasizing human rights violations in the Soviet Union. This line of argument has apparently been applied equally successfully to Arab States other than Egypt with the result that they too have been exempt for the most part from human rights pressures.

COMPREHENSIVENESS AND COMPARABILITY OF DATA

Obtaining accurate and comprehensive information on human rights conditions in more than 150 countries is an extraordinarily difficult task. Violations of human rights are matters that governments almost always wish to hide, disguise or otherwise minimize. Many that are

thought to systematically violate human rights have policies that severely constrain free movement of independent observers who might confirm or refute those suspicions. Torture is generally practiced in the isolation and privacy of prisons; attempts are often made to imprison or otherwise insulate dissidents from contact with the outside world; governments have been known to try to minimize the extent of economic suffering among their peoples; and, particularly in many of the less developed countries of the world, much of the population is in remote areas that have minimal contact with the outside world.

Consequently, much of the information that does become available on violations of human rights is obtained through covert sources and is often filtered by such intermediaries as human rights organizations, political action groups, and journalists. As a result, it is generally extremely difficult to confirm and, since the source and/or the intermediary group is often interested in portraying a particular pattern, is often viewed—appropriately—with considerable skepticism by independent observers.⁹

The Carter administration benefited significantly, as it began its human rights initiatives, from data collection procedures that had been initiated in the Executive as a result of the congressional mandate for the preparation of reports on human rights conditions in countries that were proposed as recipients of economic and security assistance under the Foreign Assistance Act of 1961, as amended. Not only had routines been established within U.S. overseas diplomatic posts for the collection of appropriate information, but one cycle had been completed and there was, as a consequence, a significant body of data and material available on human rights conditions in a large number of countries.¹⁰

Nevertheless, these data represented primarily the collection of existing reports from the media and from interested organizations. Though this process dramatically increased the information available on human rights conditions throughout the world, much of it was unverified and the degree of coverage of different countries varied greatly. The openness of the society, the degree of contact and communication with the United States and other western countries, the extent of general foreign press coverage a country received, the level of expectation of human rights protection, and the extensiveness of research conducted by human rights organizations all influenced the extent to which human rights conditions had been scrutinized within different countries. A previous CRS study concluded that:

Taken together, then, these factors provide some counteracting biases, but on balance, their effect is to provide reinforcing emphasis on certain countries. Korea, Iran, and the Philippines, for example, appear to be countries for which many factors lead to relatively widespread reporting. The People's Republic of China, Vietnam, Zaire, and Namibia, on the other hand, have relatively fewer factors encouraging extensive reporting.¹¹

⁹ For a more extended treatment of this problem, see "Issues in Interpretation and Evaluation of Country Studies," in *Human Rights Conditions in Selected Countries and the U.S. Response*. Prepared for the Subcommittee on International Organizations of the Committee on International Relations, U.S. House of Representatives by the Foreign Affairs and National Defense Division, Congressional Research Service, Library of Congress, July 25, 1978, pp. 342-348.

¹⁰ This first set of country studies was published as "Human Rights in Countries Receiving U.S. Security Assistance." Committee Print. Committee on International Relations. House of Representatives. Apr. 25, 1977.

¹¹ *Human Rights Conditions in Selected Countries and the U.S. Response* (1978), p. 347.

This general conclusion appears to reflect, as well, the patterns of data on which human rights emphases are based in the Executive. The resources of the Department of State and executive branch intelligence agencies are certainly not adequate to conduct a systematic and large-scale collection of primary human rights data. Rather, those agencies must draw heavily on work done by other institutions, using their own data collection resources in efforts primarily to verify or refute dubious allegations and to gain more detail on sketchy reports.

Discussions with officials in both the regional bureaus and HA further suggest that there are substantial differences from mission to mission in the vigor with which human rights information is pursued. These differences seem in large part to be the consequence of differences in predisposition among ambassadors and other mission leaders to emphasize such work in their mission.

Moreover, the predisposition of many missions and officials in some of the regional bureaus to downplay human rights violations has made it important for the Human Rights Office—the source of many human rights initiatives—to develop its own sources of information to supplement those of the executive branch's collection resources. Thus, external political action organizations become important sources of direct reports that serve to focus attention on specific countries. Chile, Uruguay, Argentina, Nicaragua, Iran, Uganda, the Philippines, and Korea, are all examples of countries from which well established channels of reporting exist.

This is not to suggest that these emphases are necessarily misplaced, for although objective human rights conditions in many other countries would seem to be as bad or worse as those, for example, in Indonesia, the Philippines, Chile, and Nicaragua, it may well be that the gap between realities and what could reasonably be expected is much greater in the latter countries than in the former ones. What is of concern, however, is that there is little evidence that the choice of focus is the product of conscious efforts to develop comparable information on human rights conditions or that the decisions as to priorities in human rights initiatives are based on systematic analyses of the data that are available.

D. CONCLUSION: THE BUREAUCRATIC POLITICS OF HUMAN RIGHTS POLICY

The focus and thrust of U.S. human rights policy are shaped by principles that clearly direct it away from consistency as commensurate response. Emphases on countries with some tradition of respect for human rights as well as on those with whom the United States has some leverage, in combination with the concern that human rights initiatives not compromise other major U.S. policy objectives, have produced concentration of attention on a relatively small number of countries that are not necessarily the most severe violators of human rights. Though it is, of course, possible that underlying ideological or geographical biases shape these patterns, such biases did not seem significant among the more than 40 officials we interviewed. Rather, it appears that these patterns have evolved out of a continuing—and often highly contentious—set of incremental policy struggles between competing elements of the foreign policy decisionmaking structure. Though such struggles are not unusual in foreign policymaking, their

scope and intensity seem to have been especially great in the human rights arena because of the unconventional character and the vagueness of applicable policy guidelines.

The functioning of the Christopher Group as an arbiter of individual decisions has made it possible to evolve some measure of policy coherence inductively rather than via the more risky process of articulating explicit policy that might subsequently have to be modified. Though this review certainly should not be taken as an authoritative statement of U.S. policy, it does serve as a first approximation of what those in the policy bureaucracy believe it to be.

The costs of making policy inductively through the arbitration of individual bureaucratic conflicts have been significant, however. The lack of explicitness in policy and the absence of credible responses to charges of inconsistency have limited the public appeal of and international support for the policy. They seem also, on the basis of our interviews, to have been disillusioning to members of the bureaucracy who try to implement the policy.

Moreover, the bureaucratic politics of the policy process contribute to certain patterns of bias in implementation. It encourages, for example, policy activists to press particularly hard in situations where the information base as well as the political support from Congress and private interest groups is strongest, and where opposition is weakest, diffused, or otherwise engaged. The focus on Chile and the Philippines, the vigorous reaction to beatings of white reporters in the Central African Empire, and the active involvement in Nicaragua are examples where the politics of situations favored activism. On the other hand, those resisting applications of the policy are encouraged to emphasize the tenuousness of ongoing negotiations and the potential consequences of their failure as well as the parallels that can be drawn between a possible target country and other exempted countries. Thus, the issue of compensation for expropriation in Ethiopia, of food sales to Chile, and of minimizing attention to countries that could plausibly be compared to the People's Republic of China were situations in which political dynamics in the bureaucracy favored caution in human rights initiatives.

Our interviews suggest that the most intense period of bureaucratic conflict over human rights has now passed and that ways have recently been sought for reducing the amount of time and attention required for managing human rights decisions. Such a period of reassessment may well create the occasion for new and somewhat more explicit formulations of U.S. human rights policy principles, and thus lay the groundwork for more systematic efforts to portray the policy consistency underlying U.S. human rights initiatives.

CHAPTER V

ASSESSING THE IMPACT OF U.S. HUMAN RIGHTS INITIATIVES*

A. JUDGING PROGRESS TOWARD OBJECTIVES

How effective has the human rights policy been? What impact has it had on U.S. relations with other countries? Is there a discernible pattern of foreign reactions that is either favorable or unfavorable to overall U.S. interests? To what extent have U.S. foreign aid programs served as a useful tool for improving human rights abroad?

These are difficult questions to which impressionistic answers vary according to the bias of the respondent. Most of those who are strong advocates of the administration's policy see that policy as yielding dividends not only in terms of improved conditions in many parts of the world but also in terms of U.S. prestige and leadership among the other countries of the world. They point to recent improvements in human rights in many countries, and, while not necessarily claiming direct credit, they regard these developments as having at least been encouraged and reinforced by the administration's policy. They maintain that the United States, by acting vigorously on this issue, has regained a positive image that has strengthened its efforts to take the offensive in international relations. They argue for denial of American aid to repressive regimes except in unusual circumstances or to meet basic human needs and for incremental increases in aid to reward countries that improve human rights conditions. They see such policy instruments as having direct impact on the countries to which they are applied and indirect impact on countries that wish to maintain or strengthen their access to U.S. aid.

On the other hand, skeptics believe that many of the claimed "successes" in human rights conditions are cosmetic in nature and are likely to be transitory. They argue that the stress placed on human rights considerations in our relations with other countries is skewing our foreign policy and damaging the country both economically and politically. Pointing out that two-thirds of the world's nations have authoritarian governments, they see the human rights program as a rather quixotic attempt on the part of the United States to project its own values and to cure all the ills of the world. They claim that other more central U.S. interests are being damaged or jeopardized by undue stress on human rights and that the use of foreign aid programs as an instrument of policy is often self-defeating and counterproductive.

Among Government officials who were interviewed for this study, even those who were personally supportive of the policy, many took a rather cautious position in assessing progress to date. They cited both successes and failures but indicated that progress was being

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made in many countries and argued that U.S. emphasis on human rights had raised the general consciousness of this issue throughout the world. However, they pointed out that progress in these matters cannot be measured reliably in the short term. It would be a matter of years before one could determine with any confidence the extent of improvement in some countries.

Any judgment concerning the impact of U.S. initiatives with respect to a particular country depends on an assessment of the significance of the changes that may have resulted. But how is one to judge progress in these matters? How do the results compare with U.S. objectives in the country? Are these objectives realistic? As one writer pointed out:

Before deciding how to fashion and to execute an effective human rights strategy, one needs to know precisely what one is trying to accomplish. Broad goals of improving respect for human rights around the world and pursuing a foreign policy that reflects the values of the American people are a good beginning but are obviously not enough. More specific objectives are essential * * * and they must be shaped to reasonable expectations.¹

Deputy Secretary of State Warren Christopher has said that U.S. pursuit of the cause of human rights

is not an ideological luxury cruise with no practical port of call. Our idealism and our self-interest coincide. Widening the circle of countries which share our human rights values is at the very core of our security interests. Such nations make strong allies * * *²

Administration officials, trying to define their objectives in more practical terms, have said that their goal is not to remake other societies in our image but to enhance civil rights in existing diverse societies. To this end, the administration has been developing specific tactics and objectives for each aid recipient country and has revised its procedures for preparing the foreign aid budget to include from the outset consideration of human rights factors along with other U.S. goals and objectives.

Many State Department officers readily admit that during the early months of the Carter administration the human rights policy was overplayed and that there were some uncertainties and confusion in its implementation. They acknowledge, for example, that the public support of Soviet dissidents by the United States had an adverse effect on United States-Soviet relations and on the sensitive negotiations on limiting strategic arms programs. As indicated elsewhere in this paper, the lack of clear policy guidelines and, indeed, of information about conditions in aid-recipient countries meant that some U.S. programs—notably those authorized by Public Law 480—were seriously impeded and delayed. According to one writer, the confusion of the early weeks was so bad that on April 12, 1977, Secretary Vance and National Security Adviser Brzezinski warned the President that, to that point, the human rights policy had been generally counter-productive and that it was causing strained relations with a number of countries.³ The

¹ Sirkin, Abraham M. *Elements of a United States Human Rights Strategy*. A paper delivered at Aspen Institute Workshop on "The Internationalization of Human Rights." Aspen, Colorado. August 1977, p. 6.

² Christopher, Warren. *The Diplomacy of Human Rights: The First Year*. Address before the American Bar Association. New Orleans, La. Feb. 13, 1978.

³ Morris, Roger. *Blithering Diplomats*. *Politics Today*. Volume 5. September-October 1978: 36.

caution with which the State Department approached the task is made apparent in an address given by Secretary Vance on April 30, 1977.

In pursuing a human rights policy, we must always keep in mind the limits of our power and of our wisdom. A sure formula for defeat of our goals would be a rigid, hubristic attempt to impose our values on others. A doctrinaire plan of action would be as damaging as indifference.⁴

Of the administration officials interviewed for this project, the great majority maintained that the initial organizational and procedural problems had been largely overcome. They conceded, however, that the advocacy of human rights as a basic tenet of U.S. foreign policy was a very complex matter that carried with it certain inherent difficulties. The experience of the last 2 years had revealed serious problems in attempting to evaluate impact. These problems apply not only to the State Department's task of assessing and modifying its policy implementation, but to the task of writing this impact assessment as well.

THE PROBLEM OF DETERMINING CONSEQUENCE

A significant feature of the administration's policy has been a movement away from the use of direct and explicit pressures on other governments. We found a widespread belief—particularly in the regional bureaus—that it is more effective to let a government know of U.S. human rights concerns indirectly and quietly during a period when significant negotiations are under way. Concessions on human rights will often be forthcoming, they argue, because governments believe that they will improve their bargaining position. The advantages in thus not making a government seem to cave in to American pressures are obvious, but it then becomes difficult indeed to determine to what extent changes are the result of U.S. initiatives and to what extent they would have happened in any case, but are called to the attention of the United States as part of a bargaining strategy.

MEASURING CHANGE IN HUMAN RIGHTS CONDITIONS

A previous CRS study has called attention to some serious inadequacies in the information available to policymakers on human rights conditions.⁵ This applies, as well, to changes in those conditions. A regime may have responded to a U.S. initiative with an order for the release of prisoners or an order that torture of prisoners should not be practiced, but it is often difficult to determine to what extent such orders were actually implemented and enforced. Recent evidence, however, suggests that the Department of State has given a high priority in its field investigations to determining if charges made by other organizations can be verified and to determining whether policy changes are actually being implemented.

⁴ Vance, Cyrus R. Human Rights Policy. Speech at Athens, Ga. Apr. 30, 1977. U.S. Department of State Press Release 194, p. 2.

⁵ U.S. House of Representatives, Committee on International Relations. Human Rights Conditions in Selected Countries and the U.S. Response, 95th Cong., 2d sess. Committee Print, July 25, 1978, pp. 342-348.

ASSESSING THE SIGNIFICANCE OF SPECIFIC GOVERNMENT ACTIONS

The range of behaviors that fall within the definition of protecting human rights is broad indeed, and it is often difficult to assess whether an action is essentially cosmetic or represents a meaningful effort to improve human rights conditions. Releases of political prisoners can be significant or, in conjunction with the arrest of another group, a meaningless public relations gesture. The holding of national elections can represent the strengthening of a competitive political system, or, in the absence of an open political environment with reasonable opportunity for opposition organization, a travesty of the representative process.

ASSESSING LONG-TERM IMPACT OF SPECIFIC ACTIONS

The paths by which nations move toward the comprehensive protection of human rights are still not well understood. It is clear, though, that without adequate social and political institutions, the exercise of individual rights can result in ruinous instability and violence. Thus, in pressing for greater human rights, the U.S. Government is always in some danger of setting in motion forces that may well yield undesirable results. As one former U.S. official wrote, the Government must always remind itself that, "as bad as things may currently be in a particular country, the results of a change forced by outside pressure might turn out to be even worse."⁶

Some critics of the administration's human rights policy have warned that the policy could have serious destabilizing effects in specific regions or countries. In support of this argument, they have cited developments in Nicaragua and Iran, where pressures on authoritarian regimes to liberalize were intensified as a result of human rights criticism. They attribute the breakdown in civil order to these pressures and argue that both cases illustrate the danger that U.S. policy will strengthen regime opponents whose interests are inimical to the United States. Supporters of the human rights policy counter that both cases represent situations in which long-established dictatorships with histories of strong support from U.S. administrations that had paid inadequate attention to human rights considerations. The emergence of powerful anti-American oppositions, and the vulnerability of the regimes to internal revolts, they argue, have their roots in that long history, not in U.S. human rights policy. If that policy had a marginal impact on developments, they suggest, it has been to strengthen the more moderate elements in the opposition and soften feelings of hostility to the United States.

ASSESSING THE IMPACT ON OTHER U.S. OBJECTIVES

Probably the most critical and sensitive aspect of the new policy on human rights is how to apply such a policy without, in some cases, doing damage to other important U.S. interests. How does one weigh the relative effects on these other interests of a proposed course of

⁶ Sirkin, *op. cit.*, p. 7.

action? The administration has been fully aware of this problem, and from time to time Government officials have made public statements containing assurances that aggressive pursuit of the new policy would not be allowed to jeopardize other national interests. However, there are so many ways in which the varying U.S. interests in a particular country can conflict that such problems are sometimes unavoidable.

When human rights considerations conflict with national security interests or with the proposed export of grain and other farm products, these competing interests are for the most part more tangible and of more direct concern to the American people or to an important segment of the population. A recent case in point was a proposed Eximbank loan to underwrite the export to Argentina by Allis-Chalmers of \$270 million in plant and equipment for a hydroelectric project. As noted elsewhere in this study, the loan was originally turned down on human rights grounds but ultimately permitted because of economic considerations. Such a contract means jobs for American workers and exports to bolster an adverse trade balance—not to mention dividends to the company's stockholders. When such tangible interests are at stake, opponents of the loan have a difficult time persuading many Americans that other plausible benefits of better human rights conditions in Argentina and international respect for a morally based foreign policy should take precedence.

Motivation for U.S. human rights initiatives is primarily a matter of principle. Unless American citizens or property are at risk, no tangible short-term benefit is likely to accrue to this country from such initiatives. When they are taken at potential cost to immediate and important considerations, such as continued military base rights, foreign intelligence operations, sales of military equipment, trade and commerce, or the control of nuclear proliferation, the human rights policy is likely to be faulted.

The potential negative consequences do not relate simply to U.S. bilateral relations but have to do also with relations with multilateral institutions. U.S. efforts to advance its policy on human rights through the World Bank and regional IFI's have drawn strong criticism. Though the use of voting power in these institutions may have moderated somewhat, to many the continuing pressure to do so is still a cause for concern, and critics maintain that the IFI's are in danger of being "politicized" by the injection of human rights considerations. The management and staff of the IFI's are said to be worried about the U.S. policy, as are many in the administration. Furthermore, except in a few instances, the United States has not been supported by other participating governments. Thus, it is argued that the United States is damaging its own interests in the area of multilateral assistance programs and damaging the credibility of its human rights policy in international circles.

Supporters of the policy argue that the managers of the IFI's and the other participating governments will learn to live with the human rights policy because it has the strong support of the American people, and without continued U.S. participation the IFI's cannot survive. In addition, they give the administration's human rights policy credit for enabling this country to "take the offensive" in the world on a matter of major consequence to many countries. As one official put it,

"We have regained our role as a model for the rest of the world, and our public stance is more credible because our rhetoric has been accomplished by action." ⁷

ASSESSING IMPACT ON PUBLIC OPINION

One of the most frequently cited benefits of the human rights policy is an improved image of the U.S. Government. It is argued that, both domestically and internationally, that Government has been seen as unduly concerned with diplomatic, economic, and security gains and inadequately sensitive to the moral, legal, and political principles on which the Republic is based. A strong human rights component to our policy, it has been argued, would help to correct that impression.

Dealing with public opinion in the United States presents one set of problems. It varies by region and reflects a range of political, economic, and social factors. It is usually geared to local and national issues of direct concern to the electorate and, as was pointed out above, cannot be counted on to provide solid and continuing support on matters of principle in cases when the principle comes into conflict with other more tangible interests. The lack of solid support in 1977 for President Carter's hard line approach to the U.S.S.R. over treatment of Soviet dissidents is a case in point. When it became apparent that this policy was impinging on relations with the U.S.S.R. in such important areas as the SALT negotiations, editorial comment and that of many Members of Congress and other informed opinionmakers became quite critical, and eventually the administration found it necessary to tone down its public castigation of the Soviet leadership.

The idea that the human rights policy will generate significant public support for the U.S. Government in other lands is also open to question. There may well be merit to the argument that world opinion will rally behind a country that bases its foreign policy on principle rather than on expedience and that the human rights issue has provided an opportunity for this country once more to take a position of leadership. However, the point is made in response that, with more than two-thirds of the countries of the world governed by some form of authoritarian regime, public opinion in such countries is of little consequence. It cannot be counted on to influence the governments, and it is the *governments* with which the United States must deal.

Another uncertainty, however, is the extent to which the Western connotations of morality that surround what we understand by the term human rights are shared by—and conveyed to—foreign populations. There are elites in most societies that understand and value due process and political freedoms, but others are unfamiliar with or reject the value of the liberal political tradition in which these freedoms are rooted.

A further danger is that a human rights policy that is not cautiously managed can have adverse effects on foreign populations. Perceptions that the United States is inappropriately interfering by pressuring a government to modify domestic policy can arouse nationalistic feelings that far outweigh support for human rights concerns.

⁷ Interview with official of U.S. Treasury Department.

From the foregoing pages it is apparent that the application of the human rights policy involves difficult and complex questions at each stage of the policy process and particularly in balancing U.S. efforts on behalf of human rights against other aspects of U.S. relations with the countries concerned.

Under these circumstances, how has the human rights policy impacted on U.S. relations with aid-recipient countries and on U.S. foreign policy generally? The remainder of this chapter consists of a brief assessment of the experience to date.

B. THE EXPERIENCE TO DATE

From numerous interviews with senior officials in State, Treasury, AID, Agriculture and the international banks, it is apparent that, although implementation of the human rights policy has become less controversial than it was in the first 18 months of the Carter administration, it is still a subject on which opinions are sharply divided. Views differ not only between agencies but also between individual offices and bureaus within agencies—particularly within the State Department. The disagreements are not over the human rights policy *per se* but over the extent to which it has been pushed and, in some cases, over the manner of implementation. There are differing views also over the impact of U.S. initiatives and the extent to which perceived improvements in human rights conditions in a given country are due to actions taken by this Government.

For such differences to exist within the Government and even within agencies is not unusual, and it is not necessarily unhealthy. However, in the course of their interviewing on this project, CRS researchers were struck by the intensity of feeling generated by the human rights issue and by the number of responsible people who expressed concern over the impact of the human rights policy within the Government. Consequently, in reviewing the experience to date, we examine the impact not only on relations with the countries concerned but also on the internal processes of government. This section summarizes briefly: (1) Human rights conditions in selected countries and the apparent effects of U.S. initiatives on relations with those countries, with particular reference to the use of foreign aid for leverage, and (2) reactions observed among the policy makers who deal with these issues in the Government agencies concerned.

HUMAN RIGHTS CONDITIONS AND THE EFFECT OF U.S. INITIATIVES

Most of the people interviewed thought that it was too early to come to any conclusions about changes in human rights conditions in aid-recipient countries. They stressed that the human rights policy could not be expected to achieve immediate results. Changes in fundamental political, economic, and social structures required patient and persistent effort over a long period of time. The purpose of U.S. policy was to encourage such changes and to enlist the support of other governments, international agencies, and nongovernment organizations. Nevertheless, there had already been some progress. It was generally acknowledged that the administration's strong advocacy of human rights had sharpened perceptions of this issue throughout many

parts of the world, particularly among governments that had to deal with the United States. Speaking in December 1978, the President's National Security Adviser, Zbigniew Brzezinski, acknowledged the uncertainties and difficulties inherent in measuring such progress but ventured an estimate of his own.

Last year has seen some tangible progress in the human condition. There are different ways of assessing that progress. There are different groups which make estimates but * * * we do have the impression that not because of our efforts, either alone or at all, but because of this increasing relevance of the human rights condition which we have helped to stimulate, there has been progress in a number of countries. It is difficult to measure it but as a rough * * * estimate I would say [that] in at least 40 countries around the world in which 2½ billion people live there has been tangible progress—in some cases more, in some cases less * * * but progress nonetheless.⁸

On the same occasion, Assistant Secretary of State for Human Rights and Humanitarian Affairs Patricia Derian gave a more detailed account of improved conditions in various parts of the world. In Africa, four countries under military regimes—Ghana, Mali, Nigeria and Upper Volta—had promised to hold elections looking toward majority rule. Nigeria had also called for the establishment of an African Human Rights Commission. In Asia, thousands of political prisoners had been released by the governments of Indonesia, Bangladesh, and Pakistan. (She might also have mentioned the Philippines and South Korea.) India had rejected an authoritarian regime and had spoken out for human rights. In Latin America, fair and open elections had been held in the Dominican Republic; military regimes in Ecuador and Peru were moving to restore democracy; the OAS Commission on Human Rights had visited four countries—El Salvador, Haiti, Nicaragua and Panama—and was scheduling other trips.⁹

In the remarks cited above, Ms. Derian spoke of changing conditions in three areas—Africa, Asia, and Latin America. It is, of course, in these areas, particularly Latin America, that U.S. efforts during 1977 and 1978 have been most pronounced. It is also in these areas that CRS researchers who collaborated on this study concentrated most of their attention. As explained in the introduction, separate country reports were written on 15 aid-recipient countries: Six in Africa, five in Latin America, and four in East Asia (see appendix C). The countries selected were deemed to exemplify severe or moderately severe levels of human rights violations which had been the subject of at least some initiatives on the part of the United States. The nature and extent of any changes, for better or for worse, that occurred in these countries were examined, as was the impact of the Administration's use of foreign aid and whatever other measures were employed. The findings, as set forth in the appended reports, represent a necessarily brief and somewhat simplified picture of the situation in each country based on the information available to CRS at the time.

⁸ Brzezinski, Dr. Zbigniew. Assistant to the President for National Security Affairs. Briefing at meeting on 30th anniversary of Universal Declaration of Human Rights. White House Press Release. Dec. 6, 1978, p. 9.

⁹ Derian, Patricia. White House Press Release, Dec. 6, 1978, p. 12.

Although the country reports show an overall trend toward relative improvement in human rights conditions, the changes were often marginal. In many instances the improvements were tenuous and were offset at least in part by other questionable or adverse developments. In nearly all cases, one could not be sure that the positive movement would continue or that the gains would not be reversed.

The emphasis placed on human rights by the Congress in recent years and by the Carter administration since January 1977 had an impact on the governments of most of these countries. However, in only a few did recent improvements in human rights seem directly related to specific foreign aid initiatives on the part of the United States. In Africa, for example, conditions were at least marginally better in five of the six countries studied: The Central African Empire, Ghana, Guinea, Somalia, and Tanzania. In Ethiopia, there was no significant improvement. But according to the statements of persons interviewed, the United States had made little or no attempt to relate U.S. aid to human rights conditions in Guinea, Somalia, or Tanzania. In Ghana, liberalization of the political process may well have been related to pressures exerted by the United States and the United Kingdom on both the Acheampong Government and on the new military regime that came to power in July 1978. On the other hand, in the case of Ethiopia, the suspension of military aid by the Carter administration in early 1977 on human rights grounds was generally acknowledged to have been counterproductive—infuriating the Ethiopian leadership and contributing to a further acerbation of relations that were already deteriorating for a variety of reasons.

In East Asia, conditions were judged to have improved in all four countries studied: Indonesia, South Korea, the Philippines, and the Republic of China (Taiwan). Perhaps one of the most dramatic developments was the release of thousands of political prisoners in Indonesia. The United States had made no real attempt to obtain leverage from its bilateral aid programs in Korea or Taiwan because national security considerations were considered to take precedence. The administration did abstain from voting on two small loans to Korea by the Asian Development Bank, and the Public Law 480 program had become the center of considerable controversy within the councils of government, but considering the size and scope of U.S. aid programs for Korea from fiscal years 1975-77—totaling over \$250 million in economic aid and over \$620 million in military assistance—these actions would not appear to constitute pressure tactics. With respect to Taiwan, issues relating to the normalization of U.S. relations with the People's Republic of China and their impact on Taiwan had taken precedence over human rights, and no attempt had been made to use foreign aid as a means of showing disapproval of Taiwan's performance in the area of human rights. This policy was made easier when most observers judged that Taipei's record on human rights was improving somewhat in recent years.

The United States has been particularly critical of the human rights record of the Marcos regime in the Philippines, perhaps because of the long and close relationship between the two countries and of the democratic institutions and traditions that the United States had tried to establish in this former colony. Nevertheless, from fiscal year 1975 to 1977, U.S. military and economic aid continued to be provided at annual levels in excess of \$100 million. The administration generally

found other means of exerting its influence, and under pressure from the United States and others, Marcos had made improvements in the last 2 years on a fairly wide front. At the same time, however, he was said to believe that U.S. policy on human rights was largely political rhetoric. In his view, and that of other Philippine officials, the United States did not fully appreciate the seriousness of the threat to internal security in his country. Asian experts in the State Department argued that U.S. pressure on the Philippine Government had damaged relations between the two countries and complicated negotiations over important U.S. military base rights in the Philippines.

In Latin America the record of the last 2 years was encouraging in four out of five countries sampled. Although conditions were still far from satisfactory, there were signs of progress. Honduras, selected as a country where human rights violations were prevalent but only to a moderate degree, was found to be regarded by U.S. officials as no real problem compared to many other countries of the region. In Chile and Haiti, despite continuing abuses, conditions had been improving in some respects, and in Bolivia, there had been fairly steady improvement over a period of 3 years, despite the election fiasco in 1978. On the other hand, in Nicaragua, the situation, which had been serious for years, was now critical, with a group of OAS intermediaries, including a U.S. diplomat, seeking to arrange a compromise settlement between the Somoza government, and dissident elements.

The improvements in these Latin American countries had resulted from a variety of factors, but United States use of foreign aid for leverage does not appear to have been prominent among them. In both Bolivia and Chile the use of aid in the cause of human rights came late in the game—after conditions were already considerably improved. In the case of Chile, knowledgeable U.S. officials believe that Washington's vigorous investigation of the assassination of former Ambassador Orlando Letelier may have been the most effective measure employed.

While Haiti was still under an authoritarian regime, and abuses of civil rights continued, an element of moderation had become apparent. Here, too, the U.S. concern for human rights had had some impact but mainly through diplomatic representations and an official visit by Ambassador Andrew Young in 1977 rather than through the reduction or denial of United States or multilateral aid.

Elsewhere in Latin America, however, an attempt in the early days of the Carter administration to reduce or terminate military assistance programs on human rights grounds had led to bitter denunciations of the United States and strong retaliatory action. Relations with four countries—Argentina, Brazil, El Salvador, and Guatemala—had suddenly been chilled, and, though other factors may have been involved in some of the decisions, all four had canceled their requests for security assistance from the United States. The cutoff of arms sales to Argentina dramatically illustrated the contentiousness of the policy. Opponents argued that its only significant effects were to alienate a friendly government and lose important foreign military sales for U.S. industry—one estimate was over \$800 million.¹⁰ Supporters maintained that U.S. military sales to a regime that was associated with the murder, disappearance, or torture of thousands of its citizens

¹⁰ Testimony of Joseph E. Karth before the House International Relations Subcommittee on Inter-American Affairs, July 19, 1978, p. 11.

was unconscionable and that disassociation of the United States from such actions would strengthen U.S. standing in Latin America and might lead to some moderation of the Argentine regime's practices.

Thus, the record on direct and explicit use of foreign assistance as leverage to bring about improvements in human rights conditions is hardly encouraging. In only five or six cases among those we looked at does there seem to be evidence that actual or threatened reductions in aid figured marginally in bringing about changes. The negative consequences are, if anything, clearer. Attempts to use leverage in Chile, Argentina, and Ethiopia have contributed to the worsening of bilateral relations. That does not mean, however, that such leverage is necessarily unproductive or that U.S. policy has not had a significant effect on human rights conditions in a number of countries. What is striking about the interviews with executive branch officials is the sense that the human rights policy is being taken seriously in many countries, but that direct pressure often provokes counter-reactions. What is unclear is the extent to which the occasional use of leverage is important in demonstrating the seriousness of U.S. purpose.

One of the most interesting cases is Guinea. As the government of Sekou Toure began to reassess its basic foreign policy in a quest for Arab and Western capital and for Western technical expertise, it took actions to improve its domestic human rights situation. The return of refugees was permitted and some political prisoners were released. In the views of several officials with whom we spoke, these actions were influenced by the calculation that Arab financial support would depend on stronger support from the West, and that an improvement in human rights conditions would be one means of assuring that support. A message had been sent informally from the State Department through a close associate of Toure that the United States viewed the status of refugees and prisoners with concern. The United States had also turned down a Guinean request for patrol boats on human rights grounds, so Toure knew that changes in human rights conditions might well have an impact on the quality of his relations with the United States.

Tanzania illustrates a somewhat different pattern. President Nyerere is generally viewed as an effective African leader who is important to U.S. interests in managing conflict in southern Africa. Thus, though significant numbers of political prisoners have been held in the country, the United States has not emphasized this problem. Sensitive to international criticism that arose in large part from reports issued by Amnesty International, Nyerere released, during the first part of 1978, as many as 7,000 detainees. That U.S. policy was at least one consideration in his actions is suggested by the fact that Nyerere is reported to have expressed disappointment to U.S. officials that neither Congress nor the American press had taken notice of what he felt was a very significant improvement in human rights conditions.

A third example of impact related to, but not directly a result of, U.S. foreign assistance pressures was the decision of the Dominican Republic Government to allow to stand election results that appeared—and indeed turned out to be—unfavorable to the party in power. There is good reason to believe that the electoral process would have been aborted without strong diplomatic intervention on behalf

of the United States. Though it is not clear that future foreign assistance levels were even discussed in conversations that U.S. officials had with Dominican leaders, it may well be that an awareness of past U.S. practice in limiting foreign assistance on human rights grounds was one consideration in the decision of those leaders to let the results of the election stand.

In Indonesia, quiet U.S. diplomacy seems to have been a significant factor in the Government's decision to speed its previously announced release of approximately 10,000 prisoners. During the same period negotiations were proceeding on completing arrangements for the transfer of a squadron of A-4 aircraft to Indonesia. The two issues were not linked, but it is again plausible that the importance of U.S. assistance may have indirectly strengthened the effect of diplomatic discussions with respect to human rights.

Korea provides a further example of the subtle relationship between foreign assistance leverage and human rights changes. The United States abstained from support of multilateral projects for Korea on several occasions and delayed in making Public Law 480 commitments to Korea in 1977. The Public Law 480 commitments were subsequently made, but after a number of political prisoners had been released by the Korean Government. U.S. Embassy and regional bureau officials in the State Department generally contend that the multilateral votes may well have been marginally counterproductive and that quiet diplomatic representations with the governments are the major factor in any improvements in human rights conditions. Again, it is difficult to determine to what extent, if at all, the credibility of a threat of failure to approve foreign assistance measures acted as unseen, unspoken leverage backing up the diplomatic entreaties.

Even in some of the countries that are most sensitive to American intervention in domestic matters through human rights pressures, some officials saw an indirect impact. Though angry rejection of what is seen as the United States acting in a tutorial role is the dominant feeling in Brazil, according to one interviewee, the concern with a tarnished image which has resulted from public awareness of human rights attention puts pressures on the government for some softening of its policies. Similarly, in Argentina, one official noted, the Government fears that the human rights conflict with the United States will have an adverse effect on capital markets. The implication, again, is that, though U.S. foreign aid leverage did not produce positive results directly, it may make some contribution to the aggregate of pressures that lead to subsequent improvements in human rights conditions.

The relationship between leverage, quiet diplomacy, and impact, then, is a central issue in the implementation of human rights policy. The major disagreements within the Department of State are not over objectives, but over the issue of tactics. Frequently that means a choice between leverage and quiet diplomacy. It seems clear that, in the individual case, the latter seems to be more effective in producing short-term results. What is in dispute is whether the cases in which leverage was exerted were, for the most part, policy failures or were examples that have strengthened the effect of the diplomat's more subtle skills.

EFFECTS WITHIN THE EXECUTIVE BRANCH

The implementation of the human rights policy by the Carter administration has been criticized by insiders primarily on two counts: (a) that the stress on human rights, taken together with the case-by-case approach followed by the Christopher Group, led to confusion, bickering and ad hoc policymaking within the foreign affairs agencies of government, and (b) that this policy was given undue prominence to the detriment of other important U.S. interests (or expressed more personally, that its advocates were permitted to "take over" much of the authority for managing U.S. foreign policy).

In discussions of bureaucratic conflict, the point was made repeatedly by State Department officials that the human rights policy suffered during the first 2 years of the Carter administration from the State Department's failure to devise a systematic approach to the problem. The Christopher Group was accused of taking a "dart board" approach to the problem, requiring no real analysis of human rights problems in a particular country, but relying instead upon a case-by-case review of proposed aid projects for that country. In each case, critics claimed, attention centered on the aid package and the leverage to be derived therefrom rather than on the broader problem of a U.S. policy for dealing with that particular country. As a consequence of this approach, even the most minor aid proposals became controversial and frequently could be resolved only at the level of the Deputy Secretary or the Secretary of State. What was needed, one senior official argued, was for the United States to develop policy recommendations pertaining to human rights conditions in those countries where some prospect for improvement seemed possible. Such an approach could presumably be worked into the Executive's annual budget exercise, and this is the direction in which the administration has been moving in recent months.

Much more important is the criticism about priorities and the management of U.S. foreign policy. Several high level officials deplored the administration's heavy emphasis on human rights and the tactics of the most ardent advocates of that policy, not because of any fundamental disagreement over human rights but because they were disturbed by the single-minded pursuit of human rights objectives to the virtual exclusion of all other considerations. This had led to factionalism and many bitter debates within the councils of Government, especially during the first year of the Carter administration. Such divisiveness was most apparent in the Department of State, with the Human Rights Bureau, the Office of Congressional Relations and the Legal Adviser's Office generally joining forces against the regional bureau concerned and such functional bureaus as Politico-Military Affairs and Economic and Business Affairs. According to one source, relations between the Bureau of Human Rights and Humanitarian Affairs and the Bureau of East Asian and Pacific Affairs during 1977 had been little better than chaotic. In 1978 the situation was "improved but with many rough edges remaining." Apparently there had also been tension between the Human Rights Bureau and that for Inter-American Affairs. Desk officers in particular and the regional people generally argued that the human rights advocates were damaging their own cause and U.S. interests by what they saw as heavy-handed tactics against foreign governments.

The damage to other U.S. programs was cited by an official in the Bureau of Economic and Business Affairs, who was disturbed by the impact of U.S. sanctions on foreign trade. The adverse effects were of three types: (a) the psychological effect on American businessmen of denying goods to certain countries was such that they became discouraged and tended to lose interest in export markets; (b) the bureaucratic effect—that is, the paperwork, and so forth, involved in exporting—was exacerbated when human rights considerations were added to the other Government controls already existing; (c) foreign purchasers were beginning to question the reliability of the United States as a trading partner. If U.S. policy was as volatile as it now appeared, could they count on this country as a steady and reliable source of supply? Could they obtain replacement parts and follow-on models a few years hence, or would they be shut off from this market because of another sudden change in U.S. commercial policy? In this connection, the human rights policy was only one of at least a dozen current policies that conflicted with the drive to increase U.S. exports. Each of these, taken alone, seemed small, but the overall impact on American business was a significant one.¹¹

Government officials involved in the food-for-peace program were among those distressed by the initial impact of the human rights policy and by the manner of implementation. Basically, they questioned whether Public Law 480 should be used as an instrumentality for such a policy. The food program was intended to facilitate disposal of surplus U.S. agricultural products and, at the same time, to provide food and budget support to needy countries. To the extent that the United States delayed or reduced deliveries of agricultural goods, it ran the risk of losing the market to other exporting countries that put no special conditions on their sales or loans. The infighting within the State Department was remarked upon by these officials. Speaking of the role and influence of the Bureau of Human Rights and Humanitarian Affairs, one of them said, "If they came on rather strong, it was because they had to." Another spoke of their "riding roughshod" over representatives of other agencies and their State Department colleagues as well.¹²

Still another aspect of the human rights program that led to internal disagreement was its application to the security assistance program. The United States has sought to dissociate itself from repression by denying exports of arms, munitions, and military or police equipment to countries where human rights were known to be violated or where the record was questionable. In practice, however, this led to bitter wrangling over requests for certain types of equipment that fell in the gray areas. For example, sales of a traffic control system and radio equipment for police and of a computer for registering vehicles were held up or denied on human rights grounds, according to a State Department source. To some, such actions reflected an excessive and unrealistic effort to avoid association with repressive military and police forces.

¹¹ Interview with State Department official.

¹² Interviews with officials of the Agency for International Development and the Department of Agriculture.

C. CONCLUSION

While emphasizing the high levels of conflict generated by the human rights policy during the first 18 months of the Carter administration, most officials seemed to feel that by the end of 1978, some understanding and compromise had been achieved and the decisionmaking process was less contentious and less time-consuming. A longer time perspective will be required before a firm judgment can be rendered on the effectiveness of the internal management of the human rights policy. What does seem clear now, however, is that the management strategy pursued by the State Department leadership—with the Christopher Group acting in a quasi-judicial role in resolving conflicts between opposing advocates on a case-by-case basis—produced a very lively and sometimes hostile set of debates that have been useful in airing some central issues in human rights policy. However, the costs in terms not only of confusion and disillusionment, but of sheer time and energy expended have been high.

One must, at the same time, consider the alternatives. The early development of detailed and explicit principles to guide human rights decisionmaking would have been an extremely difficult and time-consuming task. Since it would have had to be done on the basis of little actual experience in the strategies and effects of human rights initiatives, significant flaws would likely have become apparent over time. Further, because the skepticism within the State Department with respect to the practicability of a forceful human rights policy was so great, efforts to devise a comprehensive policy might well have produced a far weaker set of human rights initiatives. Thus if the first years of negotiations over specific decisions does yield something approaching a strong and workable human rights policy, that may in retrospect be viewed as a significant achievement. It is still too early to determine, however, whether that policy is firmly established and whether its long-term impact will primarily reflect continuing human rights gains or patterns of instability that threaten U.S. interests.

Two problems with respect to the impact of human rights initiatives are still of particular concern. First is the inadequacy of positive measures to strengthen and reinforce human rights progress. Offering rewards for good behavior rather than punishment for misconduct provides a way to maintain satisfactory bilateral relations. This, too, was recognized by the administration from the start, but punitive measures were more readily available, became more pronounced and attracted more attention. Working level officials on several occasions voiced frustrations that the procedures for generating an increase in foreign assistance were often too slow and cumbersome to be useful in rewarding human rights advances.

Second is the tension created when foreign assistance programs are used as sources of leverage in long-term human rights goals. Decisions on U.S. aid programs, for example, must be made on a rigid schedule geared to the Federal budget process and to the congressional cycle of authorizations and appropriations. Given the lack of flexibility in these procedures, policy decisions on aid projects may have to be made on the basis of whatever evidence is at hand at the moment—that may later prove to have been misleading or transitory. The present process of grinding out annual aid programs runs up against the hard fact that

long-term trends cannot be reliably ascertained in the short run. Furthermore, with political and economic conditions subject to sudden and unpredictable changes in many parts of the world, foreign aid from the United States and other industrialized countries and from the U.N. and other international agencies has played an important role in coping with natural disasters and in maintaining a relatively stable world order. These considerations are cited by scholars and bureaucrats who are concerned about the way in which human rights criteria have been added to the foreign aid policymaking process in this country.

On the other hand, advocates of the human rights policy have their own imperatives, including the need to observe, acknowledge and reward progress in human rights conditions and the need to apply steady pressure when conditions are not improving or are deteriorating. Conflicts in timing and in goals are thus endemic when foreign assistance programs and funding levels are manipulated to influence human rights policies and practices. Aid processes are too inflexible to be optimal instruments of human rights policy, and human rights imperatives can disrupt the continuity of development processes. To some extent, mechanisms for reconciling these tensions may be evolved; much of the tension, however, seems to be inherent in the use of aid for human rights ends.

CHAPTER VI

THE DYNAMICS OF CONGRESSIONAL/EXECUTIVE INTERACTION*

A. CONGRESSIONAL ORIGINS OF HUMAN RIGHTS INITIATIVES

Human rights have become a significant factor in the determination of U.S. foreign policy only since 1973 when Congress mandated their consideration as a result of its legislative and oversight roles.¹ Much of the early congressional involvement in human rights matters was tied to the legislative leverage of Congress over such administration programs as bilateral and multilateral economic assistance, Public Law 480 food aid, and security assistance.² Moreover, these initiatives originated during the last days of the Nixon administration, coinciding with a period of growing popular disenchantment with an activist U.S. role abroad. Congressional power over economic and military assistance budgets and programs was one of the few areas in which the legislative branch could demonstrate its opposition to administration policies. As Kenneth Waltz has noted—

The aid program is the one item on the legislative agenda where questions of money, administration, and the content of policy come together in a way that permits Congress to get at them.³

In addition, in the recent past, Congress has attempted to set “new directions” for foreign assistance, emphasizing aid that actually gets to the neediest people and “appropriate technology,” and providing for the phasing out of security assistance grants. Thus, congressional initiatives in the human rights field should be considered in this larger context, as well as individually.

Although human rights considerations have become a much publicized aspect of executive branch foreign policymaking during the Carter administration, it was Congress that provided the original impetus under Presidents Nixon and Ford. The foreign policy of Henry Kissinger seemed to treat human rights as an internal matter for foreign governments, and one in which the United States had no business meddling:

Certainly we cannot—and we do not—ignore domestic practices of countries receiving security assistance which deny those human rights that civilized states commonly agree are

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¹ See chapter II for a more detailed discussion of the evolution of human rights legislation.

² These remain the major areas of congressional human rights interest.

³ Waltz, Kenneth N. *Foreign Policy and Democratic Politics*. Boston, Little, Brown, 1967, p. 197.

inalienable. * * * We make our views—and those of Congress—known to the governments concerned. We are convinced, however, that withdrawal of security assistance is an extreme measure that harms other objectives while holding little promise for effecting desirable changes. Indeed, experience has shown that our influence with other nations depreciates as we cut the bonds that hold us together.⁴

This statement refers specifically to security assistance, the area in which human rights sanctions were first mandated, but it can be assumed that it expressed Secretary Kissinger's views on economic assistance, as well.

Kissinger held that U.S. influence over other countries was greatest when military and economic ties remained close. As a result, during the Nixon and Ford years, although the State Department expressed private disapproval of human rights violations to certain governments, and apparently considered such violations in making aid decisions, it never altered any aid decisions because of such violations.⁵

CONGRESSIONAL INSTRUMENTS AND THEIR ANTECEDENTS

Neither recent Congresses nor the Carter administration "discovered" human rights. There has been a strong moralistic tone to U.S. domestic and foreign policy since the early days of the Republic. The Declaration of Independence's emphasis on unalienable rights was echoed in many similar documents through the centuries as other peoples threw off the yoke of despotism and attempted—not always successfully—to adopt democratic forms of government. Several Congresses and U.S. Presidents have defended various policy decisions on the basis of high moral ideals, frequently including a respect for the social, economic, and political rights of foreign peoples. U.S. participation in both world wars was justified in human rights terms.

The Vietnam war, originally explained and supported as an effort to help a small "democratic" foreign ally resist the imposition of a despotic form of government by another outside force, was ultimately opposed by many Members of Congress and much of the American public partially because of the human rights excesses of the South Vietnamese regime against some of its internal critics and also because the U.S. effort there seemed to many an instance of "American moralism run amok."⁶

As described earlier in this study, the current emphasis on human rights in foreign policy that began with the enactment in 1973 of the Foreign Assistance Act (Public Law 93-189), as well as the enunciation of President Carter's human rights goals in 1977, can thus be seen as the latest development in an historic pattern, rather than a modern anomaly. The first congressional human rights initiative, like many that were to follow, was seen by many human rights advocates in Congress as the most promising means of affecting administration policies. It took the form of a sense-of-Congress provision in the 1973

⁴ U.S. Congress, Senate. Committee on Foreign Relations, Subcommittee on Foreign Assistance. International Security Assistance. Hearings held Mar. 26 and Apr. 5 and 8, 1976, 94th Congress, 2d session, Washington, U.S. Government Printing Office, 1976, p. 8.

⁵ Balmer, Thomas A. The Use of Conditions in Foreign Relations Legislation. *Denver Journal of International Law and Policy*, v. 7, spring 1978: 212-213.

⁶ Vogelgesang, Sandra. What Price Principle? U.S. Policy on Human Rights. *Foreign Affairs*, v. 56, July 1978: 820.

Foreign Assistance Act stating 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."⁷ Although this provision applied to all assistance, it was apparently framed with such countries as South Vietnam and Chile in mind.⁸ In the case of South Vietnam, this expression of concern for human rights was related to congressional strategies aimed at changing U.S. foreign policy, as well as expressing specific disapproval of the administration's Vietnam policy.

As congressional human rights advocates developed more of a following, human rights provisions became both more specific and more binding. While the Foreign Assistance Act of 1974 (Public Law 93-539) only *urged* the President to reduce or terminate security assistance to consistent human rights violators, the International Development and Food Assistance Act of 1975 (Public Law 94-161)—the first such measure to separate development assistance from military aid—specifically *prohibited* development assistance, but not disaster relief or food, to such violators unless the aid would directly benefit the people of such a country. This human rights provision, however, did not single out any particular country and empowered Congress to require the administration to prove that U.S. assistance to alleged human rights violators was benefiting the needy. If unsatisfied with such proof, the foreign affairs committee in either House could initiate action to terminate the aid.

The work of one subcommittee of the House International Relations Committee, International Organizations, has played a particularly important role in crystallizing congressional thinking on human rights and goading successive administrations into action on this front. The hearings held by this subcommittee in 1973 were the first in the decade to focus on the international human rights situation. They concentrated on both the role of the United Nations in protecting human rights and the possibility of a higher U.S. foreign policy priority for human rights factors.

Their first concrete result was a report in spring 1974, "Human Rights in the World Community: A Call for U.S. Leadership,"⁹ including 29 specific recommendations. Many of the organizational changes proposed in the report were adopted later in the year. These included the designation of human rights officers in all State Department regional bureaus. In mid-1975 a departmental Office of Humanitarian Affairs was created, as well as a new position of Assistant Legal Adviser for Humanitarian Affairs. Later the same year, the administration responded to another of the subcommittee recommendations and began to voice stronger concern for human rights violations through the U.S. Representative in the United Nations. The Representative also announced U.S. support for U.N. Human Rights Commission inquiries in nations regarded as friends as well as adversaries.

The Subcommittee on International Organizations continued to emphasize human rights concerns through a series of hearings on conditions in over a score of countries throughout the world. These

⁷ Foreign Assistance Act of 1973 (Public Law 93-189), Sec. 32, 87 Stat. 733.

⁸ U.S. Congress, Senate, Committee on Foreign Relations, *Foreign Economic Assistance, 1973*. Hearings held June 26 and 27, 1973. 93d Congress, 1st session, Washington, U.S. Government Printing Office, 1973: 244-251.

⁹ U.S. Congress, House, Committee on International Relations, Subcommittee on International Organizations and Movements, *Human Rights in the World Community: A Call for World Leadership*. Report. Washington: U.S. Government Printing Office, 1974, 54 p. (93d Congress, 1st session, committee print).

hearings continued from the time they were first scheduled on the Chile situation in 1974 through the end of the 95th Congress.

By 1976 human rights prohibitions were included in the first of the separate military aid authorizations, the Security Assistance and Arms Export Control Act (Public Law 94-239). This measure also established a new office of Coordinator for Human Rights and Humanitarian Affairs in the State Department and required the Department to submit an annual report on human rights practices in each country proposed by the administration as a military aid recipient. The authorization of such an office created an opportunity for the new Carter administration to establish a nucleus of human rights activists with a predominantly domestic political background within a bureaucratic structure dominated by more cautious and traditional career Foreign Service Officers (FSO's).

The following year saw a number of additional human rights directives in the foreign assistance area enacted into law. As discussed above in greater detail, these included prohibitions on Public Law 480 food assistance to consistent human rights violators, and the requirement that U.S. directors of International Financial Institutions (IFI's) oppose loans to such violators. In both cases, such programs could be permitted if they benefited the needy, or fulfilled basic human needs, respectively.

There were subsequent efforts during the second (1978) session of the 95th Congress to add further human rights requirements governing the operation of the administration's foreign assistance programs. In the area of basic legislation, they include substituting stronger language in section 502B of the Foreign Assistance Act creating a *legal requirement*, as opposed to a *statement of policy* (as in the previous legislation), that security assistance be denied human rights violators unless it is in the U.S. national interest. Several other more program- or country-specific items have already been discussed in chapter II covering the development of human rights legislation.

VARYING CONGRESSIONAL RATIONALES AND OBJECTIVES

In looking for rationales behind the various congressional human rights requirements which began to be imposed on administration economic and military assistance programs in 1973, one finds an apparent diversity of opinion. There is divergence within and between House and Senate, liberal and conservative, Democratic and Republican parties, states and regions, and other categories—many of which intersect—as well.

Since the recent growth of human rights sentiment in Congress, both liberals and conservatives have been pressuring the administration to apply more stringent sanctions against various foreign human rights violators. The ideological views of the critics, however, predispose them to urge sanctions against widely varying alleged violators. Among the best examples are the efforts of some conservatives in both parties to in some way punish the Soviet Union for its failure to comply with the human rights standards agreed to by all signatories of the 1975 Helsinki Accords, or to postpone SALT II negotiations for similar reasons.

For example, a tradition-breaking coalition was formed in 1977 to require that U.S. directors of International Financial Institutions (IFI's) vote against loans to human rights violators. It was comprised

of not only human rights activists, but also doctrinaire foreign aid opponents, members suspicious of and desirous of testing the President's human rights rhetoric, and others representing bluecollar districts concerned with threats of foreign imports, production of which might be financed by some of these same IFI loans.

Similarly, conservatives in the House have tried to bar U.S. contributions to International Financial Institutions from being used for assistance to Vietnam, Cuba, Cambodia, or other Marxist Third World regimes with which we do not have relations. In the same way, some liberals have been pressing for sanctions against countries such as South Korea, the Philippines, or Chile for their treatment of dissidents. There have also been moves by liberals to prohibit Export-Import Bank loans to South Africa on human rights grounds and to impose human rights sanctions across the board against violators who would benefit from Eximbank loans or other financial support. The 1978 5-year extension of the Eximbank legislation included both a prohibition of South African loans and a more general human rights provision. The latter, however, appears to lack the "bite" of the omnibus human rights section of the previous legislation.

During 1978, human rights advocates in Congress introduced several measures intended to impose sanctions on foreign violators. These included a resolution urging the President to embargo all U.S. trade with Uganda, a move to cut military aid to the Philippines by \$5 million, the provision to eliminate all Eximbank loans to South Africa until the President determined progress was being made toward majority rule there, and an amendment to bar all Eximbank loans to nations that violated human rights.

The sense of Congress resolution on Uganda was intended to halt that country's sale of nearly one-third of its annual coffee crop to U.S. coffee processors. In that case, the House Congressional Black Caucus worked with members favoring the principle of free trade in objecting to a move that would single out a black-ruled African state while ignoring other accused human rights violators such as white minority-ruled South Africa. Conservatives suggested that Communist States like Cuba and the People's Republic of China also be condemned. While the House resolution only *urged* the President to ban Uganda trade, the Senate approved a flat trade embargo against the Idi Amin regime.

Although it was originally proposed in the House to cut the full \$5 million proposed for military assistance to the Philippines for fiscal year 1979, International Relations Committee Chairman Clement J. Zablocki (D-Wisc.) and others opposed the move. They argued that U.S. national security interests would be endangered if the cut were approved, citing the importance of U.S. military bases there. Ultimately, a compromise cut of \$2.5 million was voted, in recognition of the strategic importance of the U.S. bases, but also in order to send President Marcos "a message."

Similarly, a provision sponsored by Representative Paul E. Tsongas (D-Mass.) that would have ended all Eximbank loans to South Africa was subsequently softened because of opposition by a majority of House members; a similar amendment had been defeated in the Senate Banking Committee. There was overwhelming sentiment in both Chambers that such a proposal could have the effect of harming U.S. exports and depriving South African blacks by denying them job opportunities.

When Representative Tom Harkin (D-Iowa), one of the principal human rights advocates in the House, proposed the requirement that the Eximbank be barred from advancing loans to human rights violators, the House refused to go along with him. Opponents of this measure advanced arguments similar to those put forward on the Tsongas Eximbank amendment—it would reduce U.S. exports. They also feared it would cost American jobs, and saw such an outcome as diametrically conflicting with the original rationale for the Eximbank, assisting the U.S. economy. As noted above in the section on the Eximbank, this legislation was ultimately dropped in anticipation of a threatened Presidential veto, and less stringent Eximbank provisions tacked on to an unrelated bill during the last hours of the 95th Congress.

NEW OPPORTUNITIES FOR CONGRESSIONAL PARTICIPATION IN FOREIGN POLICYMAKING

One of the unpredictable results of the surge of congressional interest in human rights has been the growth of opportunities for relatively junior members, frequently without committee assignments in the foreign affairs policy oversight or appropriations areas, to have a significant impact on the making of foreign policy. In addition, many sanctions have been imposed on specific countries through the appropriations process, rather than the more common authorization route. Examples abound and some have already have been mentioned in other contexts.

In 1976, for example, the Foreign Aid Appropriations Act (Public Law 94-441) directed that no funds be used for military aid to Uruguay. Similarly, in 1977, the Foreign Assistance Appropriations Act (Public Law 95-148) barred the following types of aid to the countries indicated on human rights grounds:

Direct U.S. aid—Uganda, Vietnam, Cambodia, Laos, Cuba, Angola, and Mozambique.

Military aid and credit sales—Ethiopia and Uruguay.

Military credit sales—Argentina, Brazil, El Salvador, and Guatemala.

Limited military aid—the Philippines.

In addition, the act also expressed the sense of Congress that U.S. representatives to International Financial Institutions (IFI's) oppose loans to human rights violators, except when the aid was intended to go directly to the impoverished majority of the country.

In many cases, such sanctions have been introduced on the floor of either Chamber by Members who do not belong to either of the foreign relations committees and who have not had a history of involvement in foreign affairs. One of the best examples of this phenomenon is the way in which Representative Tom Harkin (D-Iowa), a Member of Congress since only 1975, has had a major impact on U.S. foreign policy. He has developed an almost standard Harkin amendment, one of which resulted in the 1977 IFI instruction referred to above and another, in 1975, which became section 116 of the Foreign Assistance Act, prohibiting aid to human rights violators unless such assistance will benefit the needy people in such country. Both the administration and the Eximbank lobbied vigorously—and successfully—this year against Harkin-type language being applied to Bank operations.

Developments such as these would seem to indicate some shift of opinion within Congress away from the kind of support for human rights sanctions that was seen in recent years. During the 1978 session, for example, there were moves to expand human rights restrictions on international business transactions and to set broader limits on all U.S. export licenses and codes of conduct for U.S.-based multinational corporations. These efforts resulted from the tendency of some Members of Congress to view trade and aid as part of a continuum of tools to affect human rights performance by foreign governments.

The resistance of the administration to such moves—witness its successful campaign for less stringent human rights requirements in the extension of the Export-Import Bank and the reversal in September of its July decision to deny Eximbank credits for projects in Argentina—may reflect similar sentiment among Members of Congress, as well. The shaky state of the domestic and international economy appears to have influenced many members to have a second look at the broader implications of U.S. efforts to use economic power and the human rights rationale to try to affect what some consider the internal affairs of another sovereign state. In the final analysis, it is likely that domestic economic considerations, especially the fear of loss of American business and jobs, had a powerful impact on the congressional mood in an election year.

Moreover, the argument has been made by both independents and foes of human rights activism that U.S. pressures on international violators may have had the opposite effect of what was intended. They point to recent developments in Nicaragua and Iran as evidence of the destabilizing role that U.S. human rights policy may have played in allegedly encouraging dissidents to challenge the regime and create domestic chaos.

B. THE ROLE OF THE EXECUTIVE

RESTRAINTS—VOLUNTARY AND OTHERWISE

It could be argued that, to date, all sanctions applied against human rights violators have resulted from congressional initiatives. Moreover, despite the human rights policy originally enunciated by President Carter and senior members of his administration, the executive branch has generally been cautious in applying sanctions against all but the most egregious violators. It could, on the other hand, also be argued that congressional mandates for action against human rights violators are so broad that they already cover most conceivable situations. Following this line of argument, it could be said that the executive branch still deserves credit for the steps it has taken to either publicly or privately apply pressure to human rights violators to change their policy.

Yet, it has recently been argued by Roger Morris¹⁰ and others¹¹ that since its early months the Carter administration has been less active than it should have been in moving against blatant human rights violators among major allies and adversaries. These would include such countries as Iran, the Philippines, and South Korea in

¹⁰ Morris, Roger, *Blithering Diplomats*. *Politics Today*, v. 5, September–October 1978: 36.

¹¹ E.g., DeYoung, Karen and Charles A. Krause, *Our Mixed Signals on Human Rights in Argentina*. *Washington Post*, Oct. 29, 1978: C1.

the first category, and the Soviet Union and the People's Republic of China¹² in the second. Of course, there is also a third category—countries such as Cambodia and North Korea that consistently violate the basic human rights of their citizens, but with which we have almost no relations or contact of any kind, and hence, no leverage or opportunity to apply sanctions.

Though his account is vigorously challenged by senior Department officials, Morris argues that this change in policy has resulted in large part from an official directive issued verbally by Secretary of State Cyrus Vance to senior Department officials on April 30, 1977. This meeting allegedly followed a major human rights speech the same day in Athens, Ga., in which the Secretary condemned "any rigid, hubristic attempt to impose our will on others."¹³ In the Morris account, Vance is said to have told officials:

that further human rights complaints will be confined to "the expendables," a brief list of countries like South Africa and small Latin or African states not important to the national security. Vance also orders that either he or his deputy [Warren Christopher] must personally approve all Department statements on human rights. Officials are told that Vance is acting on the express authority of Carter, who after his April 12 briefing [by Vance and Brzezinski on the "complexities of the human rights issue"] wants to "tighten down the hatches."¹⁴

The accuracy of the account aside, numerous official and unofficial statements on human rights policy clearly have been made subsequently without approval of Vance or Christopher.

It is also possible to argue that the nature of the dynamic—or conflict—between the legislative and executive branches over human rights is merely a function of the adversarial or competitive aspect of their interaction. In an area as both sensitive and undefined as human rights, it may be in the nature of the relationship to be strained. Moreover, the President has publicly declared his championship of human rights—an act which might have been seen by some Members of Congress as an attempt to coopt the issue—after it had been already claimed by Congress as its own tactical turf under two previous administrations clearly opposed to an emphasis on such considerations as a significant factor in the determination of foreign policy. Although the situation changed considerably after January 1977, since both Chambers and the President shared the same party allegiance, the traditional tension between legislative and executive branches has continued to operate as a factor against full-scale cooperation in this as in other fields.

¹² The major Communist powers each pose special problems because of the limited extent of U.S. economic ties with either country. While the United States has little, if any, leverage on the PRC, there is also no indication that it wants to apply pressure, given the delicate and apparently mutually beneficial nature of the current relationship. Difficult relations, equally limited leverage with the U.S.S.R., and the SALT negotiations also make human rights a sensitive factor in the United States-Soviet equation, although one in which there is more public—official, as well as private—interest in the United States.

¹³ Morris, *op. cit.*

¹⁴ Morris told CRS that his three sources for this incident were State Department officials (a) on the seventh floor, (b) in one of the regional bureaus, and (c) in the Human Rights Bureau.

From another perspective, it could be argued that the combination of anticipated and already achieved congressional human rights initiatives, plus a stated administration concern for human rights as a policy consideration, has served to increase pressures on other governments who want something from us to at least appear to "shape up." In this sense, the combination of executive and legislative interest may have had a mutually reinforcing effect of forcing human rights violators to think twice before committing any new outrages against their citizens.

HUMAN RIGHTS INFORMATION PROBLEMS AND CONGRESS

As noted elsewhere in this study, gaining access to reliable information on the state of human relations in a given country has been and remains extremely difficult. It has been aptly called "the threshold problem for human rights research" by one scholar.¹⁵ Many of the non-governmental human rights watchdog organizations seem to accept some information in an uncritical fashion, giving equal credence to widely varying sources. Moreover, obtaining accurate data on as sensitive a topic as the violation of human rights would be difficult in any country; no government likes to admit that it has a conscious policy of torturing or otherwise depriving its citizens of any rights considered basic by world standards.

Although Congress has access to human rights reporting by private organizations such as Amnesty International and Freedom House, it has also legislated the requirement that the administration, or more specifically, the Department of State, submit annual reports on human rights conditions in countries proposed as recipients of military assistance. The problems arising from this requirement have been discussed elsewhere in this study. But it should perhaps be repeated that many career Foreign Service Officers in the Department have told CRS that potentially difficult situations are created when a U.S. Government agency charged with maintaining good bilateral relations with other countries is also required to prepare reports for public release on sensitive domestic factors in those same countries.

Whether such concerns are misplaced is not the issue. Such self-perceptions of role may have the result of producing what one observer has called "very brief and rather sterile" ¹⁶ reports that tend to minimize violations or to put the best possible face on repressive regimes in the interest of good bilateral relations. This may be a manifestation of the phenomenon called "clientism"—the alleged tendency of some Foreign Service Officers to minimize the shortcomings and exaggerate the virtues of the country to which they are accredited or on which they work in Washington.

Some officials at the Department of State told CRS they would like to be relieved of the responsibility for preparing annual human rights reports. They suggested that some impartial third party—neither a Government agency nor a human rights advocacy group—be delegated the authority and the resources to prepare the reports.

¹⁵ Claude, Richard P., "Reliable Information: The Threshold Problem for Human Rights Research." *Human Rights*, v. 6, Winter 1977: 169.

¹⁶ *Ibid.*: 173.

Legislation was introduced in both House (H.R. 11326) and Senate (S. 2894) in early 1978 to establish an "Institute for Human Rights and Freedom." Although hearings were held by both the Subcommittees on International Operations and International Organizations of the House Committee on International Relations and by the Senate Foreign Relations Committee, the measure was never brought to the floor as a separate bill. There was an almost identical provision in the House version of the Foreign Relations Authorization Act for Fiscal Year 1979.¹⁷ This section would have established an Institute for International Human Rights which could have underwritten a wide variety of activities and programs in the human rights field. Presumably, the Institute could among other things have supported an information effort such as that described above. Although reported out of committee, this measure was deleted on the floor and was not included in the final version of the bill agreed to by the conference committee and signed by the President. Thus, the human rights information situation remains basically unchanged and the problems cited above persist.

¹⁷ U.S. Congress, House. Committee on International Relations. "Report on the Foreign Relations Authorization Act, Fiscal Year 1979. Report No. 95-1160." 95th Congress, 2d session, Washington, U.S. Government Printing Office, 1978: 44-48.

CHAPTER VII

CONCLUSION: ISSUES FOR CONGRESS*

The field of human rights policy is one in which Congress has been a leading force in the past and has many options for further initiative. It can, in an oversight role, press the administration for greater clarity in the definition of policy specifics. It can explore new types of initiatives that would strengthen positive forces for human rights in contrast to the primarily negative focus of recent policy. It can consider means of expediting the use of foreign assistance resources as reinforcements for improvements in human rights conditions. It can reassess existing reporting requirements with a view toward modifying their country coverage and/or the institutional arrangements under which they are produced. It can reassess the legislation prohibiting assistance to governments that show a consistent pattern of gross violations of human rights in light of the wide range of graduated measures the administration has used to influence countries with a broad range of human rights problems. Finally, it can examine the broader question of whether—or to what extent—it is appropriate to try to use foreign assistance as a mechanism for influencing human rights conditions in other countries. This chapter briefly suggests some of the elements involved in each of these possible congressional activities.

A. OVERSIGHT: THE COSTS AND ADVANTAGES OF CLARITY AND SPECIFICITY IN POLICY

One of the central findings of this study is that, though a number of principles seem in practice to guide U.S. human rights policymaking, the Carter administration has been very reluctant to make those policies explicit. The rationales for leaving policy guidelines very general are of several kinds.

First, in a new and complex policy area, it has allowed for experimentation and a slow evolution of tactical approaches. Initiatives that once seemed promising have been deemphasized and new approaches have been used.

Second, there may be some reluctance to make explicit the variety of factors that condition U.S. human rights initiatives. The feeling that pragmatic considerations should not shape a policy that seems to be based on moral imperatives still underlies much criticism of the administration's initiatives. To spell out those pragmatic considerations seems, on the surface at least, to strengthen the bases of such criticism.

Third, greater specificity creates occasions for controversy with respect to the handling of individual cases. When policymaking is surrounded by ambiguity, it is difficult to formulate the right questions

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to ask policymakers. When, on the other hand, an administration makes clear that its human rights decisions are based on different levels of expectation that relate to external threat and prior experience with competitive politics in individual countries, for example, critics can raise difficult questions with respect to the way those principles are applied in specific cases.

Finally, on some of the issues for which greater specificity might be desirable, knowledge is embarrassingly limited. Analysts remain unclear and divided, for example, with respect to what constitute reasonable grounds for establishing levels of expectation of human rights performance.

Against these considerations have to be weighed both the responsibilities of an administration to clarify for Congress the approaches it is following in implementing a legislative mandate and the costs in terms of public acceptance—both domestically and internationally—of ambiguity. Questions can legitimately be asked by Congress in a number of areas. The attempts in chapter IV of this study to derive principles that seem to direct U.S. human rights policy, for example, provide a starting point for inquiries. Where such principles appear to be questionable bases of policy to some Members, efforts might be made to determine if they in fact represent administration policy, or what alternative formulations might more accurately reflect that policy. Where considerable ambiguity remains in these principles, Members might wish to press for greater precision, or for assurances that efforts are being made in the administration to develop more precise policy guidelines. And finally, where there is evidence that the idiosyncracies of information availability and bureaucratic politics—rather than systematic comparative analysis—determine country focus of the policy, Members might wish to explore alternative means of strengthening the rationality of the policy process.

B. STRENGTHENING FOUNDATIONS FOR PROTECTION OF HUMAN RIGHTS

The protection of human rights depends on the efforts and capabilities of governments that often turn out to be less effective and more fragile than they appear to be. Instability seems a particular danger when regimes that have depended on repression as a means of controlling dissent begin to liberalize. Analysts of the development process are divided with respect to the most promising paths toward the twin goals of economic well-being and open and competitive political systems that protect the rights of individuals through some form of rule of law. Some argue that a measure of repression is necessary if rapid economic change is to take place; others suggest that evolution toward political and legal freedoms must parallel economic development.

There is general agreement, however, that an essential condition for the maintenance of human rights in complex societies is a diverse set of effective social, political, and legal institutions. De Toqueville, writing in 1840, emphasized the importance of such institutions as the foundation of Democracy in America. More recent political scientists have placed similar emphasis on institutional development in countries of the Third World.

How much effect U.S. foreign assistance programs can have on the growth of such institutions is a matter of considerable question.

Effectiveness varies with social and cultural characteristics of individual societies, and formulas for institutions—whether bureaucracies or political parties or interest groups—that are successful in the United States can produce untoward results in other societies. Nevertheless, U.S. foreign assistance agencies have had considerable experience with earlier efforts to facilitate institutional development, and Members may wish to encourage the reassessment of this experience as an approach to strengthening bases of protection for human rights.

Other related bases of support for human rights have not been extensively examined. Even in the United States, widespread use of the term human rights is relatively recent, and there is evidence of considerable uncertainty and confusion in much of the Third World as to what processes and institutions are involved and how progress in strengthening human rights is achieved. Means of improving international understanding of—and support for—core human rights is another possible area for congressional action.

C. IMPROVED MECHANISMS FOR REINFORCING HUMAN RIGHTS IMPROVEMENTS

Concern was expressed to CRS interviewers that the mechanisms for reinforcing positive human rights changes seem often to be more inflexible and time-consuming than mechanisms for reducing or rejecting assistance programs. Authorization and appropriations processes are not designed to provide rapid budget and program response to short-term changes in human rights situations. Some funding mechanism that would allow executive flexibility in providing support for a country that has responded effectively might be considered as a means for dealing with such exigencies.

Such an approach, however, would require careful scrutiny. If, in fact, the administration is using direct negative foreign assistance leverage only very selectively, then the question of whether a special mechanism to facilitate direct positive foreign assistance leverage is necessary would have to be assessed.

D. REASSESSING THE COUNTRY REPORTING REQUIREMENT

The preparation of annual reports on human rights practices in countries receiving U.S. aid has become a significant bureaucratic exercise in the Department of State. The volume delivered to Congress in February 1979, contained 685 pages of reports covering 115 countries. Numerous officials with whom we spoke emphasized the enormous amounts of time involved in the preparation of these reports. Disputes over the accuracy and reliability of allegations, the extent to which extenuating background materials should be included, and the wording of specific passages seem to have characterized the preparation of reports on many of the countries for which human rights violations are a serious issue. At the same time, a number of participants in the process noted that the preparation of this volume was less time-consuming and contentious than had been the preparation of last year's report.

An important byproduct of the report production process, however, is the systematic collection of large amounts of human rights material and an annual procedure for a comprehensive assessment of human rights conditions in individual countries. The significance of these,

however, is difficult to assess. Several officials noted the importance of the reporting requirement in building an initial information base on human rights during the Nixon and Ford administrations. This base seems to have provided significant resources for the Carter administration in the early development of its human rights initiatives. Whether an equally comprehensive and effective information collection and analysis system would have evolved under the present administration in the absence of a reporting requirement is not clear.

One concern that has been expressed in a number of settings is that the reporting requirement puts the Department of State under severe cross-pressures. On one hand, it is expected to maintain effective bilateral relations with a wide range of regimes throughout the world, but on the other hand it is expected to write objective and detailed analyses of any human rights violations in many of those countries. In a number of cases, if the latter task is carried out conscientiously, the result is likely to be highly unpalatable to the leadership of foreign regimes and may well complicate the task of maintaining effective bilateral relations.

The extent to which such complications have actually arisen—and the significance of such consequences—is difficult to assess. Certainly reports released in 1977 provoked severe negative reactions from governments of several Latin American nations, resulting in their rejection of U.S. foreign assistance. Subsequent reports, though they have in general been more comprehensive and direct, seem to have stimulated less severe responses. That they are required by Congress and are not voluntarily produced by the Department of State was mentioned by several officials as a factor mitigating blame of the State Department in the eyes of some governments. In addition, there are indications that discussion with foreign government officials at the time reports are submitted to Congress but prior to their public release serves in some measure to diffuse the hostility of reactions.

A further area of concern with respect to the reporting requirement is the country coverage of the reports. Officials expressed feelings that coverage is at once too broad and too narrow. Many countries are included that do not have significant human rights problems, and preparation of reports on them is felt to represent a meaningless exercise. Other countries that are clearly objects of intense international human rights concern are excluded on the grounds that they do not receive U.S. assistance. This includes both a number of Communist countries and a number of countries that no longer are receiving U.S. aid because of earlier conflicts over human rights conditions.

Thus, Members of Congress may wish to consider a range of activities relating to the reporting requirement. For some, the concern may be the adequacy of reports submitted. Differences of opinion as to credibility accorded allegations, the candor of reporting, and the comprehensiveness of reporting are almost inevitable in ventures of this kind.

A second possible focus of congressional attention is an alternative institutional mechanism for the preparation and production of country reports on human rights conditions. Were it possible to find or create an organization other than the Department of State that could produce reports of comparable or superior scope and objectivity, some suggest, the benefits of the reporting process could be achieved without incurring one of its most significant costs. The most appropriate

character of such an organization, however, is a matter of very real concern. Some argue that it should be an international and nongovernmental body that would reflect international perspectives on human rights and command the respect of governments and observers throughout the world. Others argue that such an institution should have an American base and reflect the concerns and interests of U.S. policymakers.

Important in these discussions is the fact that reporting on human rights violations—and particularly on violations of integrity of the person—requires a significant intelligence collecting and processing capability. Data on such violations are difficult to obtain and are subject to severe distortion. Much current human rights reporting relies on the collection efforts of human rights organizations such as Amnesty International. The limited field resources of the Department of State are used in many cases to determine if allegations made by other organizations can be verified. There would clearly be significant advantages to having a single organization with the resources and skills to collect, assess, analyze, and report globally on human rights conditions. The costs of creating and maintaining any such institution, as well as an acceptable definition of its relationship to the U.S. Government, however, would likely be subjects of careful congressional scrutiny.

A third area of possible congressional activity with respect to reporting would be consideration of modifying the existing mandate for country coverage. Various alternatives are plausible. One that was suggested in the course of our interviewing would be to require reports only on countries that Congress specifically identifies prior to the end of September each year. Another would be to expand the list by means of specific country additions of interest to Congress. A significant consideration in assessment of such options would be the use to which reports are—and should be—put. If their primary function is to be in adjusting foreign assistance levels, for example, the present definition of country scope seems appropriate. If, on the other hand, emphasis is placed on the international scrutiny that the reports receive, a country scope that includes fuller coverage of significant human rights violators might well be called for.

E. REASSESSING LEGISLATION PROHIBITING ASSISTANCE ON HUMAN RIGHTS GROUNDS

In the course of our interviews we encountered a diversity of views on the significance of existing legislation that prohibits, with narrowly defined qualifications, U.S. foreign assistance to any government that engages in consistent patterns of gross violations of human rights. As an earlier chapter indicates, some felt that the legislative base provided important support for human rights initiatives that encountered significant resistance within the executive branch. Others, however, felt that this legislation was too blunt an instrument to make an effective contribution to the efforts of an administration that is prepared to use a broad and graduated set of policy instruments to influence human rights conditions in a wide range of countries. The issue is broader than the effect of the legislation under this administration, however. Several vigorous supporters of strong human rights initiatives emphasized that the legislation would facilitate

continuity of a significant human rights policy in subsequent administrations that might lack commitment on this issue. A related question is the extent to which legislation can or should be more closely tailored to specific policy principles. For some, executive branch flexibility in adapting policy to unexpected situations is very important. For others, greater specificity and focus of legislation is seen as an important means of assuring policy continuity.

F. THE APPROPRIATENESS OF FOREIGN ASSISTANCE AS A MECHANISM FOR INFLUENCING HUMAN RIGHTS CONDITIONS

The five areas of possible congressional activity suggested above all assume continued acceptance of the view, implicit in present legislation, that foreign assistance is an appropriate mechanism for influencing human rights conditions. Some Members may wish to reassess that view in light of more than 2 years of extensive experimentation in the use of foreign assistance for human rights purposes. This study provides a partial and preliminary indication of the impact of such efforts. For some, the achievements will seem partial and uncertain, but the dangers of fostering increasing instability will seem great. The costs in terms of bureaucratic time and conflict, distortions in aid programs, and complications in bilateral relations, moreover, will seem both certain and consequential. For others, it may seem that the impact on human rights conditions marks the beginning of a significant trend in the development of governments that place greater value on human rights and greater emphasis on their protection. For them, international improvements in quality of life combined with the anticipated good will and respect that they foresee accruing to the United States are likely greatly to outweigh transient bureaucratic, diplomatic, and development costs. Congressional confrontation and accommodation between these perspectives will serve to further refine and strengthen U.S. human rights policy.

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APPENDIX A

CODING INSTRUCTIONS FOR COUNTRY SELECTION

Countries to be included:

Countries that are the responsibility of any of the three following Department of State Bureaus:

- A. East Asia and Pacific Affairs,
- B. African Affairs,
- C. Inter-American Affairs,

and that received or have been considered for assistance under any of the following acts, since 1976:

1. International Security Assistance and Arms Export Control Act of 1976.
2. Foreign Assistance Act of 1961.
3. International Development and Food Assistance Act of 1977.
4. International Financial Institution Act of 1977.

Note.—The Joint Committee Print, *Country Reports on Human Rights Practices*, submitted by the Department of State, covers all countries proposed for aid in fiscal year 1979 under the Foreign Assistance Act of 1961, but does not include some that earlier received aid (Brazil, Argentina, and Chile, for example), and excludes some that receive food aid (Laos) and others that may get IFI assistance (Vietnam, Angola, et cetera).

Coding Procedure:

I. *First Task:* Categorize countries with respect to respect for *civil and political liberties*. using three categories:

- a. High level of violations,
- b. Moderate level of violations, and
- c. Lower than moderate level of violations.

Definition: In categorizing countries on this dimension, consider the following elements:

- i. freedom of thought,
- ii. freedom of speech,
- iii. freedom of assembly,
- iv. freedom of religion,
- v. freedom of press,
- vi. freedom of movement, and
- vii. participation in government.

Code high level of violations if:

(1) Participation in decisionmaking roles in the central government is effectively limited to small segments of the population which, because of socio/economic/ethnic/religious status, known ideological views, or personal loyalty, can be counted on to support the leaders and policy specifics of the existing regime;

and

(2) Dissent with respect to central government leaders and policy specifics is considered illegitimate and dangerous. Enforcement may be limited, but it should be sufficiently apparent and effective to place dissidents in hazardous circumstances if they exercise their dissent systematically. The key mechanisms of dissent, for these purposes, are open speech, assembly and press publication. The open press should be effectively prohibited from expressing anything more than occasional and sporadic minor criticisms of national leaders and major governmental policies to qualify.

Special case: A country that would not otherwise qualify as a high violator should be categorized as such if freedom of religion, assembly, press or movement of a clearly identifiable minority (racial, religious, ethnic, linguistic, et cetera) is restricted to the point that the practice of a combination of these freedoms is considered illegitimate and dangerous.

Code moderate level of violations if:

Participation in government is constrained as described in (1) under high level of violations, *but*

(2) Dissent with respect to national leaders and government policies is tolerated under controlled and reasonably predictable circumstances. For this to be the case, the government would have to tacitly—or openly—permit dissident news media and some minimal forms of political organizations to operate, distribute materials, and make statements critical of a significant (that is, more than narrow and minor) range of leaders and/or policies. Though occasional crackdowns on those who become “extreme” in their activities is consistent with this coding, arbitrary and unpredictable crackdowns are suggestive of a high level of violations, even if the government cannot consistently enforce its will.

Code lower than moderate levels of violations if:

(1) Dissidents with respect to central government leadership and policies can obtain key decisionmaking positions and have at least marginal impact on policy and its implementation, and

(2) The conditions spelled out in (2) under moderate levels exist;

or

Despite a very closed leadership pattern widespread dissent is permitted and dissident nongovernment institutions are able to systematically have at least marginal impact on policy and its implementation.

II. *Second task*: With respect to countries that fall (or fell, during any period of at least 6 months since 1976) within the "high" or "moderate" levels of violations of civil and political liberties, categorize each as to respect for the *integrity of the person*.

Definition: In categorizing countries on this dimension, consider the following elements:

- i. Freedom from cruel and unusual punishment,
- ii. Freedom from torture,
- iii. Freedom from arbitrary arrest and imprisonment,
- iv. Freedom from invasion of privacy, and
- v. Freedom from unfair trial.

Since all of the five are essentially alternative means of violating integrity of the person, some effort has to be made to assess relative seriousness of the violation and the extent to which the violation is practiced. In general, the potential severity of violations is reflected in the above ordering. Cruel and unusual punishment must include murder, assassination, et cetera, as well as lesser forms and is thus potentially most severe. Torture is a specific form of cruel and unusual punishment that varies in its severity. Arbitrary arrest and imprisonment is generally, though not always, a precondition of torture. Invasion of privacy violates rights, but presumably of a lesser order than one's ability to avoid arbitrary imprisonment.

Code high level of violations if:

(1) Active members and leaders of any significant group perceived as dissident or potentially dangerous by the government leadership (whether ideological, religious, racial, tribal, ethnic, or linguistic) are (or were for a significant period) under realistic threat of severe physical or emotional damage as a result of cruel and/or unusual punishment (including torture), whether incident to arbitrary arrest and imprisonment or as a result of actions of nongovernmental organizations whose extra-legal activities are tacitly permitted or encouraged by the government.

or

(2) Arbitrary arrest and imprisonment are practiced on a sufficiently wide scale to incorporate the effective leadership of a dissident group.

Code moderate level of violations if:

(1) Threats to physical or psychological well-being are sporadic and/or not severe, and

(2) Arbitrary arrest and imprisonment are systematically used, along with invasions of privacy and/or the resort to unfair trial, to restrain the activities of key leaders of dissident movements.

Code less than moderate level of violations if:

Cruel and unusual punishment is only sporadically practiced and arbitrary arrest, invasion of privacy, and unfair trial are not systematically used to stifle dissent.

III. *Third Task*: For the countries specified, code for the degree to which U.S. human rights initiatives (executive and/or Congressional) have strained bilateral relations. Code for the six-month period of greatest strain beginning with calendar year 1976.

Code high if:

U.S. human rights initiatives have been a major irritant complicating most aspects of relationships and/or have damaged long-term bilateral relationships.

Code moderate if:

U.S. human rights initiatives have been a source of expressed dissatisfaction of the government sufficient to strain relations severely, but not sufficient to damage long-term bilateral relations.

Code low if:

Any expressed dissatisfaction of the government with U.S. human rights initiatives has not been sufficient to strain bilateral relations.

APPENDIX B

LEGISLATION DIRECTED AT PROBLEMS IN SPECIFIC COUNTRIES*

The general legislation on human rights (described in chapter II) established the framework for a more assertive U.S. policy, leaving room for discretionary action by the executive branch. However, Congress enacted additional legislation relating to specific countries that has limited, terminated, or placed conditions on assistance to those countries or, at the very least, has expressed open disapproval of certain human rights practices in named countries. This section summarizes the most important legislation of this type, in turn with affected countries in Latin America, Africa, Asia, and Eastern Europe.

1. LATIN AMERICA

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."¹ In December 1974, Congress passed the Foreign Assistance Act of 1974, section 25 of which prohibited all military assistance to Chile and limited assistance to \$25 million during fiscal year 1975.²

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.³ In 1975, Congress limited economic assistance to Chile to \$90 million during fiscal year 1976.⁴ Section 406 of the International Security Assistance and Arms Export Control Act of 1976⁵ terminated military assistance to Chile, including a prohibition on 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.

Uruguay. Congress stipulated in the Foreign Assistance and Related Programs Appropriations for 1977⁶ and 1978⁷ 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.

*Prepared by Vite Bite, Analyst in International Relations.

¹ Public Law 93-189, Dec. 17, 1973.

² Public Law 93-559, Dec. 30, 1974.

³ Gerald R. Ford, Foreign Assistance Act of 1974. Weekly Compilation of Presidential Documents. V. 11, No. 1, Jan. 6, 1975, p. 3.

⁴ Public Law 94-161, Dec. 20, 1975.

⁵ Public Law 94-329, June 30, 1976.

⁶ Public Law 94-441, Oct. 1, 1976.

⁷ Public Law 95-148, Oct. 31, 1977.

Argentina. Congress prohibited furnishing to Argentina after September 30, 1978,⁸ any military assistance, security supporting assistance, international military education and training credits or loan guarantees, and sales of defense articles or services, and the issuance to or for the Argentine Government of export licenses under the Arms Export Control Act. The Foreign Assistance and Related Programs Appropriations Act, 1978, also prohibited international military education and training and foreign military credit sales to Argentina.⁹

Brazil, El Salvador, Guatemala. The Foreign Assistance and Related Programs Appropriations Act, 1978, prohibited foreign military sales to Brazil, El Salvador,¹⁰ and Guatemala. These countries, along with Argentina and Uruguay, had rejected further U.S. military assistance following the publication in 1977 of State Department's reports on the status of human rights in those countries.

Nicaragua¹¹ and Paraguay. The Senate Foreign Relations Committee report for the International Security Assistance Act of 1978 prohibited international military education and training funds for Nicaragua and Paraguay during fiscal year 1979. The conference committee eliminated this specific prohibition as part of a general policy not to single out individual countries as human rights violators. The conferees did, however, cut the international military education and training account by \$300,000, the exact amount which had been programed for Nicaragua and Paraguay.

Cuba. The International Development and Food Assistance Acts of 1977 and 1978 contained prohibitions on the use of funds authorized by that Act for aid to Cuba.¹² Section 511(b) of the Foreign Relations Authorization Act, 1978,¹³ expressed the sense of the Congress that Cuba's disrespect for the human rights of individuals must be taken into account in any negotiations toward normalization of relations with that country. The Foreign Assistance and Related Programs Appropriations Act for fiscal year 1978¹⁴ and 1979¹⁵ prohibited aid and trade with Cuba, with human rights being cited during the debate as one basis for the provision.

During consideration of this measure a divergence of views became apparent on the question of limiting the use of U.S. funds for multilateral aid through international financial institutions to countries such as Cuba, Uganda, Vietnam, Cambodia, Laos, Angola, and Mozambique. The House voted to prohibit international financial institutions (IFI's) from using U.S. funds to assist these countries because of their poor human rights records, among other considerations. After World Bank President McNamara stated that the institution would not accept U.S. funds under the restrictions specified in the House-passed measure, the Senate deleted such provisions from the bill. When a House-Senate conference was unable to resolve the issue, President Carter promised to instruct U.S. representatives

⁸ Section 11 of the International Security Assistance Act of 1977, Public Law 95-92, Aug. 4, 1977.

⁹ Public Law 95-148, Oct. 31, 1977.

¹⁰ El Salvador's rejection of U.S. military assistance was partially provoked by hearings by the House Subcommittee on International Organizations on the human rights situation in El Salvador.

¹¹ The Senate Foreign Relations Committee report on the International Security Assistance Act of 1977 indicated that committee approval would be necessary before any foreign military sales credits were disbursed to Nicaragua in fiscal year 1978. Foreign military sales authorized for fiscal year 1977 had already been obligated, but bilateral economic assistance was withheld pending a human rights review.

¹² Public Law 95-88, Aug. 3, 1977 and Public Law 95-424, Oct. 6, 1978.

¹³ Public Law 95-105, Aug. 17, 1977.

¹⁴ Public Law 95-148, Oct. 31, 1977.

¹⁵ Public Law 95-481, Oct. 18, 1978.

to the IFI's to oppose and vote against any loans to the seven named countries during fiscal year 1978. The legislation as finally enacted continued the prohibition against direct aid to the seven countries, but did not prohibit IFI's from using U.S. funds to assist these countries.

2. AFRICA

Mozambique and Angola. The seven countries mentioned in the previous paragraph have been the subject of considerable congressional attention relating directly or indirectly to the status of human rights in those and other countries. Thus Angola, Mozambique and Guinea-Bissau were cited in a congressional policy statement included in the Foreign Assistance Act of 1974.¹⁶ Among other things the measure called for the United States to encourage United Nations support for a peaceful transition to independence, negotiated settlement of all differences, and "protection of human rights of all citizens." More recently, section 8 of the International Security Assistance Act of 1977¹⁷ prohibited the use of security supporting assistance funds for Mozambique, Angola, Tanzania and Zambia unless the President determined that such aid would be in the U.S. foreign policy interest. The prohibition was not directly linked to human rights, but human rights were discussed during the House debate on the provision. Section 114 of the Appropriations Act for Foreign Assistance and Related Programs, 1979¹⁸ prohibited direct U.S. aid to Mozambique or Angola, but exempted funds for financing training of Angolan students who started training prior to fiscal year 1978.

Uganda. As already mentioned, Uganda was included in the list of countries for which "direct" U.S. aid was prohibited by the Foreign Assistance and Related Programs Appropriations Act, 1978¹⁹ and 1979.²⁰ In addition, the human rights situation in that country has been the subject of much congressional attention during recent years, not only during hearings but also in direct legislative prohibitions.

The 1978 Foreign Relations Authorization Act, section 610,²¹ expressed the congressional finding (based on "reliable reports") that the brutality of governmental practices in Uganda (and Cambodia) had reached such levels that they required special notice and condemnation. The President was urged to support action by other countries having extensive relations with these countries to bring about a lessening of inhumane practices, and the Secretary of State was required to transmit to Congress a report on action in fulfillment of these provisions. The section also called for an arms embargo against Uganda. The U.S. Representative to the United Nations was to submit to the Security Council a resolution calling for an arms embargo on Uganda. The International Monetary Fund Financing Facility legislation²² charged the Ugandan Government with genocide and instituted a U.S. trade embargo against Uganda. Specifically the measure stipulated (after Congress found that the Government of Uganda had committed genocide) that the U.S. Government should disassociate itself

¹⁶ Public Law 93-559, Dec. 30, 1974.

¹⁷ Public Law 95-92, Aug. 4, 1977.

¹⁸ Public Law 95-481, Oct. 18, 1978.

¹⁹ Public Law 95-148, Oct. 31, 1977.

²⁰ Public Law 95-481, Oct. 18, 1978.

²¹ Public Law 95-481, Oct. 18, 1978.

²² Public Law 95-426, Oct. 7, 1978.

from any foreign government engaged in genocide. It prohibited import into the United States of any article grown, produced, or manufactured in Uganda, and from exporting to Uganda anything other than cereal grains and food products until the President determined and certified to the Congress that the Government of Uganda was no longer committing a consistent pattern of gross violations of human rights. The President was directed to encourage and support international actions, including economic restrictions, to respond to conditions in Uganda.

Ethiopia. Legislation appropriating funds for foreign assistance for fiscal year 1978²³ contained prohibitions on military assistance, international military education and training and foreign military credit sales to Ethiopia.²⁴

Rhodesia. During March 1977 both Houses agreed to amend the U.N. Participation Act of 1945²⁵ to halt the importation of Rhodesian chrome. Rhodesia was considered by many to be guilty of violating human rights in its opposition to self-determination for its black majority population. The enactment of this legislation returned the United States to adherence to the Security Council sanctions by effectively repealing section 513 of the Military Procurement Act of 1972 (the Byrd amendment), which had permitted U.S. importation of Rhodesian chrome. The International Security Assistance Act of 1978²⁶ expressed the sense of Congress that the United States supported "an internationally recognized constitutional settlement of the Rhodesian conflict leading promptly to majority rule based upon democratic principles and upholding basic rights."

South Africa. The Export-Import Bank Act Amendments of 1978²⁷ included provisions which prevented the Export-Import Bank from extending credit for any export that would contribute to the South African Government's maintaining or enforcing apartheid unless the President determined that significant progress toward the elimination of apartheid had been made and transmitted to Congress a statement describing and explaining that determination. The act also prohibited Eximbank credits for any export to other purchasers in South Africa unless the Secretary of State certified that the purchaser had endorsed and proceeded to adopt the following principles: Nonsegregation of races in all work facilities; equal and fair employment for all employees; equal pay for equal work for all employees; initiation and development of training programs to prepare nonwhite South Africans for supervisory, technical, and clerical jobs; increasing the number of nonwhites in management and supervisory positions; willingness to engage in collective bargaining with labor unions; and improving the quality of life for employees.

²³ Public Law 95-148, Oct. 31, 1977.

²⁴ The International Security Assistance Act of 1977 as reported by the Senate Foreign Relations Committee (Senate report 95-195) included a provision prohibiting any military assistance for Ethiopia because of consistent and gross violations of human rights, among other reasons. The conference committee (House report 95-503) deleted this prohibition; authorization for funding for Ethiopia was deleted from the bill, however. The conference committee also stated that it understood the policy of the United States to be that defense articles and defense services would not be provided to Ethiopia. Should such a policy change, the committee expected the executive branch to consult with Congress before implementation.

²⁵ Public Law 95-12.

²⁶ Section 8(d), Public Law 95-92, Aug. 4, 1977.

²⁷ Public Law 95-630, Nov. 10, 1978.

3. ASIA

South Korea. In 1974 Congress limited military assistance to Korea for fiscal year 1975 "until the President submits a report to Congress * * * stating that the Government of South Korea is making substantial progress in the observance of internationally recognized human rights."²⁸ The International Security Assistance and Arms Export 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.²⁹

Cambodia, Laos, Vietnam. As already mentioned, the Foreign Assistance and Related Programs Appropriations Acts, 1978 and 1979, prohibited direct aid to Vietnam, Cambodia, and Laos. The International Development and Food Assistance Act of 1977 prohibited use of any funds authorized by that act for those three countries, and the 1978 International Development and Food Assistance Act contained similar prohibitions for Cambodia and Vietnam, Laos having been deleted. In the 1978 Foreign Relations Authorization Act, Congress pointed to governmental practices in Cambodia (and Uganda) as being so brutal that they required special notice and condemnation.

The Philippines. After much discussion, Congress agreed in the Foreign Assistance and Relations Programs Appropriations Act, 1978,³⁰ to limit military assistance to the Philippines to \$18.1 million in fiscal year 1978, credit sales to \$1.85 million, and military education and training to \$700,000. The Foreign Assistance and Related Programs Appropriations Act, 1979,³¹ reduced military assistance for the Philippines by \$2.5 million.³²

4. EASTERN EUROPE

Soviet Union and Eastern Europe. Legislation has also been addressed to human rights problems in the Soviet Union and Eastern Europe. Section 402 of the Trade Act of 1974³³ (the Jackson-Vanik amendment) tied most-favored-nation treatment to trade in products from non-

²⁸ Public Law 93-559, Dec. 30, 1974.

²⁹ Public Law 94-329, June 30, 1976. In response to this requirement, on Aug. 30, 1976, a report was submitted by the State Department stating that the Ambassador of the Republic of Korea had been given a diplomatic note requesting him to bring the concern of Congress to the attention of the highest levels of his Government. The Secretary of State had noted to the Ambassador "that the interest of the United States in the observation of human rights in other countries is understandably greater in those countries with which the United States enjoys particularly close relations such as the Republic of Korea." The Secretary had also "made the point that the continued support of the Congress and the American people is essential to the maintenance of this relationship."

³⁰ Public Law 95-148, Oct. 31, 1977.

³¹ Public Law 95-481, Oct. 18, 1978.

³² Representative Matthew McHugh, member of the conference committee on the measure, described the reduction thusly:

Although this was less than the cut recommended by the House, this should not be taken as an indication that our concern regarding human rights violations in the Philippines is diminishing. In the first place, this reduction is larger than the cut we voted last year. In addition, the Philippines is the only country which Congress chose to single out by name for a reduction, a clear reflection of our special concern with the policies of the Marcos regime and the impact of those policies on the Philippine people, for whom we have allways had a particular affection.

Consequently, I hope the Government of the Philippines will take note of these facts. As the reduction indicates, there is a very real concern in the Congress over the manner in which the Government treats its citizens.

³³ Public Law 93-618, Jan. 3, 1975.

market economy countries to the maintenance of freedom of emigration from these countries.

In addition Congress created a joint congressional-executive Commission on Security and Cooperation in Europe³⁴ to monitor actions of signatory nations to the final act of the Conference on Security and Cooperation in Europe (Helsinki accords) and especially the provisions relating to cooperation in humanitarian fields. Since its establishment the Commission has held a number of hearings and issued reports critical of the implementation of the Helsinki accords by the U.S.S.R. and other countries.

* * * * *

In addition to the legislation already described, Congress has passed a number of resolutions expressing its view and recommending certain executive branch actions on specific human rights issues. Several resolutions have expressed congressional concern about compliance with the human rights provisions of the Helsinki accords and about treatment of individual political dissidents. Other resolutions have expressed congressional concern about the human rights situations in Uganda, Cambodia, and South Africa.

³⁴ Public Law 94-304, June 3, 1976.

APPENDIX C

(These country reports were drafted in the fall of 1978 to provide background information for the first part of this study. Consequently, these country reports should be read as a supplement to understanding U.S. human rights policy during the 1977-1978 period and not as current information concerning human rights practices in these countries.)

COUNTRY REPORTS

CENTRAL AFRICAN EMPIRE*

BACKGROUND

During the period of colonial rule the Central African Empire (CAE) was the French colony of Ubangi-Shari. The territory was one of four areas comprising French Equatorial Africa, which after World War II steadily moved toward increased autonomy. In 1958, French Equatorial Africa was dissolved, and its various components began functioning as separate entities. Barthélemy Boganda, founder of the nationalist party MESAN (Social Evolution Movement of Black Africa), became the first President of Ubangi-Shari. Boganda died in a plane crash in 1959, and his nephew, David Dacko, was elected in April of that year to succeed him. Upon its declaration of independence in August 1960, the country became known as the Central African Republic.

Although the Dacko government was basically authoritarian, placing severe limits on both its opposition and the civil and political rights of the general population, it also attempted to improve the economic conditions of the people. Its efforts to control the budget and corruption among high government officials led to an almost bloodless military coup in December 1965, when President Dacko was overthrown by Col. Jean-Bedel Bokassa.

The army, under the leadership of Colonel Bokassa, assumed power on January 1, 1966. Shortly thereafter Bokassa declared himself President, abolished the constitution of 1959, and dissolved the National Assembly. Although he originally had promised a return to civilian rule, in later years he declared himself President for Life and Marshal of the Republic. The President ruled by decree and shuffled his Cabinet Ministers frequently. An advisory council was established in September 1976, but was soon dissolved when, in December 1976, the President had himself declared Emperor Bokassa I and the country designated as the Central African Empire (CAE).

*Prepared by Brenda Branaman, Analyst in Middle Eastern and African Affairs.

Since this report was written Emperor Bokassa has been overthrown and the country has been renamed Central African Republic.

HUMAN RIGHTS CONDITIONS

POLITICAL CONDITIONS

At the time of the coup, MESAN had been banned, but it was reviewed in 1972 under the exclusive control of President Bokassa. Under Bokassa, the CAE has had no organized opposition party, and, since 1976, participation in MESAN has been compulsory for persons under 30 years old.

The CAE acquired a reputation for brutality as a result of two events occurring in 1972. First, because a general amnesty for prisoners had resulted in a new crime wave, Bokassa decreed in July that the penalties for robbery would include the severing of ears and hands, with execution on the fourth offense. Then, in the same month, Bokassa led a contingent of police to the Bangui prison where they beat 45 thieves, three of whom died. Both the corpses of the three dead and the survivors were put on public display as an example to the people of what would happen to thieves.

According to the State Department, the Government actions were popular with the people because they were effective in eliminating crime. There is some indication that the dismemberment laws have now been repealed, although one source reports that a decree similar to the one issued in 1972 existed at least through 1974.

Political detainees are usually Government officials imprisoned on charges of corruption or mismanagement but sometimes for alleged involvement in coup attempts. Bokassa's government periodically experiences attempted coups or attempts on Bokassa's life. In 1976 alone there were two coup attempts and one assassination attempt. Amnesty International is currently investigating the cases of about seven persons remaining in detention after political prisoners were released under an amnesty in December 1976. Information is not available on the number of those released. Two cases on which Amnesty has focused are trade union leaders M. J. B. Malikanga and Jean-Richard Sandos, both of whom were imprisoned for political activity and embezzlement.

Government officials who serve prison sentences frequently are rehabilitated and regain their former positions. A prime example is David Dacko, the former President overthrown by the 1965 coup. Dacko, though never imprisoned, was under house arrest for a period of time after the coup. Now he serves as personal adviser to Bokassa.

The civilian court system was independent under President Dacko and has continued its independence under Bokassa. The system is composed of several civil courts, a criminal court, a Court of Appeal, and the Supreme Court. State offenses involving security are tried by a special military tribunal. The latest military trial on which information is available occurred in April 1976, when nine persons charged with misuse of public funds were sentenced to prison and their property confiscated.

Local newspapers and other publications, radio, and television are government controlled. Until 1974, foreign published material was censored and since that time has been banned. In 1975 a "caution fee" of \$500 was imposed on foreign journalists to insure that they reported according to government press regulations.

According to one source, local elections are held for municipal council members in the cities and mayors of the communes (or counties), each of which contains several villages. In Bangui the mayor is nominated by the government and the municipal council is elected.

The CAE has a good record of religious tolerance, with 40 percent of the population being Protestant, 28 percent Catholic, 24 percent animist, and 5 to 8 percent Muslim. In August 1976, however, Bokassa banned the Jehovah's Witnesses and warned that they would be severely punished if caught preaching. A supreme court decision in favor of the Jehovah's Witnesses in January 1978 overturned this decree.

Freedom of association appears limited. At least one press report has said that CAE citizens are continuously warned by the government that fraternization with foreigners can lead to trouble.¹ Also, the new constitution contains a clause which prohibits organizations with purposes "contrary to public order and morality."²

Although the declaration of Empire in December 1976, changed Bokassa's title from President to Emperor, he asserted that with his new position he would have less rather than more power. In fact, several sources report that Emperor Bokassa has delegated some of his ministerial positions to others, although he retains financial control of all ministries and public agencies.

The new constitution was established by MESAN in November 1976. According to the State Department, the party persuaded Bokassa to accept the constitution on the argument that too little communication existed between the government and the people. The constitution contains provisions for a bill of rights, a national assembly which has not been convened, a Supreme Court with powers enabling it to mediate between the Assembly and the executive, and a cabinet led by a Prime Minister.

ECONOMIC CONDITIONS

Although per capita income apparently increased somewhat among salaried workers between 1971 and 1978,³ this is a poor indicator because 70 percent of the population exists outside the money economy with subsistence agriculture as the primary means of livelihood.

The Bokassa government's economic policies are similar to those of the Dacko government. The primary effort in the rural areas has been the encouragement of agricultural production through "Operation Bokassa," with emphasis on cash crops for export and local industry. The country's agricultural exports are cotton, coffee, and timber. Other government efforts at economic improvement are rural electrification, containment of migration to the cities by establishing poles of development in the rural areas, and substantial government expenditure on rural development.

In the industrial sector the government's goals include increased diversification and sophistication of its industries. At present the CAE is heavily dependent on diamonds, its leading export, but plans

¹ Manchester Guardian Weekly, Aug. 20, 1978: 19.

² Constitution of the Central African Empire. In Blaustein, Albert P. and Gisbert H. Flanz, eds. *Constitutions of the Countries of the World*. Dobbs Ferry, N.Y., Oceana Publications, Inc., July 1977, p. 3.

³ In 1967 the per capita income (in constant dollars) was \$232; in 1976 it was \$245. U.S. Arms Control and Disarmament Agency, *World Military Expenditures and Arms Transfers 1967-76*. July 1978, p. 81.

are now underway to exploit uranium ore deposits in cooperation with the French Atomic Energy Authority and a Swiss company. Production is targeted for 1981.

Bokassa's government encourages foreign investment, although its nationalization of some enterprises in 1974 probably discouraged prospective investment. The government is also attempting to improve the country's infrastructure. At present this means improving the river system and road network, in addition to continuing interest in the construction of a railroad.

The largest expenditure of the government budget is for education—twice as much as for defense.⁴ Sixty percent of primary school age children attended school during the 1973–74 school year compared with 8 percent of all ages attending school in 1950 and 40 percent⁵ in 1960. A very small number attend secondary school. Higher education concentrates on technical and agricultural subjects. Two improvements in the educational system introduced by the Bokassa government are the Jean-Bedel Bokassa University, founded in 1970, and the addition of an adult education program which utilizes mobile crews and visual aids.

A substantial amount of the budget is also expended for health programs. Services are concentrated on first aid and epidemic control. Mobile crews treat epidemic diseases, conduct vaccination and inoculation campaigns, enforce health regulations, and conduct research on tropical diseases. There have been some improvements in the health facilities over time. Between 1960 and figures reported in 1975 there was an increase in the number of hospitals, hospital beds, and health personnel with a modest increase in the number of doctors, including European and African doctors.⁶ Some nurses are now trained in the CAE, and a few Central African citizens are training outside the country in pharmacy, dentistry and medicine. Despite these improvements, however, health resources are still extremely limited.

STATE DEPARTMENT REPORT

The State Department's report on the CAE gave basically the same information that was found in other sources except that it was better organized, more optimistic that the institutions and rights promised in the new constitution would be implemented, and did not deal with economic rights.

Information supplied by the report which was in addition to or different from that found elsewhere includes:

—Other sources described prisoners as being treated harshly and cited the 1972 incident when "several prisoners' ears were cut off" or were beaten by Bokassa. The State Department's report, in addition to this, slightly expanded information on the treatment of prisoners.

—Dismemberment statutes, under which the 1972 incident was allowed, have been repealed, partly as a result of foreign reaction to the incident.

⁴ Worldmark Encyclopedia of the Nations, Africa. New York, John Wiley & Sons, Inc., 1976, p. 57; Los Angeles Times, July 7, 1977: 7, Part 1.

⁵ African South of the Sahara, 1978–79. Europa Publications, Ltd., London, 1978, p. 267; Kalck, Pierre. Central African Republic: A failure in de-colonisation. London, Pall Mall Press Ltd., 1971, p. 114–115.

⁶ Ibid., Kalck, p. 114; Legum, Colin, ed. African Contemporary Record, 1974–75. London, Rex Collins, 1975, p. B556.

—Some of the seven political prisoners mentioned by Amnesty International in its 1977 annual report have been released.

—The powers of the Permanent Military Tribunal were provided in greater detail.

—It was noted that the American Ambassador had been invited to debate U.S. human rights policy on national television.

SUMMARY OF AID PROGRAMS

U.S. economic assistance to the Central African Empire is provided as development assistance, title II food assistance under the Public Law 480 program, and the Peace Corps program. There is no military assistance program. The total economic aid expended for fiscal years 1975–77 was \$4.8 million. The estimated expenditure for fiscal year 1978 was \$12.2 million, excluding Peace Corps funds. Although \$6 million in development assistance is projected for 1979, this amount represents a carryover of previously obligated funds, and the programs listed in the Congressional Presentation for fiscal year 1979 are designated as having been terminated. (See pp. 116–117.)

U.S. ECONOMIC ASSISTANCE TO THE CENTRAL AFRICAN EMPIRE

[Fiscal years, millions of dollars]

Type	1975	1976	Transition quarter	1977	1978 (estimated)	1979 (proposed)
AID.....		0.9	0.1	1.0	8.0	6.0
Public Law 480.....	0.3	.4		.1	4.2	(1)
Title I.....						
Title II.....	(.3)	(.4)		(.1)	(4.2)	(1)
Peace Corps.....	.3	.5	.3	.9	(1)	(1)
Total.....	.6	1.8	.4	2.0	12.2	6.0

¹ Not available.

Sources: U.S. Agency for International Development. Congressional Presentation, fiscal year 1979. Annex A. Washington, 1978, p. 423; U.S. Agency for International Development. Fiscal year 1978 submission to the Congress. Africa programs including Sahel Development program. Washington, February 1977, p. 26; U.S. Agency for International Development. U.S. Overseas Loans and Grants and Assistance from International Organizations: Obligations and loan authorizations, July 1, 1945–Sept. 20, 1977, p. 95.

The Public Law 480 program involved the feeding of school children, a segment of the population particularly susceptible to malnutrition, and several community development projects. These projects included training programs and self-help activities such as road improvements and water supply systems.

The development assistance programs focus on the areas of food and nutrition and improvement of health delivery to the rural areas. In the food and nutrition area, projects include seed production, laboratory and warehouse construction, and technical training for Central Africans at U.S. universities. Assistance in the health area consists of projects for designing a provincial health management system, establishing village health committees, training traditional health workers such as village healers and birth attendants, and improving transportation by training mechanics and providing vehicles.

During the 1975–77 period the Central African Empire received \$17.1 million in multilateral assistance through the African Development Fund [AFDF]. No assistance was received from the International Development Association [IDA], the International Bank for

Reconstruction and Development [IBRD], or the International Finance Corporation [IFC]. The AFDF projects included agricultural, education and health projects, most of which involved the construction of schools and a hospital. The United States abstained from the voting on the education project in 1977. Information on the U.S. vote on the other projects was not readily available.

U.S. SANCTIONS AND THEIR IMPACT

In August 1977, the U.S. Ambassador to the CAE left for consultation in Washington, returning 2 months later to inform the Government that the United States would begin phasing out its aid program. Since public awareness of this policy did not develop until shortly after Bokassa's coronation as Emperor, reports in the press said that the U.S. action was taken because of the extravagance of the ceremony. It was also reported that the aid withdrawal was made because of human rights violations by Bokassa's government. According to the State Department the actions taken were not meant as punishment for violations but were designed to draw the CAE Government's attention to the human rights concerns of the United States. The actions were also taken in anticipation of congressional reaction to an incident which occurred in July 1977 involving the imprisonment of an American and a British reporter in the CAE.

The reaction of the CAE Government to the U.S. aid withdrawal was better than had been anticipated by the State Department. According to the Department, the Government has become more sensitive to human rights and more aware of U.S. policy in the human rights area. Furthermore, the Government did not ask that the Peace Corps be withdrawn.

State Department officials seem to agree that U.S. aid should be resumed in fiscal year 1980, noting that it is in the U.S. interest to do so for the following reasons:

Bokassa has been helpful in situations such as the 1977 incident when President Idi Amin of Uganda called all Americans in that country for a meeting with him in Kampala. Amid fears that some harm would befall the Americans, Bokassa interceded in their behalf.

The CAE continues to cast its vote with the West at the United Nations on a number of East-West issues.

American missionaries and American commercial interests in the CAE might be better protected.

Although treatment of prisoners has sometimes been harsh, it is not clear that a "consistent pattern of gross human rights violations" exists in the CAE.

The United States might wish to counter the African perception that the Western reaction to the reporter incident of July 1977 was a manifestation of racism.

The United States continues to provide indirect aid to the CAE through its funding of regional projects. Also some Peace Corps activity is continuing there.

In addition to the withdrawal of aid, the United States has used negative votes or abstentions in the international financial institutions to signal its concern for human rights conditions in the CAE.

For example, the United States abstained from voting on an AFDF education project in the amount of \$6.3 million.⁷

Views on human rights conditions in the CAE vary. Some argue that the situation there may well be no worse than in a number of other African countries, though many news reports portray Bokassa's government as an extreme violator of human rights.

In the area of political rights, the press has emphasized the 1972 "incidents" involving the severing of ears and beating of prisoners, the 1977 treatment of Western journalists, and Bokassa's authoritarian methods and sometimes eccentric actions. Freedom House has given the CAE its lowest rating on its scale of civil and political rights. In the economic area, news articles generally cite Emperor Bokassa's coronation ceremony as an obvious waste of money in a nation which has been described as one of the world's least developed countries.

Actual conditions are probably somewhere between these two views. The beating of prisoners and the dismembering decree of 1972 were severe and inhuman measures that have since been discontinued. There is little evidence today of widespread or sustained gross violations of human rights. The large majority of the population lives in a traditional society where a single authoritarian figure is acceptable. Therefore, Bokassa's authoritarian style and the lack of implementation of changes stated in the new constitution are probably accepted by most, with the exception of the urban elite. Furthermore, most of the people, given their low standard of living, seem to be more concerned with food, health, and employment than with political rights.

In the economic area, corruption persists despite the Bokassa government's efforts against it, and the expense of the coronation ceremony certainly had an adverse affect on development needs. Also, production of food crops for local consumption has been limited by crop disease, seed degeneration, and Government emphasis on cash crops such as cotton and coffee.⁸ Despite these problems, the CAE Government has demonstrated its concern for the improvement of health and education as well as development of industry and infrastructure. Further improvement in these areas, as well as alleviation of the country's budgetary problems, will require large amounts of continued technical and financial assistance accompanied by economic and financial reform of the Central African Government administration.⁹

ETHIOPIA*

BACKGROUND

Since 1974, Ethiopia has been undergoing rapid social, economic, and political change at the direction of a military government. The

*Prepared by Raymond W. Copson, Analyst in International Relations.

⁷ U.S. Treasury. U.S. Opposition to IFI Loans on Human Rights Grounds in 1977-78, May 3, 1978.

⁸ Op. cit., Kalck, pp. 180-181; U.S. Department of Commerce. Industry and Trade Administration. Foreign Economic trends and their implications for the United States. Central African Empire. June 1978. (International Marketing Information Series) p. 4; U.S. Agency for International Development. Fiscal year 1978 Submission to the Congress. Africa Programs Including Sahel Development Program. Washington, February 1977, p. 24.

⁹ Op. cit., Africa South of the Sahara, 1978-79, p. 256.

full effects of this rapid change are difficult to assess because of the scarcity of reliable information from Ethiopia, but many press reports indicate that the military regime has made significant progress in equalizing the distribution of income in Ethiopia and in improving the lot of the rural peasants. This progress, if indeed it has taken place, has been made despite the armed challenges the Ethiopian Government has faced in Eritrea, along the Red Sea coast, and in the Ogaden, bordering Somalia. It is quite clear, however, that whatever progress has been made has been accompanied by repeated and substantial violations of the human rights of some thousands of individuals.

Analysts of Ethiopian affairs are generally agreed that, in its last years at least, the feudal social order, over which Emperor Haile Selassie presided, had grown incapable of responding to many needs of the Ethiopian people. The Emperor lived in seclusion, surrounded by a few high-born advisers, while Ethiopia's communications, transport, education, and health care systems remained among the most primitive in Africa. With population soaring, the need for reform of the country's agricultural system was particularly acute, but almost nothing was done. Selassie's overthrow was in part precipitated by his government's indifference and unresponsiveness to the drought and famine that had ravaged parts of the country for many months.

U.S. relations with Ethiopia under Haile Selassie were quite close. Through 1975, Ethiopia had received \$618 million in U.S. assistance, including \$278 million in security assistance, making it by far the largest aid recipient in sub-Saharan Africa. The Ethiopian Army was well supplied with U.S. arms and equipment, and many Ethiopian officers had been trained in the United States.

HUMAN RIGHTS CONDITIONS

Although it may be true that living conditions for the rural peasants have improved under the military regime, a large number of individuals including many university students and members of the former ruling elite, have suffered severely. Summary execution, deprivation of property, arbitrary imprisonment, torture, and humiliation have been the lot of a substantial number of Ethiopians since the military takeover. Amnesty International, in its 1977 annual report,¹⁰ estimated that at least 8,000 people had been detained in Ethiopia on political grounds. According to another source, there were 6,000 to 10,000 political prisoners in Ethiopia in 1976.¹¹

Precise information on human rights violations in Ethiopia is not available, but several incidents can be cited in which violations almost certainly occurred. Arrests and executions of opponents of the army began as military leaders seized power step by step during 1974. Nearly 200 individuals associated with the royal family or the Imperial Government were detained in that year. In November 1974, 59 or 60 former high officials and some army personnel were summarily executed following a power struggle within the ruling military committee, called the Dergue.

From September through December 1976, a wave of killings, mysterious disappearances, and summary executions swept Ethiopia

¹⁰ Amnesty International "Amnesty International Report, 1977." New York, Amnesty International Publications, 1977, p. 70.

¹¹ Legum, Colin (ed.), "Africa Contemporary Record, Annual Survey and Documents, 1976-77." New York, Africana Publishing Co., 1977, p. B195.

as several factions contended for domination of the Ethiopian federation. The Ethiopian Government must bear some responsibility for the violence during this period. On January 31, 1977, Princess Ijegayehu Asfa-Wossen, daughter of the Emperor, who had been detained, died while in the hospital. Amnesty International reports that her death was probably due to the poor conditions under which she had been held and to improper medical treatment.¹²

In April and May 1977, an estimated 1,000 opponents of the Dergue were killed by the People's Militia and the army.¹³ In December of the same year, an estimated 300 Ethiopians were executed as counter-revolutionaries in a sweep of the streets of Addis Ababa by the militia. These executions were part of a program of "Red Terror" proclaimed by the Government to defeat the so-called "White Terror" of the regime's opponents. The Government announced in February 1978 that the Red Terror was a "justifiable terror" ¹⁴ that would continue.

Although there are indications that a purge of the labor union movement in Ethiopia may have taken place in May, the situation in Ethiopia seems to have quieted somewhat in recent months. There have been few reports of new human rights violations.

THE STATE DEPARTMENT REPORT

The most recent State Department report on human rights in Ethiopia ¹⁵ gives scant attention to violations of the rights of individuals in the country, while emphasizing the achievements of the Dergue in extending collective economic rights to the Ethiopian peasants. According to the report, "Centuries of feudalism seem to have been dealt a fatal blow" by the Dergue, and this remark reflects the guarded enthusiasm of the report for the new regime in contrast to the old. It is noteworthy that the report refers to the Selassie government as "autocratic" and "oppressive," but characterizes the Dergue only as "heavily ideological."

The report does not adequately respond to the widespread reports of human rights violations in Ethiopia that have appeared outside the country. No estimate of the number of detainees in Ethiopia is made, nor are the estimates by other organizations cited. Thus, the reader is given no indication of the magnitude of this aspect of the human rights problem in Ethiopia.

Some words and phrases in the report have the effect of reducing the impact of the human rights violations that are acknowledged. Statements such as "We have received a few allegations of torture that appear to be valid," or "* * * under the prevailing wartime conditions excesses often occur," seem excessively mild in the face of the eyewitness accounts and other reports that have come out of Ethiopia. The statement that "there have been no substantial reports of cruel,

¹² "Amnesty International Report, 1977," p. 71.

¹³ Ibid.

¹⁴ "Africa Research Bulletin," Feb. 1-28, 1978, p. 4750.

¹⁵ U.S. Congress. House. Committee on International Relations, and U.S. Congress. Senate. Committee on Foreign Relations. "Country Reports on Human Rights Practices." Reports submitted to the Committee on International Relations, U.S. House of Representatives, and Committee on Foreign Relations, U.S. Senate, by the Department of State in accordance with secs. 116(d) and 502(b) of the Foreign Assistance Act of 1961, as amended. (Committee print), Washington, U.S. Government Printing Office, 1978, pp. 32-35.

inhuman, or degrading treatment or punishment," does not accord with the weight of the evidence provided by other sources.

SUMMARY OF AID PROGRAMS

U.S. economic assistance to Ethiopia declined from fiscal year 1975 through fiscal year 1977 (table 1). The very low figure of \$5.7 million for fiscal year 1977, however, does not, according to available information, reflect a U.S. intention to inflict so severe a cutback. Development assistance was initially programed at \$12 million, but less than \$1 million of this was spent because agreements between the United States and Ethiopia on particular development projects could not be reached.

TABLE 1.—U.S. ECONOMIC ASSISTANCE TO ETHIOPIA
[Fiscal years, in millions of dollars]

Type	1975	1976	Transition quarter	1977	1978 (proposed)
AID.....	17.2	5.6	(¹)	0.9	² 15.2
Food for Peace.....	5.2	7.2	0.4	4.8	6.9
Title I.....		(3.4)		(.2)	
Title II.....	(5.2)	(3.8)	(.4)	(4.6)	(3.9)
Emergency, 1978.....					(3.0)
Total economic aid ³	23.8	13.5	.5	5.7	22.1
Total military aid.....	37.6	7.4	.8	2.7	

¹ Less than \$50,000.

² Of assistance planned for development projects under AID, only about \$5,000,000 is likely to be spent.

³ Column totals include small amounts of aid in other categories, notably for the Peace Corps.

Sources: U.S. Agency for International Development. Congressional presentation, fiscal year 1979. Annex A. Washington, 1978, pp. 267-281; U.S. Overseas Loans, Grants and Assistance from International Organizations; Obligations and Loan Authorizations, July 1, 1945-Sept. 30, 1977. Washington, p. 98. Data on emergency food assistance supplied by U.S. Department of Agriculture.

The reason for this failure is not fully clear. Some State Department sources report that negotiations broke down because of Ethiopian hostility to the United States. Another interpretation, also from State Department sources, is that bureaucratic delays on both sides, which delayed agreements until after development funds for the fiscal year had been exhausted, were the primary factor. But in any case, U.S. human rights policy does not seem to have played a significant role in the failure of the two sides to come to agreement. The remainder of U.S. assistance to Ethiopia in fiscal year 1977 consisted of Public Law 480 food aid.

Development assistance for fiscal year 1978 was programed at \$15 million, including \$14 million for food and nutrition projects. Only about \$5 million of this was spent, however, because of delays in project agreements like those that occurred in fiscal year 1977. An important delaying factor in fiscal year 1978 was the State Department effort to secure compensation for expropriated property, formerly belonging to U.S. citizens, in Ethiopia. Under Public Law 480, \$3.8 million was programed, and there has been an additional \$3 million in title II emergency food aid.

Although U.S. economic assistance planned for Ethiopia in fiscal year 1978 was not fully spent, it is interesting that programed and emergency assistance totaled over \$22 million. This figure exceeds the aid offered Ethiopia in some years of the Selassie regime. Clearly,

then, apart from grant military assistance, aid reduction is not being used as a human rights sanction.

Ethiopia receives assistance from several Western European countries, and international financial institutions have continued to make loans there (table 2). The Soviet Union and Cuba are deeply involved in both development and defense in Ethiopia, where there are an estimated 17,000 Cuban troops and 1,000 Soviet military advisers.

TABLE 2.—AID COMMITTED TO ETHIOPIA FROM INTERNATIONAL FINANCIAL INSTITUTIONS

[Fiscal years, in millions of dollars]

Type	1976	Transition quarter	1977
IBRD			
IDA	27.0		57.0
AfDB	10.0		5.0
UNDP	1.9		3.4
Other	5.1		7.1

Source: U.S. Agency for International Development. Congressional presentation, fiscal year 1979.

U.S. HUMAN RIGHTS POLICY AND THE ETHIOPIAN RESPONSE

Although United States-Ethiopian relations deteriorated steadily after the 1974 military takeover, U.S. action against human rights violations in Ethiopia was not undertaken until 1977. On February 24 of that year, the Carter administration, which had just come into office, announced the suspension of grant military assistance to Ethiopia on human rights grounds. Other forms of military assistance were not affected. According to reports, this suspension infuriated the Dergue, which noted that the United States had not taken comparable action against the human rights violations that had occurred under the Selassie regime. Some analysts have suggested that the U.S. reduction in assistance need not have been explained on human rights grounds, since it was the Carter administration's policy to reduce military assistance to the Third World countries as a separate and distinct end in itself.

Two months after the suspension of grant military assistance, Ethiopia terminated the mission of the U.S. Military Assistance Advisory Group, closed three other installations, including the Kagnew communications facility, and expelled more than 300 U.S. personnel. The delay between this event and the suspension of grant military assistance makes it difficult to determine the degree to which Ethiopia was responding to U.S. human rights policy. Some days prior to the closures and expulsions, the Ethiopian Government had been informed that the staffs of both MAAG and the Kagnew facility would be cut sharply because of reduced operations. Perhaps the Dergue was reacting to this information rather than to the human rights action of February 24.

Nonetheless, it seems clear that the U.S. human rights action against the Dergue was part of a pattern of deteriorating relations that brought the once-close United States-Ethiopian tie almost to the breaking point. It is also clear, however, that relations were strained not only by human rights practices in Ethiopia but also by the ideology of the military regime, its hostility to the United States, and its growing ties to the Soviet Union and Cuba.

After the Ethiopian actions of April 1977, Congress cut off further military assistance to Ethiopia, deleting funding for that country from the International Security Assistance Act (Public Law 95-92) and explicitly prohibiting security assistance in the Foreign Assistance and Related Programs Appropriations Act (Public Law 95-148). Human rights violations in Ethiopia were the primary reason for this prohibition.¹⁶

The only other action taken against Ethiopia by the United States on human rights grounds was to abstain on two loan votes at the International Development Association in May 1977. Some U.S. opposition to international financial institution loans to Ethiopia continues, but the stated reason for this opposition is the failure of Ethiopia to compensate American firms for expropriated assets.

Administration opposition to human rights violations in Ethiopia has thus been expressed in only two actions—the suspension of grant military assistance and opposition to two loans—both undertaken in the first half of 1977. Since that time, no further action has been taken, at least according to available information. State Department sources acknowledge that human rights pressure on Ethiopia has indeed eased, and they cite several factors to explain this easing.

First, State Department officials have pointed to what they see as the desirability of maintaining some U.S. access to the Dergue. If Ethiopia were to break relations with the United States, which might have happened if criticism of human rights violations in Ethiopia had continued, the United States would lose, in the view of these officials, any ability it may have to influence the course of events in Ethiopia, to monitor developments there, or to protect the few remaining American interests.

A factor supporting continued economic assistance to Ethiopia is the sense of responsibility some U.S. officials seem to feel for the Ethiopian people. The United States was so deeply involved in assistance to Ethiopia before the overthrow of Emperor Selassie, they believe, that it has incurred a special responsibility for the welfare of Ethiopia's poor. Some of these same officials believe that this responsibility can be fulfilled in current circumstances because the Dergue has made genuine progress in improving the lot of these poor. They share the positive view of the Dergue's achievements that is reflected in the State Department human rights report.

No one interviewed in connection with this report would claim that the United States policy has been responsible for the recent apparent reduction in the frequency of human rights violations in Ethiopia. All believed that the United States has far too little influence over Ethiopia to bring about such a change. One source suggested that the Soviet Union and Cuba, which of course are extremely influential in Ethiopia, may have persuaded the Dergue to limit human rights abuses in the country because of the damage these abuses were causing the Marxist movement in world public opinion.

¹⁶ See the remarks of Representative Long in explaining the compromises reached in conference. Congressional Record, vol. 123, No. 168, Oct. 18, 1977, p. H11191. The Soviet and Cuban role in Ethiopia was also a factor in the approval of this ban.

GHANA*

BACKGROUND

During the colonial period Ghana (then known as the Gold Coast) was subject to British rule, although several years before independence some limited participation in government was allowed the indigenous population. Ghana became independent in 1957, and leadership was assumed by Kwame Nkrumah and his Convention People's Party (CPP) as a result of elections held in 1956. Ideologically Nkrumah's government mixed socialism and nationalism with African tradition. Though Nkrumah and the CPP made a number of efforts to raise the economic level of the people, they succeeded only in accumulating foreign debts. Under Nkrumah, Ghana evolved from a multiparty system with a parliament and constitution, adopted in 1960, into a one-party system with censorship of the press and occasional detention of individuals in opposition to the Government. After two assassination attempts against Nkrumah in 1962 and 1964, severe security measures involving the detention of large numbers of people were taken against opposition groups. This abuse of civil liberties, in addition to the declining economic situation and widespread corruption, led to the coup of February 1966 in which the army and police took power.

The coup leaders established a National Liberation Council (NLC) as the new government. Although the NLC leadership had dissolved the National Assembly and suspended the Constitution, it promised an early return to civilian rule and released hundreds of political prisoners detained by Nkrumah. The NLC took several austerity measures in an attempt to reduce domestic inflation and succeeded in rescheduling some foreign debts accumulated by Nkrumah. Under the NLC government a new constitution was adopted which emphasized individual rights, separation of powers within government institutions, and prohibition of single-party rule. Elections were held in August 1969 and the winning candidate, Dr. Kofi Busia, took office in October of the same year, reestablishing civilian control of the Government.

The election and the new constitution represented significant achievements in the area of civil and political liberties. However, under Busia large numbers of non-Ghanaian Africans were expelled from the country in an attempt to create employment and commercial opportunities for Ghanaians.

Busia's economic measures proved less successful. He attempted to stimulate economic growth through encouragement of foreign investment and reorientation of domestic enterprise away from state ownership toward the private sector. Important groups, including farmers, trade unionists, civil servants, the military, and students, were alienated by Busia's austerity measures. These actions, in addition to other economic problems—among them extreme inflation resulting from currency devaluation—finally resulted in a bloodless military coup in January 1972 led by Lt. Col.—later General—Ignatius Kutu Acheampong.

*Prepared by Brenda Branaman, Analyst in Middle East and African Affairs. There has been a change in government in Ghana since this section was written.

HUMAN RIGHTS CONDITIONS

A. ACHEAMPONG GOVERNMENT

The new military leadership formed a National Redemption Council (NRC) ¹⁷ to lead the country, and Lieutenant Colonel Acheampong became head of state. The new government, in an attempt to improve the economic situation, imposed restrictions on the import of non-essential goods and introduced several programs which promoted self-help. The most significant of these programs was "Operation Feed Yourself," its goal being to increase food production and reduce the need for imported food. The program was adversely affected by poor harvests due to drought over the previous several years. Other economic problems included the continued decline in per capita income caused in part by extreme inflation; shortages of basic consumer commodities; a shortage of imported goods and spare parts needed for industry which resulted in underproduction and layoffs in the factories; smuggling; and corruption among Government officials.

When the Acheampong government first assumed power, the constitution was suspended, and both political parties and the national parliament were dissolved. Despite these actions, however, Acheampong's early rule reportedly demonstrated moderate respect for civil and political liberties relative to many other African countries, especially those with military governments. Some local participation was allowed through traditional leaders; trade unions were allowed to participate in decisions affecting workers; some civilian technocrats from former governments were given influential positions; and, although no public opposition was allowed, Ghanaian citizens reportedly felt free to express opinions privately. A number of persons detained after the 1972 coup for their support of Busia were released in July 1973.

By 1975, however, the status of civil liberties began to decline. In that year and in 1976, several important trials were held which resulted in the conviction of 13 persons. Three of these persons were eventually freed in June 1978 as a result of an appeal to the Accra High Court. Amnesty International was refused admittance at two of the 1976 trials, and some of the accused in the May trial alleged that they had been tortured. This was the only such allegation, however. Also in 1976, a Supreme Military Council (SMC) decree was amended to make rulings of military tribunals immune from challenge by civilian courts. The Ghana Bar Association reacted by calling for the abolition of military trial of civilians.

A January 1977 general amnesty changed most death sentences to life imprisonment, reduced most life sentences to 10 years with hard labor, and pardoned some remaining prisoners. It is not known whether the amnesty affected political prisoners. By the end of 1977, however, at least 451 political prisoners were reportedly being held. In addition to these, between 50 and 300 persons who opposed Acheampong's proposal for a new political system known as Union Government were detained after the March 1978 referendum.

During 1977 and 1978, a conflict took place between the SMC and Ghana's civilian professionals on the proposed timetable for return to civilian rule. In June 1977 the Professional Bodies Association called

¹⁷ In 1975 the NRC was renamed the Supreme Military Council (SMC) while the NRC became a subordinate body with its members coming from both the civilian and military sectors.

for Acheampong's resignation. The action triggered a series of professional strikes involving doctors, lawyers, engineers, and other professionals.¹⁸ Acheampong responded to the 1977 strike with his proposal for the establishment of a Union Government (UG) by July 1979. Under the proposal, power would be shared by the military and civilians. Acheampong formed a constitutional committee which was directed to collect viewpoints on the proposal and publish its findings. Opportunity for acceptance or rejection of the plan came in a March 1978 referendum. Rallies were held in support of UG prior to the March referendum, but groups in opposition to UG were not allowed to hold rallies although their existence was at least tolerated. As a result of the referendum, UG was accepted by a small margin. Shortly thereafter, the groups in opposition to UG were banned and a number of persons detained as related above.

Between 1976 and 1978, university students clashed several times with the military government. Each time the conflict resulted in the closing of the universities and detention of a number of students. At least three students were reportedly killed and others wounded in January 1978 when armed troops and policemen clashed with students.

B. AKUFFO GOVERNMENT

As a result of pressure from his colleagues in the SMC on July 5, 1978, General Acheampong was forced to resign as head of state and retire from the army. The action was taken because of Acheampong's inability to resolve the country's overwhelming economic problems and the divisions created among the people by his crackdown on civil liberties. In addition, Acheampong was reportedly altering decisions taken collectively in SMC meetings.

Lt. Gen. Fred Akuffo was appointed as head of state, and his government began its rule with a series of actions intended to improve civil liberties and economic conditions. Among these actions were the following:

- A popularly elected transitional government was proposed. It would take power by July 1979 and would rule for 4 years without political parties but with no institutional representation of the army or police in the government. At the end of that period, full civilian rule with legalization of political parties would be established.
- Political detainees—reported by State Department sources to number well over 200—held since the March 1978 referendum were released.
- The new government consulted with various political interest groups concerning the formation of the transitional government, and a government body was established to improve communications between the government and the people.
- Exiles were invited to return. Many had accepted by September 1978.
- Many government officials were reshuffled, and four of the seven positions on the SMC were eliminated.
- Restrictions on the press were relaxed, and several banned publications were allowed to be published.

¹⁸ The first strike occurred in June and July 1977; another strike involving lawyers of the Ghana Bar Association only began in April 1978 protesting the March referendum as a fraud and was ended after General Akuffo assumed the leadership.

One exception to the generally liberal political atmosphere involved former ruler Acheampong. At first he was said to have remained free, but later he was reportedly detained in a maximum security prison and his assets frozen along with those of his wife.¹⁹

Economic actions included:

- Indicating to the United States and other Western countries that the Akuffo government was interested in Western aid and investment.
- Taking action against certain corrupt practices in the business sector involving foreign exchange and imported goods, and making promises to investigate corruption in the civil service.
- Maintenance of limitations on foreign labor.
- Establishment of an Economic Advisory Committee as a channel through which various groups could participate in economic planning.
- Taking steps to provide better distribution of essential commodities and to increase local production of manufactured goods.

STATE DEPARTMENT REPORT

The State Department report on Ghana relates exclusively to the Acheampong government and differs from nongovernment sources primarily in that it gives a slightly more favorable view of civil liberties than is presented elsewhere. For example, the report noted that when allegations of torture were made against the Acheampong government during the 1976 trials, the government allowed those allegations to be reported in the press. Some information contained in the report but unavailable from other sources includes: (1) Greater detail on Acheampong's UG proposal, and (2) the fact that the sanctity of the home was preserved during the Acheampong period via a requirement for search warrants. The Department's report did not deal with economic rights.

SUMMARY OF AID PROGRAMS

U.S. economic assistance to Ghana takes the form of development assistance programs, Public Law 480 emergency food transfers (title II), and the Peace Corps program. Military assistance is insignificant, consisting of small MAP grants for education and training only. The total programed for fiscal years 1975-77 was \$47.4 million. The estimated program for economic assistance in fiscal year 1978 was \$10.1 million, and that projected for fiscal year 1979, \$16.8 million. The figures for these 2 years exclude Peace Corps funds, but the fiscal year 1979 figure includes \$6.5 million proposed for Public Law 480 food sales. (See table 1.) Development assistance programs emphasize: (1) Agricultural inputs necessary to increase the productivity of small farmers, including extension services, credit, seed, fertilizer, et cetera; (2) training for government management-planning staff involved with rural development; and (3) health and family planning as part of efforts to improve delivery of health services to the rural areas.

As indicated in table 2, during the 1975-77 period Ghana received \$32.6 million in multilateral assistance through the International

¹⁹ Washington Star, Sept. 2, 1978 : A7 ; London Times, Sept. 15, 1978 : 26.

Development Association (IDA) and \$134 million through the International Bank for Reconstruction and Development (IBRD). No assistance was received from the International Finance Corporation (IFC) or the African Development Fund (AFDF). Funds from IDA contributed to programs for palm oil and electricity development and for road maintenance. IBRD assistance was involved with (1) improvement of the telephone system and expansion of the telex system; (2) revitalization of the cocoa industry through loans, farmer training and road maintenance; (3) increasing agricultural production; (4) development plans for areas freed of onchocerciasis (river blindness); (5) finance for small and medium scale industries; (6) general road maintenance and construction industries; and (7) electricity development including construction of a dam on the Volta River.

TABLE 1.—U.S. ECONOMIC ASSISTANCE TO GHANA

[Fiscal years, in millions of dollars]

Type	1975	1976	Transition quarter	1977	1978 (estimated)	1979 (proposed)
AID.....	2.9	11.9	2.4	9.6	7.0	7.0
Food for Peace.....	2.8	3.9	2.2	5.9	3.1	9.8
Title I.....						(6.5)
Title II.....	(2.8)	(3.9)	(2.2)	(5.9)	(3.1)	(3.3)
Peace Corps.....	1.8	1.6	.6	1.8	(1)	(1)
Total.....	7.5	17.4	5.2	17.3	10.1	16.8

¹ Not available.

Sources: U.S. Agency for International Development. Congressional presentation, fiscal year 1979. Annex A. Washington, 1978, pp. 285-286; U.S. Agency for International Development. U.S. Overseas Loans, Grants and Assistance from International Organizations: Obligations and Loan Authorizations, July 1, 1945-Sept. 30, 1977, p. 101.

TABLE 2.—AID COMMITTED TO GHANA FROM INTERNATIONAL FINANCIAL INSTITUTIONS

[Fiscal years, in millions of dollars]

Type	1975	1976	1977
IDA.....	13.6	10.0	9.0
IBRD.....	23.0	63.0	48.0
IFC.....			
AFDF.....			

Sources: World Bank Annual Reports—1975, 1976, and 1977; U.S. Agency for International Development. U.S. Overseas Loans, Grants, and Assistance from International Organizations: Obligations and Loan Authorizations, July 1, 1945-Sept. 30, 1977, p. 227.

U.S. SANCTIONS AND THEIR IMPACT

While Acheampong was in power, the United States continuously stressed the relationship between United States foreign aid legislation and human rights conditions in Ghana. This information comes from State Department sources interviewed in connection with this study. Ghana was told that existing human rights conditions could interfere with sought-after United States assistance. Occasionally pressures have been applied in the case of human rights incidents involving individuals. In these instances high level contact has been made between the United States Embassy and the Ghanaian Government.

More specifically, U.S. concern was expressed in April 1978 when the political arrests of persons in opposition to UG were made. When United States Embassy personnel communicated the United States position, Ghanaian officials said that they had been expecting the visit. This would seem to indicate that the general awareness of the Carter administration's human rights policy in itself exerts some pressure. However, Department sources were unsure as to whether U.S. pressure resulted in any prisoner releases.

Although sources believed that the Acheampong government did not resent U.S. human rights pressures, relations between the two countries began to deteriorate following negative U.S. reaction to the April detentions. Improvements in civil liberties in the Akuffo government are thought to be a response to collective human rights pressures from the United States and Great Britain and from domestic sources. In July 1978, in an effort to reinforce these reforms, President Carter sent a message to the Akuffo government, praising its release of the detainees. When the new government recently appealed to the United States for economic assistance, the United States replied that the desired assistance would be provided if the government reformed the economy. Since that time some reforms have been made and others promised. According to the State Department, if human rights improvements and the economic reforms continue, the United States will provide the desired bilateral aid and probably support IMF assistance to Ghana.

GUINEA*

BACKGROUND

Guinea became the first of the sub-Saharan French colonies to achieve independence when the overwhelming majority of its voters cast "*non*" ballots in the French Community referendum held in 1958. President de Gaulle reacted strongly to the negative vote, cutting off aid to Guinea and ending favorable treatment for Guinea's exports to France. This harsh treatment may have been a factor in the hostility and suspicion that so often characterized Guinea's foreign policy in subsequent years.

Guinea's population numbers less than 6 million. With a per capita income of under \$200, the country is among the world's poorest. Guinea has a one-party socialist government, and President Sekou Toure is himself a prolific author of socialist tracts. The media are controlled by the government. Loyalty to the state and its revolutionary ideology is demanded of all citizens.

President Toure has in the past been noted for his aggressive leftist foreign policies. He was at odds with France for many years after independence, and his relations with neighboring Senegal and the Ivory Coast, richer states under conservative regimes, have been marked by repeated conflict. A particular source of tension between these countries and Guinea has been the large number of Guinean exiles, probably numbering in the hundreds of thousands, living within their borders. Many of these exiles were once members of Guinea's elite, and they constitute a serious and continuing threat to Toure's rule.

*Prepared by Raymond W. Copson, Analyst in International Relations.

In the early morning hours of November 22, 1970, the regime faced its most serious threat when a sea-borne invasion force attacked Conakry. The origins and makeup of this force remain obscure, but it seems likely that Guinean exiles were involved and that they may have drawn support from Portuguese armed forces then conducting a counter guerrilla war in neighboring Guinea-Bissau. Toure's response to this attack was to accuse several countries, including Portugal, West Germany, France, and Senegal of complicity, and to launch a campaign of widespread arrests and public executions within the country. Past and present high government officials were not spared in this campaign, and the Roman Catholic archbishop of Conakry, Msgr. Raymond-Marie Tchidimbo, was among those held. Tchidimbo was not released until mid-1979, on the eve of Toure's departure for an unofficial visit to the United States.

Recent years have seen a remarkable transformation in Guinea's foreign policy as the Toure regime has reconciled itself with its former enemies. Relations with France were restored in 1975 after a 10-year break, and in March 1978 approaches that Toure had made toward the Ivory Coast and Senegal bore fruit in a formal reconciliation at a meeting of heads of state held in Monrovia, Liberia. Toure has also been seeking new friends outside Africa. Diplomatic relations have been established with South Korea, and in June 1978 Toure paid a state visit to Saudi Arabia.

Relations with the United States are better than in the past. One reason for this may be the suspension, on Guinea's part, of Soviet reconnaissance flights from Conakry airport over the South Atlantic. A high-level Guinea delegation, headed by the Prime Minister, visited the United States after this suspension to discuss improved and expanded contacts with the United States.

Guinea's more conciliatory foreign policy may be explained by economic considerations. Though poor at present, the country has great development potential because of its mineral wealth. In addition to its substantial deposits of iron and diamonds, the country has the world's largest reserves of bauxite. Much of its current bauxite production is in the hands of American firms, and Guinea supplies the United States with about 13 percent of its bauxite imports. Further development of Guinea's mineral wealth will require foreign investment capital and technical expertise. The Western countries, Saudi Arabia, and South Korea are likely suppliers of this needed assistance.

HUMAN RIGHTS CONDITIONS

The arrest and detention of opponents of the Toure regime—and even of many who have shown no discernible opposition—have been common in Guinea. Amnesty International, in a briefing paper on Guinea released in June 1978,²⁰ estimated that between 2,000 and 4,000 political prisoners were being held in Guinea. One of the more prominent detainees is Diallo Telli, the first Secretary General of the Organization of African Unity and former Minister of Justice in Guinea. Reports that Telli has died in detention have circulated for some months but cannot be confirmed.²¹

²⁰ Amnesty International. Briefing on Guinea. New York, Amnesty International (June 1978).

²¹ The International League for Human Rights. Human Rights Bulletin (April 1978), p. 6.

In June 1977, the International League for Human Rights submitted a report²² on the human rights situation in Guinea to the United Nations. This submission was accompanied by a letter to Secretary General Waldheim deploring conditions in Guinea and signed by four former U.S. ambassadors to that country. One of these four was later quoted by the New York Times²³ as saying, "Almost everybody I knew in the country is dead or in jail or in exile. And when I say dead, I don't mean they died of a bad cold." The League's report itself consists of eyewitness accounts of conditions in Guinea prisons. These accounts make it clear that torture, humiliation, and malnutrition were commonplace when the report was compiled, affecting both Guinean and European prisoners.

There have been some recent indications of an improvement in the human rights situation in Guinea, although the evidence for this improvement is not fully clear. In July 1977, President Toure offered a pardon to Guinean exiles and said that he would safeguard the wealth, property, and safety of exiled industrialists and businessmen who wished to return. According to some reports, exiles have begun to return under this program.

On December 21, 1977, three French subjects who had been arrested in the wake of the November 1970 attack on Conakry were released, and in a subsequent statement Toure pardoned all other foreigners, most of them Arab, detained in connection with the attack. Shortly after these developments, reports appeared of the release of as many as 300 Guinean political prisoners, but Amnesty International has not been able to substantiate this report. A State Department source has indicated, however, that releases of small numbers of political prisoners have been made over several months and are continuing.

THE STATE DEPARTMENT REPORT

The State Department Country Report on Guinea²⁴ is not in conflict with the limited information on human rights conditions available from independent sources. The report opts for an estimate of 1,000 political prisoners, noting that Amnesty International's 1977 yearbook gave this figure as a conservative estimate. Amnesty International, as noted above, subsequently raised its estimate to 2,000-4,000. The State Department report makes repeated reference to the difficulty of gathering information on human rights conditions in Guinea, and the report's lack of reliable information is indeed its principal shortcoming.

SUMMARY OF AID PROGRAMS

U.S. economic assistance to Guinea from fiscal year 1975 through fiscal year 1978 has averaged somewhat less than \$10 million per year

²² The International League for Human Rights. Communication to the United Nations on a consistent pattern of gross violations of human rights in Guinea. New York, The International League for Human Rights (June 1977).

²³ New York Times, Nov. 19, 1977, p. 2.

²⁴ U.S. Congress. House. Committee on International Relations, and U.S. Congress. Senate. Committee on Foreign Relations. Country reports on human rights practices. Report submitted to the Committee on International Relations, U.S. House of Representatives, and Committee on Foreign Relations, U.S. Senate, by the Department of State in accordance with sections 116(d) and 502(b) of the Foreign Assistance Act of 1961, as amended. (Committee Print) Washington, U.S. Government Printing Office, 1978, pp. 46-49.

(table 1), including about \$6.4 million in emergency (title II) Public Law 480 assistance authorized for fiscal year 1978. Annual U.S. assistance to Guinea may seem small in absolute terms, but it has usually been equivalent to 5 percent or more of Guinea's annual government expenditures. There is no U.S. security assistance to Guinea.

TABLE 1.—U.S. ECONOMIC ASSISTANCE TO GUINEA

[Fiscal years, in millions of dollars]

Type	1975	1976	Transition quarter	1977	1978 (proposed)
AID.....	0.5	0.2	.....	0.8	1.0
Food for Peace.....	11.0	6.4	2.3	7.9	12.0
Title I.....	(8.6)	(5.2)	(2.3)	(7.5)	(5.5)
Title II.....	(2.4)	(1.2)	.....	(.4)	(.1)
Emergency, 1978.....	.....	.....	.....	.....	(6.4)
Total economic aid.....	11.5	6.6	2.3	8.7	13.0

Sources: U.S. Agency for International Development. Congressional presentation, fiscal year 1979. Annex A. Washington, 1978, pp. 301-306; U.S. Department of Agriculture.

Guinea also receives some assistance from international financial institutions (table 2) and from several Western European countries, Saudi Arabia, and Qatar. The U.S.S.R. provides Guinea with military assistance, military advisers, and technical personnel, while China provides technical personnel. Guinea's relations with China, however, have been under strain because of a disagreement in 1975 over the Soviet role in Angola. Cuba provides military advisers to Guinea.

TABLE 2.—AID COMMITTED TO GUINEA FROM INTERNATIONAL FINANCIAL INSTITUTIONS

[Fiscal years, in millions of dollars]

Type	1976	Transition quarter	1977
IBRD.....	.....	.....	.....
IDA.....	21.0	.....	.....
AfDB.....	1.5	.....	.....
UNDP.....	5.1	.....	2.1
Other U.N.....	1.5	.....	.2

Source: U.S. Agency for International Development. Congressional presentation, fiscal year 1979.

U.S. HUMAN RIGHTS POLICY

U.S. actions against human rights violations in Guinea have been distinctly limited. Aid in fiscal year 1978 as initially programed was below fiscal year 1977 assistance, but with the \$6.4 million in emergency food aid added in, fiscal year 1978 aid exceeds previous levels. It should be noted that emergency food aid, which falls under title II of Public Law 480, is not subject to the human rights restrictions contained in section 112 of title I.

Human rights violations in Guinea, however, have not been unopposed. According to a State Department source, Guinean officials visiting the United States have been confronted with American objections to Guinea's human rights policy. Interest shown by the Government of Guinea during 1977 in the purchase of U.S. manufactured patrol boats was rebuffed. Also in 1977, the U.S. abstained on human rights grounds on a vote taken at the African Development Fund on a \$5.5 million loan for hemp production in Guinea.

According to a report appearing in the New York Times in November 1977,²⁵ human rights officials at the State Department succeeded in holding down the administration's food aid budget request for Guinea for fiscal year 1978 on human rights grounds. However, the emergency food aid subsequently approved was far larger than the \$1.7 million reduction reportedly achieved.

The limited American response to human rights violations in Guinea may in part reflect approval on the part of some U.S. officials of Guinea's decision to terminate Soviet reconnaissance flights from Conakry. There also seems to be some desire, at least among State Department officials, not to appear to bully a small, poor African country and to keep newly developed channels of communication open. One State Department source has pointed out that the Soviet Union, with its longstanding ties to Guinea, is in a good position to move into any vacuum that might be created should Sekou Toure become disaffected with Western pressure over human rights.

Although there may be several factors which help to explain the increasingly friendly policy the United States has adopted toward Guinea, the officials interviewed for this study all expressed the view that what they saw as an improving human rights situation in Guinea had been a key policy determinant. The relative importance of this, as compared to other factors, cannot be assessed on the basis of information available at the present time.

GUINEA'S RESPONSE

It is difficult to prove a cause-and-effect relationship between U.S. policy and the releases of political prisoners in Guinea, in part because the timing and extent of these releases are not known. Nonetheless, some link seems quite probable. U.S. support for human rights has been made known to President Toure, and he may well have concluded that increased American investment and aid required some improvement in his country's human rights performance.

The extent of the reforms in Guinea, however, should not be exaggerated. The vast majority of political prisoners remain in detention and both Amnesty International and the International League for Human Rights continue to report human rights violations there. Consequently, the restrained U.S. approach to the Guinean human rights issue cannot yet be judged a success.

SOMALIA*

BACKGROUND

In 1960, the year when British Somaliland and Italian Somaliland became independent, the two countries were united as the Somalia Republic. The new government was controlled by civilians, and most of the civil liberties associated with Western participatory democracy were protected in the context of a multiparty political system: freedom of press and media; freedoms of speech, political association, and movement; a penal code concerned with protection of the individual.

²⁵ Op. cit.

*Prepared by Brenda Branaman, Analyst in Middle Eastern and African Affairs.

There were, however, some differences from the Western system. Land was government-owned since private landownership was incompatible with Somali tradition.²⁶ In addition, although the penal code was largely based on the inherited British and Italian systems, portions of Islamic law were incorporated into the Somali code, and some tolerance existed for the Somali tradition of paying *dia*.²⁷ *Dia* involved the concept of group compensation for homicide or other crimes with compensation paid collectively in livestock to the wronged individual or the immediate kin of a homicide victim. The amount of compensation was determined by custom and by decisions of elders who ruled the *dia*-paying groups.²⁸

Theoretically participation in government was widespread, but actually only a small portion of educated urban inhabitants were involved in government decisions. The majority of the population consisted of peasants and nomads, most of whom were illiterate and therefore unable to provide any substantial input into government processes. The government attempted to correct the situation by making education more widely available, but was prevented from this by two obstacles. One was a conflict between decisionmakers on whether academic or technical training should be emphasized, while the second was the lack of a script for the Somali language.²⁹

Pervasive clan solidarity, known as tribalism by the succeeding military government, produced a proliferation of political parties. Though the large number of parties gave the appearance of democratic participation, the party coalitions that formed directly after elections represented collections of urban literate elite interests and thus a very narrow political base. Under such a system the interests of the rural population were reportedly not effectively represented.³⁰

Government corruption and mismanagement, also a result of clan solidarity, led to the misuse of both domestic and foreign aid funds. These problems, together with a lack of government interest and involvement in developing the economy, contributed to the government's inability to raise the economic level of its citizens, the majority of whom lived in extreme poverty. The poor economic situation fostered widespread discontent, resulting in the bloodless coup of October 1969.³¹

HUMAN RIGHTS CONDITIONS

a. *Economic conditions.* The coup was staged by police and military officers who then formed the Supreme Revolutionary Council (SRC), with Maj. Gen. Mohamed Siad Barre as the new president. The military government pursued goals that included the establishment of "scientific socialism" and greater economic independence, especially self-sufficiency in the production of food products. In addition, tribalism, or clan divisions, and corruption were to be eliminated.

²⁶ Kaplan, Irving, ed. *Area handbook for Somalia*. Washington, U.S. Government Printing Office, 1977, p. 148.

²⁷ *Ibid.*, p. 147, 342, 344.

²⁸ *Ibid.*, p. 10, 66-67.

²⁹ *Ibid.*, p. 122-123.

³⁰ Davidson, Basil. *Somalia: towards socialism. Race and class*, vol. XVII, No. 1, 1975: 26-27; *Africa South of the Sahara 1977-78*. London, Europa Publications Ltd., 1977, p. 790.

³¹ *Op. cit.*, Kaplan, p. 161-162; Laitin, David. *The political economy of military rule in Somalia*. *Journal of modern African studies*, September 1976: 452-453; Farer, Tom J. *Warclouds in the Horn of Africa*. New York, Carnegie Endowment for International Peace, 1976, p. 74-75.

Economically and socially the Barre government is credited with a number of accomplishments, many still in process. The economic infrastructure has been improved through road construction and development of a new port at Mogadishu, the capital city. The supply of electricity has been increased; a script has been adopted for the Somali language, facilitating the general literacy campaign and the improved availability of education; health care has been improved relative to care existing before the Barre government; and assistance has been provided to nomads affected by the 1973-74 drought. The drought rehabilitation program involved resettlement and training of nomads in agricultural and fishing cooperatives, a literacy campaign, and hygiene and sanitation instruction as part of an effort to improve health conditions.³²

Some government programs, however, have had mixed results. Somalia has yet to reduce its foreign dependence in the areas of trade and finance and must still import much of its food, although a number of agricultural projects have been started, including village self-help programs, 12 state farms, experimental rice production and livestock development projects, and 20 fishing cooperatives. Industry trade and banks have been nationalized, but the development budget remains heavily dependent on foreign aid. All of these programs are part of the Barre government's attempts to raise the economic level of the Somali people with some equitable distribution of the benefits.

b. *Civil and political liberties.*—Opposition to the Barre government is suppressed in a variety of ways: Press and other media are censored, contact with foreigners is discouraged, and citizens are under constant surveillance. Surveillance is maintained by National Security agents, who were reportedly trained by Soviet KGB advisers, and by Victory Pioneers, government workers who are assigned to self-help projects but also perform police and surveillance duties. Although the penal code existing under the former civilian government remains essentially intact, the government wages a campaign against the tradition of paying *dia*. The official purpose of this is to eliminate tribalism, yet it is also used to maintain government control over the settlement of disputes.³³

The government delivers heavy punishment or execution for dissent against "the revolution," and an individual charged with practicing "tribalism" may be imprisoned. Barre apparently avoids excessive brutality in the treatment of his political opposition, however. Many dissenters have been politically rehabilitated and given responsible positions within the government, a tactic that has probably reduced the internal opposition. Even so, in the view of some analysts, the suppression of free speech practiced by the SRC runs counter to the egalitarian nature of Somali tradition.

The estimated number of political prisoners ranges from 12 to "a few" to "unknown," depending on the source consulted. Some exiled Somali dissidents claim that the number of detainees is larger.³⁴ They also allege that the Barre government makes widespread use of torture and that several persons have died in detention as a result of such torture.³⁴ Many observers say that all persons presently detained for

³² Ibid., Kaplan, p. 109; Davidson, Basil. Somalia in 1975: Some notes and impressions. Issue: Quarterly journal of Africanist opinion, spring 1975: 24.

³³ Ibid., Kaplan, p. 78, 342.

³⁴ Letter from Abdi Gawido to President James Carter and the U.S. Senate, Aug. 24, 1978; Gawido, Abdi: "Violent Domestic Changes and Violations of Human Rights in Somalia." (Unpublished report accompanying letter.)

political reasons are kept in solitary confinement without any outside contact. However, these charges cannot be substantiated on the basis of available information.

Although the central government makes all policy decisions, attempts have been made to increase local government participation through creation of village councils and worker-management committees in each village and similar groups among the nomads. Members of the village councils are locally elected, while higher government administration units, known as district and regional councils, have both national government and local representation. The village councils and committees meet in "orientation centers," which also serve as centers for educational, entertainment, and informational activities and as day care facilities.

The National Assembly was dissolved in 1969, when Barre's military government took power, and between 1968 and 1975 no political parties existed. In 1976 a single legal party was formed. It is called the Somali Socialist Revolutionary Party (SSRP).

In 1975 there occurred a much publicized incident in which 10 Muslim leaders were tried and executed for their public opposition to government changes in the inheritance law that put women on a more equal basis with men. This was another example of the Barre government's modernizing efforts conflicting with Somali and Islamic tradition, and of its willingness to suppress certain types of human rights—freedom of speech in this case—in order to further others, such as the role of women. Since the arguments of the religious leaders and the government involved different interpretations of the Koranic law, freedom of religion also entered into the conflict.³⁵

Other changes affecting women which came into conflict with Islamic tradition include the modification of the law regarding polygamy and elimination of the right of husbands to divorce their wives at will. The government has also encouraged women to participate in local political decisions and development projects. Traditionally, women were not allowed to express opinions in public (and very little in their homes). Under the Barre government, however, they form women's organizations and sit as equals on local political and planning committees.

The practice of female circumcision, though common in other parts of Africa, is considered by a number of observers to be a serious human rights problem in Somalia. The circumcisions are often performed by untrained women under unsanitary conditions without anesthetic. In Somalia female circumcision is sometimes performed in hospitals, reportedly in an effort to reduce complications resulting from the more conventional but unsanitary method. The practice itself, aside from unsanitary conditions, results in numerous complications and large numbers of deaths of both young girls and mothers and infants at the time of labor.³⁶ Both Africans and Westerners interested in elimi-

³⁵ Op. cit., Kaplan, p. 9, 93, 166, 349; op. cit., "Davidson * * * Somalia in 1975," p. 24; "Africa Diary," Mar. 12-18, 1975: 7348.

³⁶ Hosken, Fran P., "Human Rights: The Horror of Female Circumcision." Press release and insert. In Women's International Network News (WIN News), winter 1978, vol. 4, No. 1: 2; Ogunmodede, Esther, "Why Circumcize Girls?" WIN News, Autumn 1977, vol. 3, No. 4: 45-46; interview with A. J. Abdille, leader of the Somali delegation at the United Nations Conference on Human Settlements (Habitat), Vancouver, Canada, May 31-June 11, 1976. In WIN News, summer 1976, vol. 2, No. 3: 20; statements by Edna Adan Ismail and Dr. Mohamed Warsame Ali, Somali delegates to the Fifth Sudanese Congress of Obstetrics and Gynaecology, Khartoum, Sudan, Feb. 14-18, 1977, WIN News, spring 1977, vol. 3, No. 2: 31.

nating female circumcision believe that the best way to do so is to educate both men and women in areas where it is practiced on the medical problems and deaths which result from the custom.³⁷ The government has expressed some interest in eliminating the practice, but its actions have been minimal according to the information available.

A further source of conflict has been in the area of religious practice. In an effort to accommodate the dominant Islamic traditions, the government has gone to considerable length to incorporate principles of Islam into its doctrines of scientific socialism, an ideology which normally reflects the atheistic aspects of Marxism. Although there have been occasional Government conflicts with religious tradition, freedom to practice their religion has remained open to Somali citizens. Some Somalis are Christian as a result of the existence of missionary efforts in the colonial period. There is, however, little available information on the Barre government's treatment of Christians.

STATE DEPARTMENT REPORT

Information in the State Department report on Somalia agreed in general with findings obtained elsewhere. In at least one instance—the Somali Government's rejection of international investigation of the country's human rights conditions—information was supplied that was not readily available from non-Government sources. Concerning the number of political detainees, State's report gave "less than 30." However, as noted above, this figure is the subject of some debate.

At least two items in the Department's report contradict information found elsewhere. First, the report stated that no elections are held in Somalia, giving no indication of the existence of local elections for village council members. Second, the Department attributed Somalia's economic difficulties to the government's constraints on foreign investment. At least one outside source suggests that failure to raise the economic level of the general population has been caused by a combination of drought, world inflation, and continuing dependency on outside economic assistance.

SUMMARY OF AID PROGRAMS

From fiscal year 1975 through fiscal year 1977, U.S. economic assistance to Somalia consisted of \$7.5 million in food assistance (Public Law 480, title II) and \$0.6 million in development assistance (1975 only). In fiscal year 1978, both emergency food and food sales amounted to an estimated \$13.2 million. One million dollars was appropriated for development assistance programs in fiscal year 1978, but the funds were not obligated. Total economic assistance projected for fiscal year 1979 is about \$14.3 million, including development assistance programs and Public Law 480 food sales and transfers. (See table 1.) Development assistance projects now in the planning

³⁷ Ibid., Ogunmodede, p. 45-46; Baasher, Dr. T. A. "Psychological Aspects of Circumcision" (paper presented); and Mahmoud, Dr. Fatima Abdul, (speech) at the Fifth Sudanese Congress of Obstetrics and Gynaecology, Khartoum, Sudan, Feb. 14-18, 1977. WIN News, Spring 1977, vol. 3, No. 2: 29, 31.

stages include health and agriculture, manpower training, establishment of health and agricultural training institutions, tsetse fly eradication, well drilling, organization of women's cooperatives in the marketing system, construction of shelters for resettlement of nomads, and livestock development.

TABLE 1.—U.S. ECONOMIC ASSISTANCE TO SOMALIA

[Fiscal years, in millions of dollars]

Type	1975	1976	Transition quarter	1977	1978
AID.....	0.6				¹ 1.0
Food for Peace:					13.2
Title I.....					(7.0)
Title II.....	4.6	1.6	0.7	0.6	(6.2)
Total.....	5.2	1.6	.7	.6	14.2

¹ This amount was not expended during fiscal year 1978. Presumably it will be expended during fiscal year 1979.

Sources: U.S. Agency for International Development. Congressional presentation, fiscal year 1979. Annex A. Washington, 1978, p. 360-361; U.S. Agency for International Development. U.S. Overseas Loans, Grants and Assistance from International Organizations: Obligations and Loan Authorizations, July 1, 1945-Sept. 30, 1977, p. 123; U.S. Agency for International Development. Office of Eastern Africa Affairs.

In October 1977, the United States made a grant of \$450,000 to the International Committee of the Red Cross to aid refugees from the Ogaden conflict, many of whom were fleeing to Somalia and Djibouti. In May 1978, the United States obligated \$750,000 in emergency aid to assist Ogaden refugees in both countries. The funds were to be channeled through the U.N. High Commissioner for Refugees, international organizations, and voluntary agencies.³⁸ AID contributed a grant of \$1.5 million to the World Health Organization campaign to eradicate smallpox, which had spread from Ethiopia to Somalia.³⁹

Somalia receives no military assistance from the United States. Although, in 1977, the United States had agreed in principle to provide defensive arms, that agreement was suspended because of Somalia's involvement in the Ogaden conflict. Then in March 1978, the United States agreed to send a military mission to assess Somalia's military needs and was considering \$10 to \$15 million in military assistance, but as of August 1978, the mission had not yet been dispatched.

As indicated in table 2, for the 1975-77 period, \$43.3 million in multilateral assistance was committed to Somalia through the International Development Association (IDA) and \$12.6 million through the African Development Fund (AFDF).

No assistance was received from the International Bank for Reconstruction and Development (IBRD) or the International Finance Corporation (IFC). IDA assistance contributed to educational projects, refugee agricultural settlements in the Juba-Shabelle river area, agriculture extension services and irrigation projects, the construction of a port at Mogadishu, Somali Development Bank, and road development. AFDF funds helped finance an agricultural irrigation scheme, construction of hospitals in the refugee agricultural settlements, road construction, and the printing of school textbooks.

³⁸ Memorandum from the President, May 23, 1978. Weekly Compilation of Presidential documents, May 29, 1978: 958.

³⁹ New York Times, May 15, 1977: 19; Washington Post, Dec. 6, 1977, A15.

TABLE 2.—AID COMMITTED TO SOMALIA FROM INTERNATIONAL FINANCIAL INSTITUTIONS

[Fiscal years, in millions of dollars]

Type	1975	1976	1977
IDA.....	8.0	23.3	12.0
IBRD.....			
IFC.....			
AFDF.....	.6	5.5	6.5

Sources: World Bank Annual Reports—1975, 1976, and 1977; U.S. Agency for International Development, U.S. Overseas Loans, Grants and Assistance from International Organizations: Obligations and Loan Authorizations, July 1, 1945–Sept. 30, 1977, p. 234; African Development Fund Annual Reports—1975, 1976, and 1977.

U.S. SANCTIONS AND THEIR IMPACT

According to State Department sources, the United States has made private diplomatic approaches to the Somali Government relating to human rights issues, though no public sanctions have been applied. There has been no discernible response to such private communications, perhaps because the government has been preoccupied with problems relating to the Ogaden conflict. In this instance, the State Department does not recommend the use of economic sanctions on human rights issues since the Somali Government is intensely involved in attempts to raise the economic level of the population, and this goal coincides with the goals of U.S. economic assistance. Even though the newly proposed development assistance projects required strong justification within the Christopher Group, most economic aid is for emergency disaster relief, which would not be withheld in any case under existing legislation. The State Department justifies its position by reasoning that large numbers of hungry people should not be denied assistance because of a few political detainees.

TANZANIA*

BACKGROUND

President Julius Nyerere of Tanzania enjoys a worldwide reputation because of his commitment to the achievement of ujamaa, or socialist self-reliance. His policy of concentrating Tanzania's dispersed peasantry into ujamaa villages, where agricultural cooperation is facilitated and where essential services are more easily delivered, has drawn particular attention. His country remains among the world's poorest, however, with an estimated annual per capita income of about \$150.

President Nyerere is also known as a strong supporter of African liberation movements. Tanzania offers aid and shelter to African guerrillas from Rhodesia, South Africa, and Namibia, while Nyerere himself is the leading spokesman for the African front-line states.

Tanzania has had serious international difficulties with neighboring states, largely because of its President's strongly held views on ideological questions and on the liberation struggle in southern Africa. There have been occasional outbreaks of violence between Tanzania and Uganda because Nyerere is a supporter of Milton Obote, the former president of Uganda, who was overthrown by Idi Amin in 1971. Nyerere has granted refuge to Obote and to many of his supporters. Ideological and economic rivalries with Kenya have led to

*Prepared by Raymond W. Copson, Analyst in International Relations. This section was written prior to Tanzania's operations in Uganda.

the collapse of the East African Community, once regarded as a model of African international cooperation, and to the closure of the Kenyan-Tanzanian border. There is tension between Nyerere and President Kaunda of Zambia because of their differing views on the liberation struggle in Rhodesia.

Relations between the United States and Tanzania are good, American diplomats, Congressmen, and other high officials have met with President Nyerere on numerous occasions because of his influence in southern Africa and because of his prominence in world affairs generally. Nyerere visited the United States in August 1977 for talks with President Carter. Tanzania received about 10 percent of all American economic assistance to Africa in fiscal year 1976, and approximately 6 percent in fiscal year 1977.⁴⁰

HUMAN RIGHTS CONDITIONS

President Nyerere is an outspoken supporter of human rights. In a speech delivered at the University of Ibadan, Nigeria, in 1976, Nyerere argued that: "Freedom from political oppression, from arbitrary arrest . . ., and from socially unnecessary restrictions on liberty of expression, movement, and organization" are part of the true meaning of liberation. Nyerere went on to add that as a socialist he was also committed to freedom from hunger, disease, and ignorance.⁴¹

Despite this commitment, however, there are indications that individual rights in Tanzania are sometimes sacrificed to the interests of the state. There is freedom of religion in the country, but there is only one political party, and the press is government-controlled. Public debate on fundamental policies is not permitted. Parliamentary and presidential elections are held every 5 years, but in the most recent election, in 1975, President Nyerere was unopposed for reelection. Only 92 of the 220 parliamentary seats were contested by two candidates, with most of the remaining seats chosen by a variety of indirect processes.⁴²

The principal human rights problem in Tanzania, however, is the large number of detainees held without charge under Tanzania's public security laws. Amnesty International estimates the number held at 1,000-1,500,⁴³ although another estimate gives a figure of 3,000.⁴⁴ Information on the detainees is sketchy at best. Many, including several journalists, seem to have been held for political opposition, while others are members of southern African guerrilla organizations who may be held because of disagreements with their leaders, who are supported by Nyerere. A third category of detainees is made up of Zanzibaris held for their alleged role in the 1972 assassination

⁴⁰ Calculated on the basis of data appearing in: U.S. Agency for International Development. Bureau for Program Policy and Coordination. Office of Program and Information Analysis Services. U.S. Overseas Loans and Grants and Assistance from International Organizations, Obligations and Loan Authorizations, July 1, 1945-Sept. 30, 1977 (Washington, 1978) pp. 87 and 128.

⁴¹ Legum, Colin (ed.). *Africa Contemporary Record, Annual Survey and Documents, 1976-77*. New York, Africana Publishing Co. (1977) p. B340.

⁴² *Africa Research Bulletin*. October 1975, p. 3790.

⁴³ Amnesty International Publications. *Amnesty International Report, 1977*. (London, 1977) p. 106.

⁴⁴ *New York Times*. Jan. 17, 1977, p. 3. The same estimate is contained in Rousselot, John H. Human Rights. Extension of remarks in the House. *Congressional Record*, v. 123, Nov. 2, 1977, E6796.

of Sheik Abeid Karume, First Vice President of Tanzania and Chairman of the Zanzibar Revolutionary Council. Amnesty International reports that prison conditions for the detainees are not good and that some may have been tortured. Three Zanzibari prisoners died while in detention.

The number of detainees in Tanzania has probably decreased somewhat in recent months because of several prisoner releases. Some 26 detainees were among the more than 7,000 prisoners released in February 1978 in celebration of the first anniversary of the founding of the Tanzanian Revolutionary Party. Several detainees held in connection with the Karume assassination were released in April 1978, while 19 members of SWAPO, the Namibian liberation movement, were let go in May. However, the total number of detainees in Tanzania evidently remains quite large.

Other potential human rights issues in Tanzania do not seem pressing at the moment. There was a troubling incident in March 1978, when students were expelled from the University of Dar es Salaam and from two other institutions of higher education in the capital for participating in a demonstration against 100 percent salary increases granted members of parliament, government ministers, and party leaders. Police were reported to have beaten some students and to have used tear gas during the demonstration.⁴⁵ Nearly all of these students, however, were later pardoned and readmitted to their institutions. The Tanzanian Government responded positively to another problem with human rights implications when it announced in April 1978 that \$7.5 million in compensation would be paid to peasants whose homes were destroyed in the forcible relocations that took place under the ujamaa village program in 1973 and 1974.⁴⁶

THE STATE DEPARTMENT REPORT

The 1978 Department of State report on human rights in Tanzania⁴⁷ is in accord with information available from other sources. However, only a small portion of the report is devoted to the problem of political detainees in Tanzania, even though this problem is clearly the central human rights issue raised by the Government's policies. The report devotes four sentences to the subject, noting that detainees are held and citing the Amnesty International figures on the number detained. The report states that several of the detainees are members of southern African liberation movements, but it offers no information on the identity of the remainder of those held. Nor does the report give any explanation for the large number of detentions. Much more comprehensive information is needed if the reader is to come to an informed judgment on the Tanzanian human rights situation.

SUMMARY OF AID PROGRAMS

U.S. aid programs to Tanzania until 1975 were quite modest, amounting to only a few million dollars each year. In 1975, however,

⁴⁵ Africa Research Bulletin, March 1978, p. 4785.

⁴⁶ New York Times, Apr. 9, 1978, p. 43.

⁴⁷ U.S. Congress. House. Committee on International Relations, and U.S. Congress. Senate. Committee on Foreign Relations. Country Reports on Human Rights Practices. Report Submitted to the Committee on International Relations, U.S. House of Representatives, and Committee on Foreign Relations, U.S. Senate, by the Department of State in Accordance with sections 116(d) and 502(b) of the Foreign Assistance Act of 1961, as Amended. (Committee Print) Washington, U.S. Government Printing Office, 1978.

U.S. bilateral assistance increased dramatically to nearly \$40 million. This increase was partly the result of the drought conditions Tanzania faced at the time, but it probably also reflected the increased importance of Tanzania and its President in U.S. diplomacy as the international situation in southern Africa deteriorated. Aid to Tanzania has remained well above \$20 million annually since 1975 (table 1), although Public Law 480 assistance dropped in 1977 with improving weather conditions. Proposed U.S. assistance for fiscal year 1979 amounts to over \$25 million.

TABLE 1.—U.S. ECONOMIC ASSISTANCE TO TANZANIA
[Fiscal years, in millions of dollars]

Type	1975	1976	Transition quarter	1977	1978 (proposed)
AID.....	16.3	7.2	1.3	6.7	11.0
Food for peace.....	23.6	23.9	3.8	17.9	10.7
Title I.....	(7.6)	(4.3)	-----	(7.6)	(6.5)
Title II.....	(16.0)	(19.6)	(3.8)	(10.3)	(4.2)
Total economic aid.....	39.9	31.1	5.1	24.6	21.7

Source: U.S. Agency for International Development. Congressional presentation, fiscal year 1979. Annex A. Washington, 1978, pp. 377-393.

Several European countries, together with the Soviet Union and China, have contributed substantial sums to Tanzanian development. Aid from Sweden, where President Nyerere's development strategy is held in high regard, exceeds that from the United States. As indicated in table 2, Tanzania also receives large amounts of assistance from international financial institutions.

TABLE 2.—AID COMMITTED TO TANZANIA FROM INTERNATIONAL FINANCIAL INSTITUTIONS
[Fiscal years, in millions of dollars]

Type	1976	Transition quarter	1977
IBRD.....	15.0	37.0	38.0
IFC.....	-----	-----	-----
IDA.....	45.0	17.0	34.2
AfDB.....	-----	5.0	11.0
UNDP.....	1.0	-----	.7
Other UN.....	1.2	-----	4.5

Source: U.S. Agency for International Development. Congressional presentation, fiscal year 1979. Annex A, Washington, 1978, p. 393.

U.S. HUMAN RIGHTS ACTION AND THE TANZANIAN RESPONSE

Department of State officials interviewed in connection with this study cited no specific U.S. action against Tanzania on human rights grounds. Officials did, however, emphasize the importance of President Nyerere in southern Africa. Nyerere is likely to play a key role in any attempts to arrange peaceful settlements to the southern African conflicts, and in all probability he will remain influential with guerrilla leaders should their struggle continue. Consequently, Nyerere is a leader with whom cordial diplomatic relations are likely to be useful. This consideration has probably been a significant factor in U.S. policy toward Tanzania in recent years.

Another factor in U.S. policy has been the support that Nyerere's development strategy enjoys among many U.S. officials. The Tanzanian emphasis on rural development, food production, equitable income distribution, and appropriate technology has much in common with the "new directions" approach that is now the dominant philosophy behind most U.S. assistance programs. This approach, according to its advocates, responds to the needs of the great majority of the people. Enthusiasm for "new directions" may have created a certain disposition among U.S. officials to minimize the violations of the rights of individuals that do occur in Tanzania.

The Congress has been less cordial toward Tanzania than has the executive. Assistance to Tanzania and to three other countries from the Southern African Special Requirements Funds, established in the International Security Assistance Act of 1977 (Public Law 95-92), is prohibited but the prohibition can be lifted with a Presidential waiver. Representative Philip Crane, in proposing the restriction in the House,⁴⁸ based his case partly on human rights grounds, emphasizing the absence of majority rule in the countries concerned. However, the ideology of the prohibited countries and the support they offer guerrilla movements were also key factors in the adoption of the restriction. The fund has been renamed the Southern Africa program in the 1978 International Security Assistance Authorization Act (Public Law 95-384), which continues the 1977 prohibition. Tanzania remains eligible for aid under other assistance programs.

Little information is available on the Tanzanian reaction to U.S. human rights policy. However, one source has indicated that President Nyerere had expected a positive reaction in the U.S. press and in the Congress to the prisoner releases in Tanzania during the first few months of 1978. He is said to have been disappointed that no such reaction was forthcoming. On June 8, President Nyerere made a very strong attack on Western attempts to dominate African countries. This speech was sparked not by Western human rights policy but by the support, including the introduction of French and Belgian troops, provided by the Western countries to Zaire following the invasion of Shaba Province. However, Nyerere's sensitivity on the issue of Western domination suggests that his reaction to more strenuous U.S. criticism of human rights violations in Tanzania would be strongly negative.

INDONESIA*

BACKGROUND

Indonesia is an island chain along the Equator, stretching 3,200 miles southeastward from the Asian mainland and containing about 3,000 islands. Its population is estimated at nearly 140 million, with about 64 percent located on Java and the adjacent island of Madura. Ninety percent of the people are Muslims, but adherence to Islamic law and doctrine varies widely.

Indonesia remains a very poor country despite reasonably high economic growth over the last decade. Per capita income is about \$300

⁴⁸ Congressional Record, vol. 123, May 24, 1977, pp. H4929-H4930.

*Prepared by Larry A. Niksck, Specialist in Asian Affairs.

(1977 estimate). The majority of the population suffers from such problems as inadequate diet, shortage of housing, substandard sanitation and health facilities, a high rate of disease and infant mortality and limited educational opportunities.

The present Indonesian Government is divided into executive, legislative, and judicial branches. The President and executive branch (which is dominated by army officers and civilian "technocrats") are predominant. The Armed Forces have been a major force in politics since independence in accordance with the concept of "dwifungsi" (dual function). This principle places upon the armed forces a special responsibility for the civil, social, and cultural welfare of the Indonesian people as well as responsibility for national defense.

The 1945 constitution sets out broad guidelines concerning relations between government and individual. It promulgates an official state ideology, "Pancasila," containing five principles: belief in one supreme God, just and civilized humanity, nationalism and the unity of Indonesia, democracy based on the principle of unanimity and consensus, and social justice for all Indonesians. The constitution also specifies that freedoms of speech, assemble, and association "shall be prescribed by statute," thus allowing the Government to regulate them. Freedom of religion is guaranteed without qualification. The constitution also sanctions the right to work, "to a living befitting for human beings," and the right to an education.

The role of Islam has been a major source of political conflict. Muslim political groups have sought to transform Indonesia into a state governed by Islamic law. The ruling elite, which includes the military leaders, has opposed these groups and favors Indonesia remaining a secular state. On occasion, certain Muslim organizations have resorted to violence, and the Government has sought to repress them. Currently, the pro-Islam Development Unity Party is the major opposition political party in the country.

HUMAN RIGHTS CONDITIONS

Since 1974, there has been a general, measured improvement in human rights conditions in Indonesia. Beginning in 1975, the Government has been releasing political prisoners. Most of these were arrested as suspected Communists following the unsuccessful coup of September 30, 1965, when pro-Communist elements within the military attempted to assassinate the top leadership of the armed forces. Following the so-called Gestapu affair, there were widespread killings and arrests of Communist Party members and alleged supporters, and the Sukarno regime gave way to the present Suharto government. As of September 1978, over 17,000 detainees had been released, according to the Government; 4,000 more are scheduled to leave prison by the end of 1978, and close to 10,000 are scheduled for release in 1979.⁴⁹ Two or three hundred remaining prisoners are to stand trial.⁵⁰ Besides

⁴⁹ At the end of 1977, there was controversy over whether the 10,000 released in December would be allowed to return to their homes (mainly in Java) or whether the Government would resettle many of them on Indonesia's outer islands. At present, it appears that the Government did permit nearly all to return to their homes.

⁵⁰ Amnesty International has disputed the Government's figures on the number of political prisoners. In 1977, the Government listed 31,461 political detainees, but Amnesty claimed that there were at least 55,000 and probably close to 100,000.

releases, the incidence of torture and mistreatment of political prisoners appears to have declined in recent years.

Indonesia's takeover of East Timor, formerly Portuguese Timor, in December 1975 may have been an exception to this trend of improvement, but the conflicting claims and lack of access into Timor by non-Indonesians make it difficult if not impossible to ascertain the loss of life in the heavy fighting of December 1975–March 1976.⁵¹ Recently, reports from Timor indicate a partial return to normalcy there although genuine self-determination for the Timorese is a dim prospect.

The government asserts the prerogative of regulating the balance between national stability and unity and the political and civil liberties of individuals and private institutions. Political and civil liberties appear broader now than in the early 1970's. Substantial liberalization occurred in 1977 in terms of freedom of the press, parliamentary elections, the development of a genuine opposition political party, and student political activity.⁵² However, growing student opposition to the March 1978 reelection of President Suharto resulted in the arrest of nearly 800 students, suspension of student organizations, and the closing down of 7 major newspapers in January and February 1978. The government reinstated the student groups in May, and, according to State Department sources, as of September 1978 only 40 students remained in custody to be tried. The newspapers resumed publication but only after agreeing to restrictions on political reporting. In August 1978 the Government banned an issue of a magazine for carrying an article on four important military officers, but on August 24, the Defense Minister told a group of newspaper editors that the press could publish factual material without fear of Government retaliation.

With regard to occupational freedom, freedom of movement, freedom of association, and freedom of religion, Government policies are generally liberal. The Government has placed what it calls temporary restrictions on the movement of recently released political detainees beyond their home localities. It also prohibits Communist, "extremist" Islamic, or separatist organizations.

In terms of meeting the "basic human needs" of the Indonesian people, the Suharto government's performance far exceeds that of its predecessors. Yet, in certain key areas, it has fallen short of the probable potential for improvement. Major accomplishments have been:

- (1) Substantially reducing inflation.
- (2) Restoring economic growth from the "no-growth" situation of 1960–65.
- (3) Obtaining new financial resources from Western aid donors and indigenous oil production.

⁵¹ James Dunn, former Australian consul in Timor and an official of the Australian Legislative Research Service, testified before the House International Organization's Subcommittee in March 1977 that Indonesian troops had killed between 50,000 and 100,000 Timorese. Dunn's information on the situation in Timor came from Timorese refugees in Portugal, Catholic Church sources in Timor and Jakarta, and from an International Red Cross mission that visited Timor in October and November 1975. The Government of Indonesia denies Dunn's charge and has asserted that 60,000 Timorese died in the civil conflict before Indonesia intervened in December 1975 (Dunn claims that the IRC mission estimated only about 1,500 were killed before Indonesian troops invaded). The State Department stated that Dunn's charges "are greatly exaggerated" and that total fatalities were under 10,000. Representative William Goodling, who visited East Timor in April 1977, testified that Timorese and Indonesian sources estimated to him that 40,000–60,000 were killed during that period of civil conflict and the Indonesian intervention.

⁵² Liddle, R. William. *Indonesia 1977: The New Order's Second Parliamentary Election*. Asian Survey, February 1978: 175–185.

- (4) Contributing to an increase of rice production at an average rate of 4.0 percent per annum throughout most of the 1970's.
- (5) Reducing the population growth rate from nearly 3.1 percent in the mid-1960's to 2 percent or perhaps less.
- (6) Achieving some improvement in living standards, especially among the rural poor, and in the distribution of income in rural Java.⁵³

Major failures and shortcomings as cited by various sources have been:

- (1) Failure to achieve self-sufficiency in rice production.
- (2) Failure to diversify the national diet.
- (3) Allowing a highly visible and sizable gap between rich and poor to develop in the cities.
- (4) Failure to appreciably lower the unemployment/underemployment rate, estimated at around 30 percent.
- (5) Failure to reduce an apparently high level of corruption in government.
- (6) Failure to develop an efficient tax system.

STATE DEPARTMENT REPORTS

Coverage of Indonesia in the 1978 State Department report was more detailed than in the 1977 report. They both were especially informative on certain issues, such as government-press relations; political prisoners, including numbers and the release program; the legal basis for political and civil liberties and restrictions on them; and the general state of freedom of speech and assembly. The report dealt with certain other issues in a more limited manner. The 1977 report did not mention the Timor question. The 1978 report referred to it briefly in connection with alleged atrocities but did not discuss it in the context of the denial of self-determination. The 1977 report contained no analysis of torture or mistreatment of prisoners, but the 1978 report did discuss the problem. The section on "basic human needs" in the 1978 report was more a description of actual conditions than an analysis of government performance, except for specific references to the population program and corruption. The 1977 parliamentary election probably deserved more detail in the 1978 report, and the important political-civil liberties issue of government-student relations in 1977 was hardly covered.

The preparation of the 1978 report was a source of controversy within the State Department between the East Asia and Human Rights bureaus.

SUMMARY OF AID PROGRAMS

As indicated in table 1 below, U.S. economic aid to Indonesia, fiscal years 1975-77, totaled \$385 million. Of this, \$152 million was AID loans and grants, and \$232.7 million was in Public Law 480 food programs. Military aid for the same period amounted to \$118.4 million. Major components were \$58.9 million in grant aid and \$51.2 million in foreign military sales (FMS) program credits.

⁵³ Bowring, Philip. "Indonesia: Back to the Real Priorities." *Far Eastern Economic Review*, Sept. 9, 1977: 49-56. *Los Angeles Times*, Nov. 27, 1977. *New York Times*, Apr. 27, 1978 and May 14, 1978. *Asian Wall Street Journal*, May 29, 1978; June 14, 1978; July 15, 1978; Sept. 5, 1978.

TABLE 1.—U.S. ASSISTANCE TO INDONESIA

[Fiscal years, in millions of dollars]¹

Type	1975	1976	Transition quarter	1977
Economic aid: ²				
AID.....	43.4	49.6	16.6	42.4
Food for Peace.....	46.3	56.5	38.2	91.7
Title I.....	(34.8)	(50.6)	(37.1)	(85.3)
Title II.....	(11.5)	(5.9)	(1.1)	(6.4)
Total economic aid.....	89.8	106.1	54.9	134.2
Military aid:				
MAP grants.....	15.9	14.7	10.6	17.7
Credit sales-FMS.....	5.0	23.1		23.1
Tran-excess stock.....	.1	8.2		
Total military aid.....	21.0	46.0	10.6	40.8

¹ Source: Agency for International Development. U.S. Overseas Loans, Grants, and Assistance from International Organizations: Obligations and Loan Authorizations, July 1, 1945 to Sept. 30, 1977: P. 74, 219.

² Totals may not add due to rounding.

Export-Import Bank loans for fiscal year 1975-77 totaled \$350.4 million. Assistance from international banks for the same period was composed mainly of \$1,304 million from the World Bank and \$344.4 million from the Asian Development Bank. Detailed figures follow.

TABLE 2.—AID COMMITTED TO INDONESIA FROM INTERNATIONAL INSTITUTIONS

[Fiscal years, in millions of dollars]¹

Type	1975	1976	Transition quarter	1977
Institution:				
IBRD.....	310.5	538.5	30.0	425.0
IFC.....		1.1		1.9
IDA.....	30.0			
ADB.....	91.3	138.0	1.4	113.7
UNDP.....	5.7	1.8		.1
Other U.N.....	7.4	1.4		6.3

¹ Source: Agency for International Development. U.S. Overseas Loans, Grants, and Assistance from International Organizations: Obligations and Loan Authorizations, July 1, 1945 to Sept. 30, 1977: P. 74, 219.

U.S. SANCTIONS AND THEIR IMPACT

At the end of 1977, the Carter administration delayed making new commitments for Public Law 480 food shipments to Indonesia, citing the International Development and Food Assistance Act of 1977, which prohibited sales to any country that engaged in a consistent pattern of "gross violations" of internationally recognized human rights unless such sales would directly benefit the needy people of the country. The government of Indonesia accepted this stipulation regarding the needy in December 1977. The incident caused some strain in United States-Indonesian relations, but this seems largely to have been dissipated subsequently because of the Carter administration's praise for Indonesia's human rights performance and announcement of new commitments of military and economic assistance.

State Department officials gave different accounts of this affair when interviewed. Some emphasized that bureaucratic problems and negotiating delays were as responsible for the situation as human rights considerations. Others stated that the action was taken because

of the political prisoners question, but they also said that the Department did not mean to suggest that Indonesia was a "gross violator" of human rights. The implication may be that the Department used the delay as leverage to influence the manner of the December 1977 releases of political prisoners since it was concerned over whether the Indonesian Government would permit those released to return to their homes.

PHILIPPINES*

BACKGROUND

After three centuries of Spanish colonial rule and 50 years of U.S. colonial control, the Philippines in 1946 established an independent, democratic government. Close ties with the United States continued after independence: Over \$2.6 billion in U.S. economic and military assistance was granted to the Philippines between fiscal year 1946 and 1977; pursuant to bilateral defense treaties the United States maintains major bases and more than 14,000 military personnel in the Philippines; the presence of the bases injects about \$200-\$250 million into the Philippine economy each year; American private investment (more than \$1 billion in book value) makes up a major share of foreign investment in the islands; about 25 percent of Philippine foreign trade is conducted with the United States; more than 35,000 U.S. nationals live in the Philippines, and there has always been a high level of Filipino migration to the United States. Since 1970, for example, over 260,000 Filipinos have emigrated to the United States.

When the 1970's began, Philippine political, social, and economic systems were undergoing severe pressures. Rising inflation, balance-of-payments deficits, and growing unemployment exacerbated the long-term inequalities in income distribution. There were serious problems of urban congestion and squatter communities. Violent rioting erupted, and crime rates increased. A Maoist group with its military arm, the New People's Army (NPA), began to promote and organize rural unrest based on economic grievances. Filipino Muslims (Moros) in the south, who remained unassimilated into the predominantly Christian society that evolved under colonial influence and who had long resisted immigration to their lands by northern Christians, escalated their secessionist movement. Compounding these problems, the islands suffered droughts, floods, and typhoons in June and July 1972.

Martial law was established by President Ferdinand E. Marcos in September 1972 as a temporary measure to maintain order in the face of insurgency movements and to institute reforms in the political, social, and economic sectors. He attempted to redirect the industrial sector toward exports and diversification of foreign markets. Marcos also led the Philippines toward a greater exchange with Asian nations and toward a more independent foreign policy. At his request the United States and the Philippines have been renegotiating security arrangements although the lease for U.S. bases in the Philippines does not expire until 1991.

During the subsequent 6 years of martial law rule, Marcos tightened his system of personal rule by decree, supported by important segments of the armed forces and the technocrats. Marcos suspended

*Prepared by Marjorie Niehaus, Analyst in Asian Affairs.

the activities of democratic institutions which were a legacy of the American colonial relationship, and he severely restricted human rights and freedoms. Under martial law an atmosphere of law and order was established in which violent crimes were reduced and the economy performed reasonably well at an average annual growth rate of 6 percent. Private foreign investment increased from the United States, Japan, and Western European nations, and the Marcos government attracted substantial financing from the World Bank and the Asian Development Bank.

However, serious problems remain. There are no clear indications that inequalities in income distribution have been reduced. Corruption among the supporters of Marcos appears to have replaced corruption of the former bureaucrats. Despite foreign aid efforts and government programs, the economy has not yet emerged from the colonial pattern of agricultural exports earning the foreign exchange used to import capital goods and the raw materials needed by the industrial sector. The Maoist insurgency movement has been weakened, but the Moro National Liberation Front (MLNF), which has 20,000 guerrilla fighters and which seeks autonomy for 2 million Muslims in Western Mindinao and the Sulu Archipelago, is backed by several Islamic nations and has been given sympathetic support by over 20 other Islamic nations. On the sixth anniversary of martial law in September 1978, Marcos cited the Moro insurgency movement as the single greatest obstacle to lifting martial law. Critics of Marcos, on the other hand, have charged him with exaggerating the need for martial law as a means to retain and enhance his personal power.

HUMAN RIGHTS CONDITIONS

Integrity of person. Although most analysts acknowledge the accomplishments of the Marcos government, many deplore the cost to the Filipino people in terms of abridgement of human rights and freedoms. The status of human rights in the Philippines has drawn severe criticism from the United States and other Western nations. Criticism has focused on the mistreatment, including torture, of detainees held for long periods without trial, the suspension of democratic institutions, Government control of the press and judiciary, and so forth. At the time martial law was declared in September 1972, thousands of persons were arrested and detained, including leaders of the opposition, publishers, editors, professors, student leaders, labor leaders, members of the clergy, and other critics of President Marcos. Under a continuing pattern of arrest and release about 60,000 persons have been arrested. The majority of detainees were held without charges and without access to due process of law for 6 to 8 months, but some have been held for over 6 years. Releases of detainees have occurred sporadically. Precisely how many political prisoners are now being held is not clear. President Marcos, on June 27, 1978, said that fewer than 300 "hard-core subversives" remained in military detention. Diplomatic sources in late 1978 said that there were probably 300 to 500 political prisoners still in custody. Other sources, such as the Friends of the Filipino People (FFP),⁵⁴ claimed that thousands of political

⁵⁴ The Friends of the Filipino People is an anti-Marcos group, based in the United States, which has lobbied the U.S. Government to reduce its support of the Marcos government.

prisoners were being held in poor and degrading conditions and that some had been tortured.

Several international organizations and numerous individuals have charged that torture was frequently and widely used in the Philippines. An Amnesty International (AI) mission to the Philippines in late 1975 concluded that torture was widely used, and a second AI report in March 1977 claimed that, despite government statements forbidding torture, it was still inflicted on many political prisoners. The International Commission of Jurists (ICJ), which sent three missions to the Philippines—May and November 1975 and February 1977—concluded in its report that the Philippine Government had not yet taken effective steps to prevent the use of torture by the military during interrogation. The ICJ report did note, however, that the scale of torture that existed during the first 2 years of martial law had been reduced in recent years. In March 1976, March 1977, and June 1978, the Association of Major Religious Superiors in the Philippines (AMRSP)⁵⁵ released publications containing sworn testimony from prisoners attesting to their torture.

President Marcos and other officials have repeatedly stated that torture is illegal and that whatever isolated instances have occurred were strongly deplored. However, only 4 out of 88 military officials accused of torture have been tried, and few, if any, have been convicted. Many critics have charged that, because the government has fallen short on redressing violations, torture can and does take place. They claim, moreover, that there are increasing instances of "salvaging" (summary executions of detainees) as well as unsolved cases of "missing detainees."⁵⁶ Published hearings of a U.S. congressional subcommittee included the names of 27 missing detainees.⁵⁷

At the time martial law was declared, a system of military tribunals was established with national jurisdiction over a broad range of offenses (including those of political sensitivity) which were previously within the jurisdiction of the civilian courts. Although the majority of criminals received public trials in the civilian courts, only a few of the thousands of cases within the jurisdiction of the military tribunals were known to have been brought to trial. Marcos announced plans in 1976, 1977, and again in 1978 to clear up the backlog of cases and to phase out the military tribunals. These plans, however, have been implemented very slowly if at all. Although some tribunals have been phased out, others have been established. The recent releases of detainees, such as that on September 10, 1978, of 444 persons, have eased the situation, but, as of late 1978, hundreds of cases still had not been assigned to trial.

Another human rights issue in the Philippines stems from the armed conflict between the MNLF and government forces. Representatives of the Moro leaders visiting Washington and Tokyo in late 1978 described the government's campaign against the Muslims as a major violation of human rights. There have been reports of indiscriminate

⁵⁵ The AMRSP is comprised of the superiors of Catholic religious orders, such as the Jesuits and the Franciscans, in the Philippines, and represents about 2,500 Catholic priests and 7,000 nuns.

⁵⁶ *Far Eastern Economic Review*, Sept. 22, 1978.

⁵⁷ U.S. Congress. House of Representatives. Committee on International Relations. Subcommittee on International Organizations. Hearing. Human Rights in the Philippines: Recent Developments, Apr. 27, 1978. Washington: U.S. Government Printing Office, 1978, 7.

shootings, extortion, plundering and other abuses of the local people carried out by government troops.⁵⁸

Basic human needs. In terms of economic growth rates the Marcos government appears to be making progress. The per capita GNP increased from \$260 in 1972 to \$460 in 1977.⁵⁹ According to government figures, the gross national product more than doubled from 55.5 billion pesos in 1972 to 131 billion in 1978. Inflation stabilized at about 8 percent. The annual population growth rate decreased from over 3 percent to about 2.8 percent. Also, in the past 2 years the country achieved self-sufficiency in rice production. The 45 million Philippine people are among the best educated of the developing countries, with education through the secondary level widely available. The literacy rate of persons over 10 years of age is 85 percent.

However, distribution of benefits remains a basic problem. Approximately 75 percent of the population is rural based; 75 percent of rural people have incomes of \$200 or less. One analyst⁶⁰ has estimated that over 40 percent of the population are worse off in absolute terms and another 30 percent are relatively worse off than before martial law. Over 50 percent of the Philippine people are, according to this report, malnourished, including 30 percent of all preschool children. Acute poverty is widespread in the squatter communities and the depressed rural areas. According to a 1976 report,⁶¹ the average Philippine diet consisted of 1,672 calories per day, a decline from previous estimates of consumption in the 1960's. Marcos has initiated programs to meet the growing problems of inadequate housing, nutrition, and other basic human needs and has made some progress, but corruption, limited investment capital, inadequate infrastructure, as well as frequent natural calamities have constrained these efforts.

Political and civil rights. Since September 1972 there has existed in the Philippines an almost total suspension of civil and political liberties. Under martial law the representative national legislature was suspended, the courts were subjected to executive oversight, and the representative municipal and provincial councils were replaced by appointed officers of the "barangays" or citizen assemblies, which were created under martial law and were comprised of all voters within the most basic organizational unit.

On five occasions since 1972 President Marcos has sought endorsement of his actions by way of referendums and has attained about 90-percent approval in each case. Also, in April 1978, elections were held for 165 seats in a 200-member interim National Assembly, which under martial law can be overruled and even dissolved by President Marcos. Amid opposition charges of fraudulent ballot counting and police harassment (voiced also by Western observers), President Marcos' New Society Movement swept the 21 seats in the metro-Manila area which were contested by an opposition coalition—LABAN. A separate, local opposition group won a few seats in Cebu, but the majority of seats were not contested.

Marcos has cited the referendums and the elections as proof of his intention ultimately to restore democratic government in the Philippines and of the people's approval of his policies. Critics, however,

⁵⁸ Far Eastern Economic Review, Sept. 18, 1978.

⁵⁹ As of Sept. 7, 1978, one U.S. dollar equaled 7.3683 Philippine pesos.

⁶⁰ Stauffer, Robert B. "Philippine Authoritarianism: Framework for Peripheral Development" Pacific Affairs, vol. 50, fall 1977: 384.

⁶¹ Ibid., 382.

including most outside observers, point out that, given the lack of voting alternatives, the government's control of the media and of the voting procedures, including registration and ballot counting by government appointees, and the nonsecrecy of the ballots, the referendums and the National Assembly elections cannot be considered a true measure of the will of the people.

Shortly after the April elections, 6 opposition candidates and about 600 marchers protesting the "irregularities" of the election were arrested. Most of the protesters were held for only a few days, but some were held for months. The AMRSP report also noted instances soon after the arrest in which at least six persons were detained and tortured and one boy died.

The principal news and communications media permitted to operate are government controlled, and criticism of government leaders and policies is severely restricted. In recent years, for example, church publications and radio stations which opposed martial law were closed down. Recently, the press has become more open, with some criticism of government programs and policies permitted. However, it still avoids direct criticism of the Marcos family and very high government officials.

"Free debate" periods have been permitted before two of the five referendums and before the April 1978 elections. Ordinarily, opposition rallies and speeches have received little or no media coverage. Those who see a trend of improvement in human rights conditions in the Philippines point out that some critical speeches made during the recent "free debate" periods have been carried by the government-controlled media. For example, former Senator Benigno Aquino, President Marcos' most formidable opponent, who has been detained under martial law since 1972 and who was sentenced to death in November 1977, was permitted to campaign from his jail cell for an Assembly seat in a 90-minute television broadcast. Others, however, see the relaxation of media control as part of an effort to improve the public image of the Marcos government without permitting real debate.

Freedom of religious practice is generally respected in the Philippines (over 85 percent of the population are Roman Catholics). But many members of the Catholic clergy and women's religious orders who have demonstrated effective opposition to martial law have been arrested and detained, or their activities have been restricted. Some foreign missionaries, including several Americans, have been deported.

By decree, Marcos has prohibited strikes in "vital" industries, and has prohibited student strikes and demonstrations. Some strikes, rallies, and assemblies critical of government policies have been permitted, but they have been restricted in terms of time, place, and size.

In recent years domestic curfews have been lifted except in those areas with active insurgencies. Foreign travel exit permits are required, and it appears that those individuals whom the government considers politically sensitive have difficulties in making arrangements.

STATE DEPARTMENT REPORTS

Both the 1977 and 1978 reports were comprehensive but cautious in tone. For example, when discussing reports of torture, statements such as "incidence appears to have decreased," and "instances of

torture * * * represent aberrations" preceded the comment that "the condition and atmosphere of martial law may help to nurture the practice of torture." Although the 1977 report stated that the Marcos government had initiated an investigation of torture charges and that court-martial proceedings had begun against certain individuals for maltreatment of detainees, the 1978 report did not mention that these charges had been dropped or that those accused had been acquitted. Neither report mentioned that only a few of the more than 80 military officers accused of torture had been tried.

The 1978 report stated that the land reform program had made progress "during the past 5 years" although most other sources, including journals and academic papers, indicated that after early progress the land reform program had substantially slowed down.

SUMMARY OF AID PROGRAMS

As indicated below (table 1), U.S. economic aid to the Philippines for fiscal year 1975-77 has totaled \$241.4 million, with slight increases in recent years. The Philippines is the fourth largest recipient of U.S. development assistance after Bangladesh, Pakistan, and Indonesia. Total military assistance for fiscal year 1975-77 was \$120 million, with grant aid amounting to \$62.2 million and credit sales \$51.4 million.

TABLE 1.—U.S. ASSISTANCE TO THE PHILIPPINES

[Fiscal years, in millions of dollars]

Type	1975	1976	Transition quarter	1977
Economic Aid:				
AID.....	55.3	54.3	7.2	34.9
Food for peace.....	10.8	19.0	2.4	48.9
Title I.....	—	—	—	(11.9)
Title II.....	(10.8)	(19.0)	(2.4)	(37.0)
Other.....	2.4	2.4	.8	3.0
Total economic aid.....	68.5	75.7	10.4	86.8
Military aid:				
MAP grants.....	21.0	19.4	4.2	17.6
Credit sales—FMS.....	14.0	—	17.4	20.0
Tran-excess stock.....	1.3	4.6	—	.5
Total military aid.....	36.3	24.0	21.6	38.1

Source: U.S. Agency for International Development. U.S. Overseas Loans, Grants, and Assistance from International Organizations: Obligations and Loan Authorizations, July 1, 1945–Sept. 30, 1977: pp. 79, 221.

Multilateral aid programs for the same 3-year period consisted principally of loans totaling \$793.7 million from the World Bank and \$399.5 million from the Asian Development Bank. There was a significant increase in loans from the multilateral banks after the martial law government was established in 1972. The breakdown is shown in table 2.

TABLE 2.—AID TO PHILIPPINES FROM INTERNATIONAL INSTITUTIONS

[Fiscal years, in millions of dollars]

Type	1975	1976	Transition quarter	1977	Total
IBRD.....	208.0	244.7	23.5	317.5	793.7
IFC.....	7.0	2.8	-----	7.3	17.1
ADB.....	94.3	155.2	-----	150.0	399.5
UNDP.....	2.5	3.7	-----	.4	6.6
Other U.N.....	2.2	-----	-----	4.1	6.3

Source: U.S. Agency for International Development, U.S. Overseas Loans, Grants, and Assistance from International Organizations: Obligations and Loan Authorizations, July 1, 1945—Sept. 30, 1977: pp. 79, 221.

U.S. SANCTIONS AND THEIR IMPACT

The implementation of the human rights policy has been complicated by the "special relationship" between the two countries which is rooted in a colonial experience of 50 years duration and by the presence of U.S. bases on the islands which the Administration and many Members of Congress consider strategically important. Those who expected better human rights conditions in a former U.S. colony advocated the linkage of improved human rights to U.S. military aid. Others took the position that, given the importance of United States-Philippine bilateral political, strategic, and economic relations, the U.S. Government would have more leverage in regard to human rights if bilateral assistance were continued rather than terminated or reduced. Consequently, after extensive debate, the Administration has not proposed reducing either economic or military aid in recent years. However, in both 1977 and 1978, because of human rights conditions in the Philippines, the amount of military aid appropriated by the Congress was slightly less than the amount requested by the Administration. In 1978 an effort to substantially cut military aid to the Philippines on human rights grounds was rejected in the final appropriations bill. Bilateral economic aid has not been reduced.

The United States abstained from votes on Asian Development Bank loans to the Philippines on November 28 and December 9, 1977, and October 24, 1978; from votes on World Bank loans on April 27 and May 23, 1978; and from a vote on an IFC loan on June 27, 1978. Human rights conditions in the Philippines played a role in the decision to abstain from these votes but were not the only consideration. During the same approximate time the United States voted approval for over 15 other loans to the Philippines from the international financial institutions.

Many diplomatic and congressional sources see the impact of the above sanctions, and of frequent private and public expressions of concern over human rights conditions in the Philippines, in the following actions of President Marcos: releases of detainees, efforts to move cases from the military tribunals to the civilian courts, efforts to assign cases to trial more quickly, wider media coverage for opposition views, initiation of investigation of military personnel accused of torturing prisoners in May 1978, and relaxation of curfews. Others, however, question this analysis and point out that the elections in 1978 were

fraudulent, that hundreds of political prisoners are still held without trial, and that few persons accused of having used torture have been convicted. Some sources also suggest that Marcos has been exploiting the U.S. sanctions as a means to win sympathy from those who resent interference by the United States in the affairs of the Philippines, its former colony.

REPUBLIC OF CHINA (TAIWAN)*

BACKGROUND

The leaders of the Republic of China (ROC) on Taiwan have a view of human rights which is influenced both by standard Western concepts emphasizing individual rights protected by fixed laws and by past Chinese concepts of human rights. The traditional Chinese concept of a good society and government was primarily ethical and based on the Confucian principle of an ordered society with emphasis placed on an individual's duties rather than his rights. Rules of propriety rather than legal doctrine governed all personal relationships including that between the ruler and his subject. The idea of mutual obligation was regarded as the fundamental teaching of Confucianism. Instead of individual rights, ethical teaching emphasized the sympathetic attitude of regarding all one's fellow men as having the same desires, and therefore the same rights, as one would like to enjoy. If everyone acted according to "li" (art of government) and was dutiful to his fellow men, the problem of protecting individual rights against encroachment would not arise. So far as the relation between the individual and government was concerned, the moral code was stated as: "The people are the root of the country. When the root is firm, the country will be at peace." The ruling class, or those aspiring to it were taught to look upon the people's interests as the primary responsibility of the government.⁶²

In recent years, Taipei leaders have repeatedly emphasized that while they remain influenced by this unique Chinese cultural heritage, they are increasingly trying to achieve the same goals of individual rights and liberties that are cherished in the West. Taipei spokesman frequently acknowledge that, while it is regrettable that there are more restrictions on human rights in Taiwan than in the United States, it is not the fault of the Taipei Government; rather, it is said to be the result of the severe historical circumstances surrounding Taiwan's development. In particular, Taipei spokesmen are quick to note that political freedoms in Taiwan are restricted because of the need for tight unity against the overriding "threat" posed by the Communists on the mainland. Politicians in Taiwan who insist on advocating accommodation with the Communists or development of an independent Taiwan are deemed to be detrimental to Taiwan's unity and are thus subject to censure and arrest.

The continued domination of the political life in Taiwan by the ruling Kuomintang (Nationalist) Party is said to add to Taiwan's unity vis-a-vis the Communist mainland. Employing ideological

*Prepared by Robert G. Sutter, Analyst in Asian Affairs.

⁶² Chang-sho Lo, "Human Rights in the Chinese Tradition," in UNESCO, Human Rights, Comments and Interpretations, Westport, Conn., Greenwood Press, 1949, pp. 186-190. Chung-fu Chang, "Human Rights in China," in United Nations, Department of Social Affairs, Yearbook on Human Rights for 1946, United Nations, Lake Success, N.Y., 1947, pp. 61-67. Liang-chien Cha, "Human Rights under the Legal System in Mainland China," in Congressional Record, July 1, 1977, pp. E4260-61.

teachings of the Chinese Nationalist leader Sun Yat-sen, Taipei authorities also have claimed that the Kuomintang has been required to exert this "tutelage" over political life in China in order to advance China's unity and modernization. The Kuomintang tutelage—which has gradually eased in recent years—was deemed especially necessary in the past because of the lack of a democratic tradition in China's history. Thus, Kuomintang leaders have judged that a long-term process of education and indoctrination of the Chinese masses—under Kuomintang tutelage—was needed before the people would be ready to exercise democratic rights.⁶³

HUMAN RIGHTS CONDITIONS

U.S. observers enjoy a moderate range of reliable information on human rights conditions in the ROC. Accurate figures on the gross national product and the material standard of living in Taiwan show that under ROC rule over the past 20 years, per capita annual income in Taiwan has grown from \$71 to over \$800 and the income gap between rich and poor on the island has narrowed. There is known to be nearly universal literacy on the island, and educational opportunities there have greatly expanded. In 1952 there were 140,000 students in secondary schools, while in 1975 the number was 1.5 million—a tenfold increase, which was several times more than the increase in the number of school age children in Taiwan during that period.⁶⁴

There are known to be restrictions on individual civil and political liberties in Taiwan, but the precise extent of these infractions remains uncertain. Thus, for example, reports persist concerning the use of torture and cruel punishment in the ROC, but the number of cases is not known. There are also persisting reports of government surveillance and harassment of families and associates of those who oppose basic ROC policies. The ROC Government reserves the right to restrict free speech and political activity if these freedoms conflict with government concerns over such sensitive subjects as communism and Taiwan independence. The number of political prisoners in the ROC is estimated to be at least several hundred by some U.S. authorities on human rights.

Martial law still persists in Taiwan and provides the government with a legal basis for many human rights violations. Its generalized references to offenses against the security of the state and against public order and safety provide a ready means to act against opponents. However, the government does not often utilize many of the discretionary powers granted by that law. At the same time the ROC has developed a regular pattern of elections at the local level, but there have been no general elections at the national level since 1948. Candidates who oppose the ruling Nationalist Party have also not been allowed to organize a meaningful opposition party.

Taipei's restrictions on individual freedoms regarding economic and social life are much less severe. Although the government and the Kuomintang own and operate a number of enterprises, privately owned businesses dominate the local economy. Any citizen of the ROC is free to form his own company and to operate a business.

⁶³ See U.S. Congress, Library of Congress, Congressional Research Service, *Human Rights in China*. Multilith 78-50 F, Feb. 28, 1978, pp. 48-49.

⁶⁴ For a survey of views on the current status of human rights in the ROC, see U.S. Congress, House, International Relations Committee, Subcommittee on International Organizations, *Human Rights in Taiwan*, Hearings, June 14, 1977.

Workers are permitted to work where and for whom they please. The Taiwan wage level is said to be the highest in Asia, apart from Japan and Hong Kong. Although under martial law workers are not allowed to strike, they can join labor unions. However, unions in the ROC are not very active.

Private ownership of farm land is also very important in the eyes of the average farmer in the ROC. The government's land reform program of the 1950's reduced the number of tenant farmer families from 36 percent of farm families in 1948 to 10 percent in 1973.

Religious freedom is usually unlimited so long as churches do not interfere in the state's affairs. Freedom of travel is permitted internally in Taiwan but for both security and economic reasons travel outside Taiwan has been limited for many years.

There continues to be a substantial gap between the opportunities available to the native Taiwanese, who make up about 85 percent of the population, and to those who came to Taiwan in 1949. Taiwanese complain, with statistical justification, of underrepresentation in the political and governmental system, particularly at the higher levels of power. Most Taiwanese reportedly would like to abandon the Nationalists' stated aim of reconquering the mainland and would prefer some sort of an independent Taiwan. Some also object to the disproportionate share of the budget being directed toward defense. The Taiwanese opposition is highly fragmented, and even sympathetic observers doubt that the opposition could form an effective government in the unlikely event that an opportunity arose.

STATE DEPARTMENT REPORTS

State Department reports on human rights in Taiwan are not known to have caused substantial controversy within the Department. They have been prepared in the East Asian Regional Bureau and have been reviewed by the staff of the Human Rights Bureau, among others. Human Rights Bureau staff have reportedly played no major role in the preparation of the reports. Their low posture in this regard is consistent with normal State Department handling of human rights issues vis-a-vis China over the past several years. CRS interviews with State Department personnel have shown that issues related to U.S. normalization of relations with the People's Republic of China, and the impact of those issues on U.S. ties with Taiwan, have been the dominant consideration in U.S. policy toward Taiwan. The normalization policy is reportedly managed at the highest levels within the administration, with the support of China experts of the East Asian Regional Bureau within the State Department. In this context, personnel in the Human Rights Bureau at State have said they are reluctant to interfere in the normalization process by raising issues relating to human rights in Taiwan.

The State Department reports on human rights in Taiwan have been criticized by some spokesmen as biased in favor of the ruling Taipei Government. In particular, the reports have appeared to soft-pedal the importance of the continuing underrepresentation of the vast majority of citizens, who are native to Taiwan, in a political and governmental system still dominated by a group of rulers who came to

Taiwan from the mainland in 1949.⁶⁵ On the whole, however, the reports appear to represent a relatively balanced presentation of both the failings and successes in Taipei's human rights policies. Thus, for example, the reports clearly point to the continued political dominance in Taiwan of the Kuomintang party operating under martial law conditions, while they note trends toward an apparent decrease in the frequency in human rights violations on the island.

U.S. AID PROGRAM

The United States has given no economic aid to Taiwan for many years and its security assistance program is being phased out. In both fiscal years 1975 and 1976, the United States provided Taipei with about \$80 million in FMS credit sales, but in fiscal year 1977 the amount was reduced to \$35 million, in fiscal year 1978 the amount was \$25 million, and for fiscal year 1979 the administration has proposed only \$10 million. The only other type of U.S. security assistance provided to Taiwan in recent years has been in the form of training (MAP) grants, which have ranged from \$2.7 million in fiscal year 1975 to a proposed \$10,000 for fiscal year 1979.⁶⁶

The United States is not known to have used its aid program as a means to show disapproval of the human rights performance of the Taipei Government. According to State Department personnel, U.S. inaction is a result of the fact that considerations of United States-Chinese normalization override human rights considerations in dealing with Taiwan and the fact that U.S. official observers judge that Taipei's record on human rights has generally improved in recent years.

REPUBLIC OF KOREA (SOUTH KOREA)*

South Korea occupies the southern half of the Korean peninsula, which has been divided into a non-Communist South and a Communist North since the end of World War II. South Korea's population is over 35 million (1977 estimate). Heavy urbanization since the early 1960's has resulted in a roughly 50-50 ratio between rural and urban dwellers. Seoul, the capital, has a population of about 7 million. Buddhism, Confucianism, and Christianity are the major religions. Confucianism, with its emphasis on a hierarchical structure for family and society based on duties and obligations between individuals, has been an especially strong force in Korean society even to the present days.

Relations between North and South Korea have been consistently hostile since the establishment of the two Korean states in 1947-48. North Korea has attempted twice to take over South Korea: Once by military force in the Korean War (1950-53) and later by the infiltration of hundreds of agents into South Korea during the 1966-69 period in an unsuccessful attempt to foment an insurgency. North-South negotiations began in 1972 but quickly broke down.

⁶⁵ See in particular U.S. Congress. Joint Committee Print. Committee on International Relations and Committee on Foreign Relations. Country Reports on Human Rights Practices. Report by the Department of State. Feb. 3, 1978, pp. 228-233.

⁶⁶ For a discussion of recent U.S. security assistance to Taiwan, see U.S. Congress. House. Committee on International Relations. Subcommittee on Asian and Pacific Affairs. Foreign Assistance Legislation of fiscal year 1979 (pt. 6). Hearings, Mar. 7, 9, 14, 16, 21, and 22, 1978.

*Prepared by Larry A. Niksch, Specialist in Asian Affairs.

The present state of human rights has its origin in the imposition of a new constitution by President Park Chung Hee in 1972 following a declaration of martial law. The 1972 or Yushin constitution places no limits on the number of terms a President may serve and provides for indirect election of the President by a National Conference for Unification, composed of 2,578 elected members. A unicameral National Assembly has two-thirds of its members elected by direct popular vote and one-third chosen by the National Conference for Unification. The Yushin constitution broadens the President's emergency powers and provides for restrictions on civil liberties "when necessary for the maintenance of national security, order, and public welfare." In these circumstances, the President may "temporarily suspend the freedom and rights of the people."

South Korean Government officials have asserted that the Yushin constitution and other restrictive measures are necessary to insure South Korea's internal security in the face of declining U.S. military support and the increased threat from North Korea and also in order to implement successfully important decisions affecting economic policy. Opponents of the government challenge its assertion that the constitution is necessary to meet the threat from the North, and they argue that restrictions on political and civil liberties weaken internal unity against North Korea. They charge that President Park Chung Hee was motivated chiefly by a desire to perpetuate himself in power when he imposed the Yushin constitution.

These arguments represent the differing views of elements within Korean society on the question of democracy versus authoritarianism. Those favoring extensive democracy are largely an urban elite of students, intellectuals, the press, and South Korea's nearly 3.4 million Christians. They also receive a degree of support from some segments of lower class urban workers. Support for or acquiescence in a more authorization system is based in the politically powerful armed forces and certain groups that have benefited from the country's rapid economic development of the last 15 years: Industrial entrepreneurs, middle-level managers and technocrats in both government and industry, and the rapidly growing middle class. The rural population, with its Confucian heritage, also acquiesces in the authoritarian system.

HUMAN RIGHTS CONDITIONS

Since the beginning of 1974, the government has arrested and imprisoned several thousand people for violating laws and emergency measures that prohibit South Korean citizens from criticizing certain government policies. Currently the number of political detainees is estimated to be 200-300. Between July 1977 and September 1978, the government released 77 political prisoners convicted of violating emergency measures.

In 1975 and 1976, antigovernment groups and individuals made numerous allegations that the South Korean Government regularly practiced torture against political detainees and subjected them to inhuman and degrading treatment. Such allegations declined considerably in 1977 and 1978, at least as indicated by the extensive American and other Western press coverage of the human rights issue. Since 1977,

the Government has attempted to negotiate with dissident leaders and detainees over the language of "confession" statements to be signed by individuals as a condition for release.⁶⁷

Currently, the government offers to release violators of emergency measures if they promise not to commit similar offenses in the future. This appears to be a modification of the government's approach in 1975 and 1976, when the many allegations of torture described attempts to extract from individuals confessions of being Communists or North Korean agents. Moreover, the government apparently has downgraded its practice of long-term imprisonment for violators of the emergency measures and increasingly resorts to house arrest, arrest for a few days, and prevention of antigovernment activities before they take place.⁶⁸

With respect to meeting "basic human needs," South Korea's huge advances in economic development within the last 15 years have made for improved socioeconomic conditions. The GNP jumped from \$2 billion in 1961 to an expected \$39 billion in 1978. Per capita GNP has risen from \$155 in 1967 to an expected \$1,060 in 1978. Recent World Bank studies and statistics published in the *Economist* (May 7, 1977) show that income distribution in South Korea is more equitable than in virtually any other developing country, comparing favorably with that in Japan, the United States, and countries of Western Europe.⁶⁹

The government's "Saemaul" or New Community Movement" and its policies designed to raise the prices paid to farmers for their products are generally given credit for fundamental improvements in the livelihood of the rural population. By 1974, rural family incomes were equal to urban family incomes. Another result of these policies has been an increase in rice production of nearly 7 percent per annum since 1975. Consequently, South Korea has attained self-sufficiency in rice production.

South Korea also has made major progress in limiting population growth. Population growth of about 3 percent per annum in the 1953-63 period has fallen to about 1.5 percent. Government birth control programs are voluntary.

South Korea's education system was destroyed during the Korean War, but a modern and fairly comprehensive system had emerged by the midseventies. Elementary school education is compulsory, and the government plans to extend compulsory education through junior high school (12-14-year-olds) by 1981. Entrance into high school and colleges is determined by examination. South Korea's literacy rate is about 90 percent.

Most South Koreans have experienced a notable increase in their material well-being in recent years. Problems remain in such areas as diversification of diet, housing shortages in urban areas, inadequate sanitation and water systems in certain regions, and shortages of medical personnel and medical facilities. This being said, it appears that the great majority of Koreans have adequate food, clothing, and housing. Moreover, South Korea's fourth 5-year plan (1977-81) gives added emphasis to improvement in living standards, with large increases in government spending on housing, education, and health.

⁶⁷ New York Times, Aug. 3 and Dec. 4, 1977. Washington Post, Dec. 18, 1977.

⁶⁸ New York Times, May 21, 1978.

⁶⁹ For one such study, see Hasan, Parvez, Korea: Problems and Issues in a Rapidly Growing Economy. A World Bank Country Economic Report. Baltimore and London, Johns Hopkins University Press, 1976: 22-23, 45-56.

Emergency Measure No. 9 is the principle legal instrument used to restrict civil liberties. Issued on May 13, 1975, it makes it a crime punishable by prison terms of 1 to 15 years to: Advocate repeal of the Yushin constitution, broadcast or publish any news report of opposition to the constitution, stage any student demonstration or assembly for political purposes, oppose or report opposition to the new decree, or move any Korean-owned property out of the country. The measure gives the government authority to close down universities, broadcasting stations, and newspapers and dismiss any member of their staffs or administration. It permits arrest, detention, search and seizure without warrant. It calls for trial by civil court instead of military court.

Most of South Korea's political prisoners have been convicted of violating Emergency Measure No. 9. As indicated previously, arrests under the measure have declined in 1977 and 1978, and the government has resorted to other, less severe tactics to restrict civil liberties, particularly freedom of speech and assembly. The government has also been very flexible in enforcing a March 1975 law passed by the National Assembly which prohibits South Korean citizens from criticizing the government to foreigners. The critical comments of dissidents appear regularly in newspapers like the *Washington Post* and the *New York Times*.

Although no formal censorship of the press exists, the government appears to have fully informed newspaper editors and publishers what can and cannot be printed. Beginning in mid-1977, the press has shown more assertiveness, which the government has tolerated. It has regularly reported such stories as the allegations of Korean-influence buying in Congress (minus reference to the reported involvement of high-level government officials), the issue of political prisoners, and allegations of corruption within the government.

The government allows freedom of religion but has acted against Christian clergymen and laymen who have participated in political protests.

Although Emergency Measure No. 9 limits expression of anti-government views and organized activities of an antigovernment nature, the government does not require or pressure South Korean citizens to give positive expression of adherence or loyalty to the government or to President Park. Nonpolitical intellectual and artistic activities are allowed. South Koreans generally have the right to belong to and participate in the opposition parties or the pro-government Democratic Republican Party. Conversely, membership is not required in any of these organizations. The opposition party leadership criticizes the government often, including recent criticism of the alleged slow pace of release of political detainees.

Generally, South Korean citizens may travel freely within the country. Geographical and occupational mobility is an increasingly common feature of South Korean society. Foreign travel is restricted but is not absolutely prohibited. Emigration is allowed under generally liberal policies.

STATE DEPARTMENT REPORTS

Both the 1977 and 1978 State Department reports gave generally accurate descriptions of human rights conditions in South Korea. The 1978 report gave more details of individual cases and an analysis of trends and changing tactics of the South Korean Government.

It also referred to the role of opposition political parties, which the 1977 report omitted. The 1978 report estimated fewer than 150 in prison for violation of emergency measures. This figure is lower than most other published estimates.

SUMMARY OF AID PROGRAMS

As indicated below (Table 1), U.S. economic aid to Korea for fiscal year 1975-77 has totaled \$252.6 million, the greatest part of which has been provided as food sales under Public Law 480, title I.

TABLE 1.—U.S. ASSISTANCE TO KOREA
[Fiscal years, in millions of dollars]

	1975	1976	Transition quarter	1977
Economic aid:				
AID.....	20.3	5.8	-----	-----
Food for peace.....	14.4	117.1	13.3	75.1
Title I.....	(8.7)	(116.8)	(13.3)	(75.1)
Title II.....	(5.7)	(.3)	-----	-----
Other.....	2.0	1.8	.5	2.3
Total economic aid.....	36.7	124.7	13.8	77.4
Military aid:				
MAP grants.....	82.6	62.4	1.5	2.6
Credit sales-FMS.....	59.0	126.0	134.1	152.4
Tran-excess stock.....	3.1	.2	-----	-----
Total military aid.....	144.7	188.6	135.6	155.0

Source: Agency for International Development U.S. Overseas Loans, Grants, and Assistance from International Organizations: Obligations and Loan Authorizations, July 1, 1945-Sept. 30, 1977: pp. 76, 220.

Total military assistance for the same period was \$623.9 million, again largely on a reimbursable basis, with credit sales amounting to \$471.5 million and grant aid \$149.1 million.

Multilateral aid programs for the same 3-year period consisted principally of loans totaling \$1,089 million from the World Bank and \$336.5 million from the Asian Development Bank. The breakdown by fiscal years is shown in table 2.

TABLE 2.—AID TO KOREA FROM INTERNATIONAL INSTITUTIONS
[Fiscal years, in millions of dollars]

Type	1975	1976	Transition quarter	1977	Total
IBRD.....	297.5	325.0	29.0	437.5	1,089.0
IFC.....	35.4	53.1	-----	16.3	104.8
ADB.....	77.5	135.0	32.0	92.0	336.5
UNDP.....	.6	.4	-----	.1	1.1
Other U.N.....	-----	.9	-----	2.8	3.7

Source: Agency for International Development. U.S. Overseas Loans, Grants, and Assistance from International Organizations: Obligations and Loan Authorizations, July 1, 1945-Sept. 30, 1977: pp. 76, 220.

U.S. SANCTIONS AND THEIR IMPACT

In 1977, the United States abstained on two votes in the Asian Development Bank for loans to South Korea: a \$200,000 loan for mineral exploration and a \$1.7 million loan for a powerplant. Some

State Department officials have stated that the abstentions may have influenced the South Korean Government to release some political prisoners in 1977 and 1978. Other officials disagree and believe that such abstentions have been marginally counterproductive to U.S. human rights objectives in Korea.

BOLIVIA*

BACKGROUND

With a population of 5,081,000, a GNP of \$3.5 billion (1977 in 1977 dollars), and a per capita income of only \$600, Bolivia is one of the poorer countries of the world. A large Indian population, estimated to be 50–75 percent of the total population, and a national literacy rate of only 35–40 percent have contributed to a society characterized by great disparities in income distribution, employment and educational opportunities, and a lack of cultural and economic integration. The United Nations ranks Bolivia as one of the world's 29 least developed countries, and the Overseas Development Council accords Bolivia a rating of only 45 on its Physical Quality of Life Index.⁷⁰

While such conditions have contributed to a history marked by political upheaval, Bolivia has enjoyed at least one brief period of political stability during which democratic processes were respected and much of the population enjoyed basic civil liberties. Between 1952 and 1964, under the leadership of the Nationalist Revolutionary Party, elections were held, political parties and labor unions were permitted, and the participation of miners and peasants in the electoral process was encouraged. Although critics have alleged that elections during this period were far from representative and that illiterate workers were herded to the polls by the various political parties to exercise a franchise they did not fully understand, the progress of the period was reflected in the new constitution of 1967. The new constitution contained guarantees for the rights of individuals and especially the right of due process. While this period following the Bolivian Revolution was brief, it did represent an attempt to remedy fundamental economic and political flaws, and to advance the interests of the country's poor. The experience also served to politicize much of the Bolivian population, especially the miners.

However, between 1966 and 1971 the government came under attack, particularly by elements of the left. The death of Che Guevara in Bolivia in 1967 and subsequent demonstrations by students and miners escalated violence to near civil war levels and eventually toppled the leftist military regime of President Torres.⁷¹ The character of the nascent democracy, which the United States had supported and encouraged with substantial economic and military aid, was changing.

*Prepared by Rosemary P. Jackson, Consultant in Latin American Affairs.

⁷⁰ Sewell, John W., and staff of Overseas Development Council. *The United States and World Development: Agenda 1977*. Praeger, N.Y., 1977 p. 160. The Physical Quality of Life Index is a composite of a country's ratings on various measures of development, such as life expectancy, infant mortality and literacy. A maximum rating of 100 is possible in each category and as an overall PQLI rating. While Bolivia's rating of 45 exceeds Haiti's 31, ratings for other Latin American countries such as Brazil, 68, and Argentina, 77, far outdistance Bolivia's overall ratings.

⁷¹ New York Times, Dec. 16, 1976, p. 2. See also, Whitehead, Lawrence, "Banzer's Bolivia." *Current History*. February 1976, vol. 70, pp. 61–64, 80.

When General Hugo Banzer came to power in a military coup in 1971, it was evident that the democratic process had broken down. Although President Banzer is generally credited with having restored a certain political stability and economic growth to Bolivia, there is considerable evidence that these achievements were accompanied by human rights abuses. According to the Amnesty International Report on Torture for 1973, the Banzer government, after coming to power in 1971, launched a campaign of systematic terror . . . against left-wing, particularly Communist, opponents of the regime.⁷² At that time, some 200 political prisoners were reported held, and an additional 5,000 were believed to have been exiled for political activities. The Bolivian Catholic Church's Commission for Peace and Justice and other humanitarian groups reported that prisoners were subjected to torture.

In 1974, Banzer's Interior Minister, Juan Pereda Asbun, warned that the Bolivian authorities consider no price too high to guarantee the tranquility needed for the progress of the nation, and that those who attempted to disturb that tranquility run the risk of being drastically repressed.⁷³

HUMAN RIGHTS CONDITIONS

Although several amnesties for political prisoners were declared in late 1972 and 1973, it was not until 1977 that events led the government to accede to demands for a general amnesty and a loosening of restrictions over political and union activities.

Early in 1977, President Banzer announced that the first elections in 12 years would be held in July 1978 and that he would run for the presidency—as a civilian candidate. But on December 2, 1977, Banzer announced that he would not run for office. It is believed that the military talked him into stepping aside and supporting the candidacy of his former Interior Minister, Air Force General Juan Pereda Asbun.⁷⁴

Later in 1977, when the traditional Christmas amnesty again failed to include provisions for Bolivians in exile, five Bolivian women, all wives of miners exiled for union activity, launched a hunger strike to protest the Banzer policy. The women called for: First a total amnesty for all politicians and union leaders in exile; second, the reinstatement of all workers dismissed for having gone on strike; and third, the withdrawal of all troops from the mines, which had been occupied since June 1976.

Eventually some 1,380 sympathetic supporters moved into churches, universities, United Nations and newspaper offices. Exiled Bolivians in Caracas, Mexico City and Lima joined in the protest. The Catholic Church of Bolivia also lent its support. When the government failed to respond to the movement, student demonstrations broke out, and

⁷² Amnesty International Report on Torture for 1973. Amnesty International Publications, London, 1973, p. 183.

⁷³ Amnesty International Report 1975–76. Amnesty International Publications, London, 1976, pp. 88–89.

⁷⁴ Air Force General Pereda was the candidate backed by the military in the July 1978 elections. However because of irregularities all along the process, the National Electoral Court acted unanimously to declare the elections invalid. Initially General Pereda supported the decision of the Election Court but later participated in an Air Force backed coup to install him as President. President Banzer agreed to resign and General Pereda assumed office. Chicago Tribune, June 23, 1978, p. 2. The Times (London) July 22, 1978, p. 4. Washington Post, July 20, 1978, p. A 18, and New York Times, July 24, 1978, p. A 6.

the Miner's Federation held a 24-hour strike. These events, in turn, were met by a government call for a 24-hour strike for January 16, 1978, as a show of support for the regime. When this tactic failed to dissuade the strikers, police moved in to disperse sympathizers from the universities. The public was outraged, and the world press gave the story considerable coverage. Finally, on January 18, 1978, a general amnesty was proclaimed, and 1 week later curbs were lifted from the labor unions.

In all, an estimated 19,000 prisoners, exiles and refugees are believed to have been affected by the amnesty. Miners were permitted to return to their jobs, retaining full seniority rights, and all individuals arrested or detained because of peaceful acts in support of the miners' demands were promised their freedom.

Estimates concerning the number of political prisoners in Bolivia in recent years vary. However, the sources consulted for this study concur that the overall incidence of arrest, imprisonment, and torture has decreased in the past 3 years. According to the Bolivian Permanent Assembly on Human Rights (PAHR), an organization which includes members of the clergy as well as opposition politicians, the number of individuals detained for political reasons has declined from a 1974 figure of 2,400, to 800 in 1976 and 450 in 1977.⁷⁵ Amnesty International, in its 1977 report, estimated 140 political prisoners and referred to the detention of trade unionists during the year.⁷⁶

Although Amnesty International has also reported incidents of torture, such allegations have not been corroborated by other sources in the past few years.⁷⁷ In 1976, the International Red Cross was permitted to visit Bolivian prisons and reported that its delegations visited seven places, and that out of 790 prisoners, only 170 were classified as political.⁷⁸ In the most recent Organization of American States Annual Report of the Inter-American Commission on Human Rights for 1977, Bolivia is not treated in a special section.⁷⁹

From the evidence available, it appears that the total number of political prisoners in Bolivia at this time is well below 100—perhaps under 50.⁸⁰ It should also be noted that political parties and trade unions were permitted to participate in the July 1978 elections and that while the press is not free, the Inter-American Press Association reports that self-censorship is the rule today. On the other hand, President Pereda has claimed, in response to critics of the fraudulent 1978 elections, that Bolivia cannot "have the same kind of democracy as that experienced by industrialized countries."⁸¹ However, despite the irregularities that attended the elections, the fact that any elections were held represented a step toward a more open and representative government.

⁷⁵ U.S. Congress. Joint Committee Print. Country Reports on Human Rights Practices. Report submitted to the Committee on International Relations and the Committee on Foreign Relations by the Department of State, 95th Congress, 2d session, Feb. 3, 1978. Washington, U.S. Government Printing Office, 1978, p. 138.

⁷⁶ Amnesty International Report 1977. Amnesty International Publications, London, 1977, p. 124.

⁷⁷ Ibid., p. 138.

⁷⁸ International Committee of the Red Cross Annual Report 1976. Geneva, Switzerland, 1977, p. 25. Also, further information on specific country cases is difficult to obtain. As explained by a Red Cross spokesman, the organization regards most of this information as confidential, will intercede on behalf of individuals, but will rarely make details of inspections public as this might jeopardize the neutral standing of the organization and inhibit its humanitarian programs.

⁷⁹ Organization of American States. Inter-American Commission on Human Rights. Annual Report of the Inter-American Commission on Human Rights 1977. Washington, D.C., 1978.

⁸⁰ U.S. Congress, Joint Committee Print., op. cit., p. 138.

⁸¹ Chicago Tribune, July 30, 1978, p. 20.

On November 24, 1978, Pereda was overthrown by Gen. David Padilla. Padilla called for new election for July 1, 1979. The election was held as scheduled and was regarded by observers as having been fair. Although there were several candidates, the three which gained the most support were all former Bolivian Presidents, Siles, Paz, and Banzer. Siles polled a very slim majority vote—estimated as 1,500 votes while Paz ran a very close second. However the Bolivian Constitution of 1967 requires that a president must win by a majority vote or else the Senate must make the final vote. In this case, because Paz enjoyed greater number of party seats in the Senate, the situation was somewhat deadlocked. Padilla instructed the Congress to elect a new president. Finally, the Senate elected the President of that body to serve a 1-year term and new elections are scheduled for May 4, 1980. In the interim, President Guevara is charged with revising the Constitution to permit a run-off if neither candidate receives majority support and to ensure that a new President and Vice President will be elected next May. Although Mrs. Carter had originally planned to attend the inauguration of the new Bolivian President in early August 1979, this proved impossible because the new President had not been selected. The shift from the military to civilian government has been regarded favorably by the Administration.

STATE DEPARTMENT REPORT

The State Department's report on Human Rights Practices in Bolivia is basically in keeping with reports from other sources such as Amnesty International and the press. While the report itself is comprehensive and includes sections on arbitrary arrest and torture, it is careful to point out that such occurrences have declined steadily in recent years. Thus, the tone of the report as compared to Amnesty International, is more optimistic. In part, this difference may be explained by the fact that the Amnesty report was issued prior to President Banzer's announcement of the 1978 elections and the general amnesty, whereas the State Department Report reflects these events.

Because of the recency of the elections, they are not discussed in available State Department documents.⁸²

SUMMARY OF U.S. AID PROGRAMS

As indicated in table 1, economic assistance to Bolivia increased substantially in fiscal year 1978. It is now one of the largest U.S. aid programs in Latin America. According to a New York Times report, Bolivia was promised more aid if it held elections.⁸³ In keeping with U.S. new directions policy, funds from the Agency for International Development are directed toward increasing the agricultural production of small landholding farmers, improving basic health-care delivery system, and upgrading the quality of rural educational systems. Part of these funds are also used to assist the Bolivian Government in its program to reduce coca leaf production.

⁸² On July 23, 1978, the State Department issued the following statement regarding the Bolivian elections: "We regret that the events in Bolivia seem to have interrupted the electoral process. We hope that this interruption is temporary." New York Times, July 24, 1978, p. A 6.

⁸³ New York Times, July 28, 1978, p. 23.

Under the security assistance program, all grant assistance except a small training program was terminated in 1977. Total funds originally requested for foreign military sales for 1978 were \$14 million. However, this request was never approved, and following the charges of election fraud and the coup-installation of President Pereda, this \$14 million was reallocated to other countries.

The administration's request for military assistance for fiscal year 1979 is only \$6 million. Proposed economic assistance is slightly greater than the fiscal year 1978 figure. Bolivia also receives economic assistance from the Inter-American Development and World Banks, to which the United States subscribes. (See table 2.)

TABLE 1.—U.S. ASSISTANCE TO BOLIVIA

[Fiscal years, in millions of dollars]

Type	1975	1976	1977	1978
Economic aid:				
AID.....	25.8	32.5	35.2	33.5
Public Law 480.....	5.1	7.4	6.9	17.9
Total economic aid.....	30.9	39.9	42.1	51.4
Military assistance:				
MAP grants ¹	3.1	4.1	3.1	.4
Sales and transfers.....	4.3	9.5	.13	(2)
Total military aid.....	7.4	13.6	3.2	.4

¹ Includes training programs.

² Not available but believed to be zero or negligible amounts. Some \$14 of military sales credits were reallocated to other countries following the disputed Bolivian elections of July 1978.

Source: Agency for International Development. Bolivia desk. Memo dated Nov. 30, 1978.

TABLE 2.—ASSISTANCE COMMITTED TO BOLIVIA BY INTERNATIONAL FINANCIAL INSTITUTIONS

[Fiscal years, in millions of dollars]

Type	1975	1976	1977
IBRD.....	32.0	34.6	108.5
IFC.....		.9	
IDA.....	7.5	(1)	
IDB.....	14.6	79.7	22.0
UNDP.....	1.7	.6	
Other U.N.....			1.5
Total.....	55.8	115.8	132.0

¹ Less than \$50,000.

Source: 1975-77 Agency for International Development. U.S. Overseas Loans, Grants, and Assistance from International Organizations. Obligations and Loan Authorizations July 1, 1945-Sept. 20, 1977, p. 210.

U.S. SANCTIONS AND THEIR IMPACT

At this time, the principal human rights issue between the two countries concerns the conduct of the July 1978 elections. One month prior to the elections, Ambassador Paul H. Boeker stopped signing new aid requests for Bolivia until after the installation of the new president—a gesture to underscore the U.S. desire that the election be reasonably honest and that the Bolivian military permit the winning candidate to assume office.⁸⁴ The controversy surrounding the election stems from: first, the widespread fraud apparently practiced by all parties and confirmed by outside observers, including representatives

⁸⁴ Washington Post, July 9, 1978, p. A 16.

from the Catholic Institute for International Relations, the Organization of American States, the Swedish Council of Churches, and the Washington Office on Latin America; and second, the subsequent actions by President Banzer and General Pereda, which have already been described. It is true that President Pereda has promised to hold new elections within 2 years; however, the U.S. decision to reallocate funds of some \$14 million, which had been intended for Bolivia for fiscal year 1978, still stands.

The Pereda government has responded to U.S. pressure, saying that cutting off U.S. aid would not induce it to call new elections prematurely. Foreign Minister Ricardo Anaya has stated that the new government is hopeful that the clear mind of the State Department will recognize that cutting off aid is not the solution to Bolivia's difficulties. Rather, Anaya has explained:

Letting us out of poverty will allow us to diminish the factors of discontent and then enjoy human rights in all its aspects. . . . We trust that the United States will use no method, open or hidden, to force any type of pressure on our country. The government of President Pereda will do everything possible to improve human rights not only in Bolivia, but in the whole world.⁸⁵

Thus, despite the dubious human rights record of the Banzer regime's early years, it was not until President Banzer was forced to leave office by General Pereda that the United States reduced its aid program in an attempt to influence events in Bolivia. By cutting off only military aid, the United States appeared to be taking into account the severity of Bolivia's economic problems, which called for continuing external assistance directed toward basic human needs. Moreover, while the Bolivian Government was certainly guilty of human rights violations, the levels of abuse had never reached those experienced in several other Latin American countries. And finally, by the time the U.S. legislation was enacted proscribing or reducing aid to countries guilty of human rights violations, the evidence suggests that the frequency and severity of such abuses was already on the decline in Bolivia.

CHILE*

BACKGROUND

Following the overthrow of Marxist President Salvador Allende on September 11, 1973, by a military junta led by Gen. Augusto Pinochet, reports of oppression and torture emanated from Chile. These reports resulted in world criticism and diplomatic and economic sanctions, not only because of the frequency and severity of the human rights abuses reported but also because such abuses represented a drastic departure from the democracy that had long been practiced and respected in that country.⁸⁶

*Prepared by Rosemary P. Jackson, Consultant in Latin American Affairs.

⁸⁵ Washington Post, July 30, 1978, p. A 19.

⁸⁶ According to Amnesty International, the organization had also received a few reports of torture under both the Eduardo Frei (1964-79) and Salvador Allende (1970-73) presidencies. Their report made no further comment on these earlier incidents because they were so infrequent. Amnesty International Report on Torture for 1973. Amnesty International: England, p. 189-90.

With a population of 11 million, a gross domestic product of \$9.4 billion—1977 dollars at 1976 prices—a per capita income of \$886 and a literacy rate of 88 percent, Chile is accorded a rating of 77 by the Overseas Development Council on its Physical Quality of Life Index. The rating represents the average of a country's scores on various measures of development such as infant mortality, life expectancy, and literacy.⁸⁷ As compared to many other Latin American countries, Chile is more economically developed and has enjoyed a history of relative political stability since its independence from Spain. While such general observations cannot provide a full picture, they help to explain why human rights violations in Chile in recent years have given rise to considerable outrage.

Throughout most of its history, Chile has been characterized as democratic and its economic system, prior to 1970, as a capitalist mix of private and government controlled enterprises. A strong military tradition also existed. As a consequence of Chile's geographic isolation and its long border and coastline, the military played a key role in uniting the population and forging a nation. Both the army and the navy, which were greatly influenced by European approaches to military training, have been regarded as among the most professional corps in Latin America during the last century.⁸⁸

Nevertheless, with the exception of a period between 1924 and 1932, when the military played the unusual role, for Chile, of creating and overturning governments, the military had not intervened in the political process. It was not until the country was bordering on economic collapse that the military was called to help govern and then subsequently moved to overturn the government of President Allende. While the democratic election of Allende had been viewed by many Chileans as a means of redistributing income and advancing the interests of the poor, the regime's major structural reforms, and their socialist nature, met with strong resistance from the business and landed interests and much of the middle class. Ultimately the country was plagued by strikes, agricultural shortages, capital flight, loss of credit in the international money markets, and a staggering inflation rate of some 600 to 1,000 percent.⁸⁹

It was under such chaotic conditions that the military junta, led by Gen. Augusto Pinochet, came to power. A state of siege was declared, the congress was dissolved, political liberties were suspended, and political and union activities were proscribed. Although rigorous censorship was also imposed on the theretofore free press and foreign correspondents were often expelled, reports soon emerged concerning the arrest, torture, and unexplained "disappearance" of many persons—especially those known to have supported the Allende government.⁹⁰

In May 1977, Amnesty International reported that since the September 1973 coup, some 1,500 persons had disappeared following

⁸⁷ Sewell, John W. and the staff of the Overseas Development Council. *The United States and World Development: Agenda 1977*. New York, Praeger, 1977, p. 166. Chile is ranked by the Council as a middle income country.

⁸⁸ *Christian Science Monitor*. Aug. 22, 1978, p. 12-13.

⁸⁹ *Christian Science Monitor*. May 8, 1978, p. 6.

⁹⁰ John Osborne has described the events of this period as follows: " * * * arrest and detention of more than 100,000 people; the torture of more than 5,000 and the enforced exile of tens of thousands. But there is something peculiarly vile about the number of 'disappeared' who are estimated to number more than 1,500." *New Republic*. Apr. 9, 1977. Vol. 176, p. 11.

arrest by the security forces—mainly the DINA (Directorate of Internal Security Affairs—the secret police).⁹¹ A Chilean human rights spokesman, while citing recent declines in the number, noted that “late in 1975 and even in 1976, there were probably 4,300 detained persons, many held without charge.”⁹² Many of those detained were reportedly subjected to torture, including beatings, the use of electric shocks and partial drownings. Such events are believed to have occurred in several torture centers in Chile.⁹³

Responding to the widespread human rights abuses, corroborated by various sources, the Chairman of the United Nations Human Rights Committee sent a telegram to the Government of Chile in 1974, calling for the immediate cessation of any kind of rights violations. The United Nations Economic and Social Council adopted Resolution 1873 in 1974, which called 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 life and liberty.”⁹⁴ A United Nations working group on Chile was also established. More recently, the United Nations, in its resolution 31/24, expressed its profound indignation “. * * * that constant and flagrant violations of human rights have taken place * * * in Chile, in particular, the institutionalized practice of torture, cruel, inhumane and degrading treatment and punishment.”⁹⁵ The United States supported this resolution.

The Organization of American States, through its Inter-American Commission on Human Rights, issued reports and sent delegations to conduct on-the-spot inspections. To date, the OAS has published three special reports on the Chilean situation which describe the effects of the various decree laws and discuss allegations of torture, arbitrary detention, deprivation of nationality, and other abuses. These documents include case histories of missing individuals and the circumstances under which they disappeared. To obtain such information, the OAS had requested the Government of Chile to respond to questionnaires on the human rights situation—a methodology which the organization concedes has certain drawbacks. “We cannot state,” the OAS writes, “that the responses from the Government have in all instances been as complete and precise as would have been desired.”⁹⁶

In 1975, the International Red Cross began visiting prisoners without the presence of Chilean officials.⁹⁷ While the Red Cross does not discuss specific cases in the interest of preserving its neutral status, its work in assisting prisoners (and their families) and refugees and in tracing missing persons has been extensive.

⁹¹ Amnesty Action. May 1977, p. 3.

⁹² Los Angeles Times. May 3, 1978. Section 1, p. 19.

⁹³ According to Amnesty U.S.A., “Several known torture centers exist including Villa Grimaldi and Cuarto Alamos (Santiago) and Colonia Dignidad (German Nazi colony near Lineares). Colonia Dignidad apparently comprises territory in Chile and Argentina. Disappeared prisoners have been seen in these centers—very badly tortured.” Amnesty Action. May 1977, p. 3.

⁹⁴ U.S. Congress. House. Committee on International Relations. Subcommittee on International Organizations. Human Rights in the International Community and in U.S. Foreign Policy, 1945–76, p. 17. Committee print. 95th Congress, 2d session. U.S. Government Printing Office, 1977.

⁹⁵ United Nations. Thirty-second session. Report of the Economic and Social Council: Protection of Human Rights in Chile. Sept. 29, 1977, p. 59.

⁹⁶ Organization of American States. Inter-American Commission on Human Rights. Third Report on the Situation of Human Rights in Chile. Washington, 1977, p. 3.

⁹⁷ International Committee of the Red Cross. Annual Report for 1976. Geneva, Switzerland, 1977, p. 22.

Finally, it is significant that such a number of international organizations have demonstrated concern over events in Chile. Their interest tends to underscore the extent and gravity of abuses that were taking place.*

HUMAN RIGHTS CONDITIONS

Although the Chilean regime is still regarded as repressive and political and civil liberties remain circumscribed, there have been improvements during the past year—especially in the area of respect for the integrity of the individual. In a recent press interview, a Chilean Catholic rights leader summarized the improving situation and referred to the past, saying:

I don't justify what happened in the first days [after the coup], but I understand it. . . . The worst year was 1975, but certainly there has been an improvement. The year 1977 brought a drastic change for the better. The DINA was dissolved, and its new director [Mena] is an opponent of the old [Contreas]. When the new man took the job, he fired 200 or 300 members of the former DINA.⁹⁸

Regarding the number of political prisoners and disappeared persons, all of the sources consulted for this study believed that the number of prisoners had declined and that the situation with respect to disappeared persons had stabilized. The Vicariate of Solidarity of the Archbishop of Santiago, a Catholic organization directly concerned with the human rights situation, whose statistics are considered highly reliable, estimated the total number of political prisoners through August 1978 at around 50. The Vicariate estimated the number of documented cases of disappearances from 1973 to date at around 600.⁹⁹ The Organization of American States' Inter-American Commission on Human Rights reported 327 political detentions during 1977, a reduction compared to previous years. Of these, one-third had been released.¹⁰⁰ There was also agreement among the sources consulted, including official documents and press reports, that the systematic use of torture appeared to be a thing of the past although such allegations were still received occasionally.

Other apparent improvements included the initial responsiveness of the Chilean Government to the May 1978 hunger strike called by the Committee of Relatives of the disappeared. Only after the Chilean Catholic Church received assurances from the junta that it would

*On Oct. 1, 1979, the Chilean Supreme Court again reaffirmed its refusal to extradite the three Chilean former intelligence officers implicated in the murder to the United States to stand trial. As in May 1979, the Chilean Government declared the evidence submitted by American Michael Townley, who confessed to the assassination, inadmissible as was additional corroborating evidence provided by the U.S. Department of Justice. The Chilean Government also declared the evidence insufficient to order the three to stand trial in Chile and they were freed. The only concession made to the U.S. position was to order Chile's military court to continue its investigation into how Michael Townley and Armando Fernandes Larios obtained false Chilean passports which they used to enter the United States shortly before Letelier and Moffitt were slain.

The State Department expressed immediate and strong disappointment with the Chilean decision. It has been suggested that the U.S. Ambassador may be recalled as a show of protest. Certain Members of Congress have publicly suggested that additional economic sanctions be imposed to underscore U.S. concern that the Chilean Government has committed a further and extremely serious violation of both human rights and international law in failing to bring these terrorists to justice.

⁹⁸ Los Angeles Times, May 3, 1978. Sec. 1, p. 19.

⁹⁹ Los Angeles Times, May 3, 1978. Sec. 1, p. 19.

¹⁰⁰ Organization of American States. Inter-American Commission on Human Rights. Annual Report for 1977. Washington, 1978, p. 86.

provide a full accounting "of all disappeared persons within 30 days" ¹⁰¹ was the strike ended. Although the government would not admit that more than 600 people had disappeared since 1973, ¹⁰² for the first time the issue was subject to extensive press coverage, and the government agreed to permit the United Nations to conduct on-the-spot inspections—a request which had been repeatedly denied in the past. ¹⁰³

The government has cited the lifting of the state of seige in March 1978, the reinstatement of the authority of the civilian courts, the accelerated drafting of a new constitution, the inclusion of more civilians in the junta, and the dissolution of the DINA as significant steps contributing to an improved human rights climate. It has also cited various prisoner releases and especially the General Amnesty of April 1978 as important measures.

On the other hand, observers have pointed to numerous repressive measures which are still in place. In fact, the April Amnesty itself, though claimed by the Chilean Government as a gesture to put the past behind, has been severely criticized. According to Prof. Eugenion Velasco, former dean of Chile's national law school, former Ambassador to Algeria, and currently visiting professor at UCLA:

The chief beneficiaries of this curious amnesty—those Chileans who have committed such crimes as homicide, corporal injuries, torture and robbery after September 11, 1973, and have not been formally accused are only, and exclusively, the agents of the DINA and its successor, the CNI. ¹⁰⁴

While the State Department estimates that some 200 persons benefited from the amnesty, other sources suggested that it might undermine U.S. efforts to extradite members of the DINA in conjunction with the investigation of the Orlando Letelier slaying, which occurred in Washington in September 1976. In addition, it appeared that the provision declaring the kidnapping of adults not to be a punishable offense could deny the relatives of the disappeared further legal recourse.

A final serious reservation about the amnesty pertained to the numerous Chilean exiles, estimated to be in excess of 20,000. While the government stated that it would consider these on a case-by-case basis, it was with the caveat that it would reject petitions from anyone who publicly opposed the military regime while outside the country. ¹⁰⁵ Moreover, State Department experts have pointed out that the amnesty applies only to those individuals "officially" exiled by the government and not to the thousands of so-called voluntary exiles. Those in the latter category are not guaranteed personal safety upon return to Chile and, at the very least, may be subject to economic penalties, such as blacklisting.

¹⁰¹ Los Angeles Times, May 3, 1978, Sec. 1, p. 19.

¹⁰² Washington Post, June 11, 1978, p. A36.

¹⁰³ At the time of this writing, the report of the United Nations Ad Hoc Working Group on Chile was about to be presented. State Department officials familiar with the draft report stated that its conclusions were in keeping with those of other human rights groups with reference to number of political prisoners and other related matters.

¹⁰⁴ According to its terms, the General Amnesty is intended to apply to " * * * all those persons who committed criminal acts, as perpetrators, accomplices or accessories, during the period that the state of siege was in force, which was Sept. 11, 1973, through Mar. 9, 1978, provided those persons are not presently on trial or have been sentenced." The Nation, Vol. 227, No. 5, Aug. 19-26, 1978, p. 132.

¹⁰⁵ Ibid.

Claims of an improved human rights climate are further mitigated by the numerous decree laws still in effect. Among the more pernicious are:

1. Decree law 1697 of March 11, 1977, which ordered the dissolution of all political parties, groups, factions, or movements of a political nature, and ordered the suspension of the constitutional provision that upholds and protects political rights; and

2. Decree law 1877 of August 12, 1977, which granted the President new powers in the case of a declaration of a state of emergency, including the right of expulsion of Chilean nationals from the territory.¹⁰⁶

Thus, when the state seige was supplanted by the less serious state of emergency on March 10, 1978, the change was not as substantial as the Chilean Government has suggested because the President's powers had already been augmented by decree law 1877. Under the latter, the government has the right to detain an individual without charge for up to 5 days and to revoke nationality in cases where an individual poses a serious threat to the state. The state of emergency does, however, proscribe the transfer of prisoners from one region of the country to another. Nevertheless, the rights of assembly, the rights of trade unions to hold free elections and to engage in collective bargaining, remain circumscribed. Professional societies are also subject to restrictions.

With respect to freedom of expression, government controls remain in place, but some progress has been observed. Decree law 1281 of December 11, 1975, granted the military "very broad powers to exercise discretionary control and sanction over the activities of newspapers, magazines, radio stations and all communications."¹⁰⁷ On March 12, 1977, these powers were augmented by Edict 107, which ordered prior censorship in the Santiago area for the "establishment, editing, publication, circulation, distribution and marketing of new daily papers, magazines, newspapers and printed matter in general, be they national or foreign."¹⁰⁸ According to the report of the October 1978 meeting of the Inter-American Press Association, the repeal of this edict is under study by the government, an event which "has been the hope constantly voiced" in Chilean press and cultural circles.¹⁰⁹ In June 1978, the Santiago daily newspaper *La Segunda* was closed by the government for 2 days because it had "published material expressing views which constitute a threat to the coexistence of its citizens as well as offensive charges against the Supreme Government."¹¹⁰ However, with the leftist publications having been closed down after the coup and prohibited from starting up again, the remaining press, which is basically pro-government, is permitted considerable latitude in publishing wire and foreign stories—even those

¹⁰⁶ The Organization of American States has violently protested the revocation of nationality as a tool of the state, describing the penalty as "anachronistic and outlandish and legally unjustifiable in any part of the world." "Organization of American States. Inter-American Commission on Human Rights. Annual Report for 1977," p. 78-80. The State Department has pointed out that this penalty has been imposed on only 9 occasions—one of which was the case of former Ambassador Orlando Letelier.

¹⁰⁷ Organizations of American States. "Inter-American Commission on Human Rights Report for 1977," p. 92.

¹⁰⁸ Ibid.

¹⁰⁹ Inter-American Press Association. "Report of the Committee on Freedom of the Press and Information." XXXIV General Assembly, Oct. 9-13, 1978. Miami, Fla., p. 5-A.

¹¹⁰ Ibid., p. 6-A.

critical of the regime. Evidence of this was especially noticeable in the treatment given the investigation of the assassins of Orlando Letelier, former Chilean Ambassador to the United States.¹¹¹ In addition, the ban against a number of foreign journalists who had been prohibited from entering the country was lifted.¹¹²

On balance, the human rights picture in Chile since the lifting of the state of seige reveals the following: The effect of the general amnesty is subject to serious question; although more civilians were added to the Cabinet, it is still dominated by the military; plans for a new constitution, while accelerated, are unlikely to result in new elections before 1985; political and union activities remain curtailed; the right of expression is severely curtailed although some progress can be observed; the number of political prisoners has declined, but the problem of the disappeared remains; and dissent can still result in serious punishment. Furthermore, the new secret police force, though apparently less brutal than its predecessor, is still able to act above the law and outside the formal government structure.¹¹³ Finally, all improvements are subject to change by the promulgation of new decree laws.

STATE DEPARTMENT REPORT

Since Chile is not a proposed recipient of U.S. military or economic aid, it is not included in the State Department's report to Congress on human rights practices. Accordingly, this study compares comments from State Department spokesmen with those from other interested organizations and the press. State Department views have been derived from official reports and internal working papers—some of which were made available for the purposes of this study.

According to the State Department, Chile has experienced in recent months considerable improvement in the category of rights which pertain to the integrity of the person. Citing the figures of the International Red Cross and the Vicariate of Solidarity, spokesmen estimate the number of political prisoners to be from 30 to 50, depending on one's definition of the term. (This term can be applied to certain prisoners convicted of punishable crimes such as those concerning the use of fire-arms and explosives.) The State Department citing these same sources believes the total number of disappeared persons to be a little over 600 but adds that no cases of verifiable disappearance have occurred during 1978. In September 1978, the International Red Cross recalled its regional representative from Santiago, believing that the remainder of the work could be handled by the local chapter. Overall, the problem of political prisoners is much improved as compared with the 1974-75 period.

With reference to the problem of torture, the State Department concurred with most other sources that this appeared to be a thing of the past. Amnesty International has pointed to the case of Ms. Haydee Palmer, arrested and allegedly tortured by Chilean authorities, as evidence that the practice continues, though admittedly on an infrequent basis.

¹¹¹ For examples, see the Chilean magazine, *Que Pasa*, Aug. 16, 1978, pp. 5-11, and Aug. 23, 1978, pp. 6-11.

¹¹² Inter-American Press Association. *Op. cit.*, p. 6-A.

¹¹³ New York Times, May 13, 1978, p. 22.

In the area of political reforms, the plebiscite of January 1978 has been criticized by both the State Department and Amnesty International. The plebiscite, called by President Pinochet in response to the December 1977 resolution condemning Chile for its human rights violations, was scarcely a breakthrough in the exercise of political rights. The ballot read:

Faced with the international aggression unleashed against our Government, I support President Pinochet in his defense of the dignity of Chile and reaffirm the legitimacy of the Government.¹¹⁴

Although the "yes" votes outnumbered the "no" by a 3 to 1 margin, the State Department criticized the vote, noting that "political activity and assembly are sharply restricted, * * *" and that the vote "was unfairly posed as a choice between the dignity of Chile and international aggression,"¹¹⁵ Amnesty International has suggested that fear of reprisals against those who voted negatively contributed to the pro-government vote.

Alternative interpretations of the firing of Air Force General Leigh on July 24, 1978, reflect uncertainty over the significance of human rights issues in such matters. According to the New York Times:

He [Leigh] and others of the Air Force wanted General Pinochet to end self-censorship of the press, restore the independence of the judiciary, divide the executive and legislative powers and lay down a firm timetable for elections and a return to civilian government.¹¹⁶

Others include some in the government, suggest that Leigh, who previously headed Air Force Intelligence, may have had other reasons for wishing to disassociate himself from the regime at a time when investigations into the Letelier slaying were yielding new evidence.

On the whole, the State Department view of the Chilean situation is basically in keeping with assessments by other important human rights agencies. The tone of their report is positive with respect to prisoners and torture and reserved with respect to the future because of possible reversal of all improvements by new vague and often contradictory decree-laws. The reports are in agreement that the political climate is still repressive, but the State Department points out that important aspects of social, educational, commercial life are not subject to government interference.

SUMMARY OF U.S. AID PROGRAMS

Figures on U.S. economic and military aid to Chile reflect the manner in which the executive and legislative branches have used these programs to implement U.S. policy on human rights.

As table 1 indicates, direct U.S. economic aid to Chile has declined dramatically in recent years, with \$6.7 million estimated for fiscal year 1978, consisting entirely of funds for Public Law 480 title II, and Peace Corps programs. This compares to economic aid programs of \$33.2 million in fiscal year 1977, \$83.4 million in fiscal 1976 and the

¹¹⁴ Washington Post. Jan. 6, 1978, p. 12.

¹¹⁵ Ibid.

¹¹⁶ New York Times. July 25, 1978, p. A6. Nineteen other Air Force generals resigned in protest over the ousting of Leigh.

transition quarter, and \$95.5 million fiscal 1975. However, the greater part of the 1975 and 1976 assistance was in the form of dollar-repayable loans for agricultural commodities under title I of Public Law 480.

Military assistance has been entirely cut off, although some deliveries remain in the pipeline, according to a State Department spokesman.

TABLE 1.—U.S. ECONOMIC ASSISTANCE TO CHILE

[Fiscal years, in millions of dollars]

	1975	1976	Transition quarter	1977	1978 estimate
AID.....	31.3	20.6	0.6	0.6	-----
Public Law 480.....	62.4	56.8	4.3	31.5	5.5
Title I.....	(57.8)	(46.6)	-----	(14.3)	-----
Title II.....	(4.6)	(10.2)	(4.3)	(17.2)	(5.5)
Peace corps and other grant aid.....	1.8	.9	.2	1.1	1.2
Total economic aid.....	95.5	78.3	5.1	33.2	6.7

Sources: For fiscal year 1975 through 1977; U.S. Agency for International Development. U.S. Overseas Loans, Grants, and Assistance from International Organizations. Obligations and Loan Authorizations. July 1, 1945–Sept. 30, 1977, p. 210. For fiscal year 1978: U.S. Agency for International Development, Congressional presentation, fiscal year 1979.

The United States has also employed other policy tools to express displeasure with human rights abuses. Section 701 of Public Law 95–118 instructed U.S. representatives to multilateral lending institutions to oppose extension of financial and technical assistance to countries whose governments engaged in “a consistent pattern of gross violations of internationally recognized human rights”¹¹⁷ On two occasions, December 1977 and March 1978, the United States opposed loans to Chile by the Inter-American Development Bank (IDB). Loans to Chile by the IDB, where the United States acting alone can stop a loan, have declined considerably in recent years. However, loans from the World Bank have increased during this period (see table 2).

The United States has not, however, utilized agricultural assistance as a tool for protesting human rights violations on the grounds that such programs are intended to meet basic human needs and are consistent with the “new directions” policy of U.S. assistance programs. Thus, in April 1978 the United States provided Chile with a \$38 million credit to purchase U.S. wheat. This action, which was taken outside of the foreign aid program, fell under the Commerce Department’s Commodity Credit Corporation funding program.

TABLE 2.—ASSISTANCE COMMITTED BY INTERNATIONAL FINANCIAL INSTITUTIONS

[Fiscal years, in millions of dollars]

	1975	1976	Transition quarter	1977
IBRD.....	20.0	33.2	-----	60.0
IDB.....	49.4	25.3	-----	8.6
UNDP.....	3.2	.2	60.5	(1)

¹ Less than \$50,000.

Source: U.S. Agency for International Development. U.S. Overseas Loans, Grants, and Assistance from International Organizations. Obligations and Loan Authorizations. July 1, 1945–Sept. 30, 1977, p. 210.

¹¹⁷ U.S. Congress. Joint Committee Print. Committee on Foreign Relations and Committee on International Relations. Legislation on Foreign Relations through 1977. U.S. Government Printing Office, Washington 1978. Vol. II, pp. 246–247.

Finally, despite government disfavor, U.S. private investment in Chile continues to be considerable. One estimate puts the total amount of private loans to Chile since 1973 at some \$1.5 billion, with two-thirds of this amount coming from the United States.¹¹⁸

U.S. SANCTIONS AND THEIR IMPACT

Although Chile has been the object of widespread criticism in this country, and U.S. aid has been virtually cut off, the fact that the human rights situation now appears to be improving cannot necessarily be attributed to such measures. The situation is too complex. By the time the U.S. economic and military aid reductions took effect, the most serious abuses were already on the decline. With over 20,000 Chileans having left the country, it is conceivable that the government no longer felt the need for such harsh and repressive measures or that the opposition had been sufficiently intimidated to stifle dissent. The situation now is such that, despite recent university demonstrations against the government and a press more willing and able to criticize the regime, the government of President Pinochet has apparently gained a measure of popular support.

From the United States' side, certain actions which cannot be regarded as true sanctions appear to have led to greater and more immediate improvements. Thus, the U.S. investigation of the assassination of Ambassador Letelier may have precipitated the dissolution of the DINA (since the United States wished to extradite Contreas, the head of DINA) and the declaration of the General Amnesty in April 1978. The concern of the OAS over conditions in Chile, which the United States encouraged, may also have been a most important factor, along with the adverse opinions and actions of other organizations and nations of the world.

HAITI*

BACKGROUND

Haiti entered the decade of the seventies with its legacy of poor political development and of dictatorship still intact. The small nation continued to be the most poverty stricken in the Western Hemisphere. So long as Francois (Papa Doc) Duvalier remained in power, there was no hope for deep social and economic reform in Haiti.

The Francois Duvalier regime was the epitome of the political insecurity and suspicion of government characteristic of Haiti. The period of Duvalier's rule (1957-71), characterized by his use of official violence, is referred to by some authorities as the "reign of terror." Nighttime raids, arbitrary imprisonment, torture, and mysterious disappearances and deaths had become commonplace.¹¹⁹

Duvalier's all-consuming concern for retaining power (he named himself President for life in 1964) resulted in many setbacks for Haiti. Many physical gains that had been made during the U.S. presence in Haiti (1915-34) were erased. Government infrastructure and economic policy that had developed during that period suffered from

*Prepared by Roslyn D. Roberts, Analyst in Latin American Affairs.

¹¹⁸ Guardian. Vol. 30. Sept. 20, 1978, p. 16. Boston Globe. Apr. 23, 1978, p. 42.

¹¹⁹ Weil, Thomas E. Area Handbook for Haiti. Washington, U.S. Government Printing Office, 1973, pp. 31-33.

neglect and the institutionalization of corruption and brutality; the volume of foreign investment decreased. Many Haitians chose voluntary exile to escape starvation as well as the political nightmare which was perpetrated through Duvalier's rule. On the latter account, many well-educated Haitians also left the country. In addition, the concern of the international community over the gross human rights violations perpetrated by Duvalier and his infamous "tonton macoutes"¹²⁰ resulted in the deterioration of Haiti's international relations and the termination of most economic assistance from abroad.

Upon the death of Francois Duvalier, his 19-year-old son, Jean-Claude, succeeded him as president. Since Jean-Claude became President for life in 1971, conditions have improved in some respects, but deep systemic reform has not taken place. In an effort to realize his stated goal of "economic revolution," Jean-Claude has taken steps to change the bad image left by his father. As a result, international aid has been reinstated and foreign investment has been increasing. However, the economic quality of life of the masses has shown little or no improvement.

While Jean-Claude Duvalier has stated an interest in economic improvement for Haiti, he envisions little substantive change in the political situation. During the 7 years of Jean-Claude's rule, it has been claimed that the tonton macoutes were formally disbanded. In addition, a number of Francois Duvalier's officials were dismissed, although some were later rehired. Political prisoners have been released periodically and exiles were invited to return home. However, the results of these moves have been questioned. Jean-Claude reportedly has no plans to diminish the strength of the National Security Volunteers, many of whom were previously classified as tonton macoutes, nor does he plan to relinquish his position as President for life.

HUMAN RIGHTS SITUATION

Despite President Jean-Claude Duvalier's efforts to improve the image of Haiti created by his father, the international concern for human rights in Haiti still persists. Authoritarianism is still the rule, and the official apparatus of repression remains intact.

Although the political chaos and terror of the Francois Duvalier era has subsided, human rights violations continue in a less obvious way. Arrest for political or security reasons have decreased substantially and tend to be less arbitrary and visible. The use of torture seems to have abated somewhat. However, the Department of State says, in its human rights reports to the Congress for 1977,¹²¹ that brutality, "verging on torture," has been employed "both as punishment for minor criminal infractions to extract confessions and to impose discipline in prison." According to the report, the majority of those persons released in the amnesty of September 1977 say that use of brutality has decreased; however, several "claim that torture and deplorable prison conditions continue unabated."¹²² Many human

¹²⁰ The "tonton macoutes" were a brutal armed, plainclothes force personally responsible only to Francois Duvalier. They were free to act against Duvalier's opposition any way they saw fit. This group was responsible for much of the terror that took place during the "Papa Doc" era.

¹²¹ U.S. Congress. House. Committee on International Relations. Senate. Committee on Foreign Relations. Country Reports on Human Rights Practices, Submitted by the Department of State. Feb. 3, 1978, pp. 172-176.

¹²² *Ibid.*, p. 172.

rights advocates claim that the response by released prisoners to questions on prison conditions and the like is dictated by whether those released remain in Haiti.

Over the years Amnesty International has continually expressed concern over the political prisoners in Haiti. In its 1975-76 report, Amnesty claimed it had the names of 255 political prisoners, but reported that estimates of the total number ranged from 400 to 3,000.¹²³ The number of political prisoners in Haiti is difficult to verify. The estimates are high because of the large number of mysterious disappearances, the practice of keeping prisoners incommunicado, and the high mortality¹²⁴ rate in the prisons. In 1977 Amnesty's major concerns were much the same as those expressed in its 1973-74 report—the failure of the Haitian Government to bring prisoners to trial and to provide information on the fate of the prisoners. Detention incommunicado was also a major concern.

In September 1977, 1 month after Ambassador Andrew Young's visit, Haiti announced the release of the "last of its political prisoners." After an earlier amnesty, human rights groups and the international press expressed doubt as to the authenticity of the names, status, and the actual release of those listed in the government's amnesties. Also, some amnestied prisoners were reportedly rearrested soon after their release. These charges prompted the government to hold a public ceremony to release the 104 prisoners in the September 1977 amnesty. Various groups, however, say they have the names of more political prisoners. In June 1978, Amnesty International launched an appeal to investigate the whereabouts and safety of three men, Rochambeau Nestor, Luc Deselmours and Ceres Daccueil, who had been last seen at Fort Dimanche at the time of the September 1977 release. The three were objects of concern because Fort Dimanche had been closed for repairs (to improve the prison conditions) and their whereabouts were unknown and they were not included in the list of 103 prisoners who had died in detention since 1972. The latter list was supplied to Amnesty by the Haitian Government.¹²⁵

The Inter-American Commission on Human Rights reported that the Haitian Government had established a State Security Tribunal on September 1, 1977. According to article 2 of the August 25, 1977, law that established it, the State Security Tribunal handles all crimes and offenses relating to the internal and foreign security and all political crimes.¹²⁶

In 1975, the regular sessions of the criminal courts convened for the first time after more than 16 years. According to the Department of State's 1977 human rights report to Congress, a fair hearing is available in most ordinary trials in the capital. However, State reports that trials are less likely to take place and are less fair in the countryside or for political prisoners.¹²⁷ Military courts are closed to the public and the press.

¹²³ Amnesty International. *The Amnesty International Report, 1975-76*. Amnesty International Publications, 1976, p. 101. Amnesty does not give an estimate of political prisoners in its 1977 report.

¹²⁴ Amnesty International. *The Amnesty International Report, 1977*.

¹²⁵ Amnesty Action, June 1978, p. 7.

¹²⁶ Inter-American Commission on Human Rights. *Annual Report of the Inter-American Commission on Human Rights, 1977*. Washington, 1978, p. 23.

¹²⁷ U.S. Congress. House., *op. cit.*, p. 173.

In recent years the press has been increasingly outspoken, with mixed results. Although some of the new found courage to criticize the government has been tolerated, in some instances reporters have been harassed and even murdered. In 1976, Gasner Raymond, who was investigating the plight of some striking factory workers, was murdered. The perpetrators have not been found.¹²⁸ In December 1977, Luc Neree, whose son edits the *Jeune Presse*, was beaten after the weekly paper criticized the Volunteers for National Security.¹²⁹ According to Haiti's former Ambassador to the United Nations, Serge Charles, the president wants a free press, but it must be a responsible press.¹³⁰ The Inter-American Press Association lists the Haitian press as "deprived of this freedom."

Political parties and political gatherings of any kind are illegal, but several strikes and demonstrations took place in 1977. One such demonstration, involving workers at the Haitian American Sugar Co., resulted in the government's concession that the workers be allowed to elect their own union representatives. Food riots on Christmas Eve of 1977 resulted in the dispatch of armed Haitian soldiers to the city of Gonaives. Further details of the riot, which emptied some food warehouses, are not available.¹³¹

One of the major events of 1978 relating to human rights in Haiti was the July visit of the Inter-American Commission on Human Rights at the request of Jean-Claude.¹³² Duvalier personally guaranteed that no reprisals would take place against those who offered evidence to the Commission. The Commission's report had not been released at the time this report was completed.

SUMMARY OF AID PROGRAMS

Since 1971, the United States, various multilateral financial institutions, and other bilateral donors have reinstated foreign assistance to Haiti after nearly a decade of suspended aid. In 1962 and 1973, the United States and other foreign donors halted assistance to Haiti, except for a few humanitarian projects, in response to the brutal political repression and institutionalized graft employed by the Francois Duvalier government. After Francois Duvalier's death a gradual resumption of foreign assistance was begun. USAID reinstated its mission to Haiti in 1973.

As indicated in table I, in 1976 U.S. economic assistance to Haiti more than doubled that of the previous year. The sharp increases in 1976 and thereafter can be accounted for in several ways. It was due in part to the response of the U.S. Government to the 1975 and 1977 drought with emergency food supplies. In addition, increased coordination within the joint commission¹³³ on development objectives and

¹²⁸ Washington Star, Dec. 29, 1976, p. A12.

¹²⁹ Christian Science Monitor, Dec. 27, 1977, p. 7.

¹³⁰ Wall Street Journal, Feb. 3, 1978, p. 1, 24.

¹³¹ Christian Science Monitor, Dec. 29, 1977, p. 7.

¹³² Amnesty International reports "that bodies such as the International Committee of the Red Cross have been denied access to all detention centers except one." (Amnesty International, London, Aug. 17, 1978.)

¹³³ The Joint Commission for the Implementation of Foreign Assistance, was established in 1976. The commission, chaired by the OAS, is aimed at coordinating international Haitian development plans with the efforts of external donors.

continuing efforts of the Government of Haiti to improve in the area of administrative objectives have prompted increases.¹³⁴

Furthermore, the USAID program in Haiti reflects the New Directions mandate of 1973. The focus of the projects is to meet the basic needs of the population, and they are humanitarian in nature. AID concentrates its work in the areas of rural and institutional development.¹³⁵

U.S. military assistance to Haiti has been minimal. After an absence of military assistance for many years during the Francois Duvalier regime, military assistance has been provided on a limited basis. For example, when an explosion in the national arsenal destroyed all of the weapons in 1975, the United States replaced them. Current military assistance provides for nonlethal equipment and services, including funds to help in the development of an effective search and rescue capability.¹³⁶ Though some exiles charge that the United States is beefing up the Haitian security force by making very sophisticated weapons and techniques available to them,¹³⁷ this is denied within the State Department.

Senator Edward W. Brooke, in his 1977 report on Haiti, expressed a certain degree of apprehension over the U.S. Security Assistance program for Haiti.¹³⁸ Acknowledging the fine line between assistance that can be utilized for active military/police activities and that which can enhance the capability of the military to provide services that promote the general welfare of a society, Brooke suggested that a review be conducted by GAO to insure that items purchased under the FMS program were not being used for repressive purposes. He also recommended the immediate termination of security-related assistance to Haiti if at any time such assistance conflicted with the United States commitment to human rights in Haiti.

TABLE 1.—U.S. ASSISTANCE TO HAITI SINCE 1975

[Fiscal years, in millions of dollars]

	1975	1976	Transition quarter	1977	Estimate 1978
AID.....	3.6	9.3	11.0	21.1	9.3
Public Law 480.....	5.6	13.9	.9	19.3	15.1
Title I.....	(2.3)	(4.9)		(10.7)	(11.1)
Title II.....	(3.3)	(9.0)	(.9)	(8.6)	(4.1)
Other.....	.1	.2		.3	
Total economic assistance.....	9.3	23.4	11.9	40.7	24.4
Military assistance.....	(1)	.1	(1)	.6	.3

¹ Less than \$50,000.

¹³⁴ Haitian Ambassador to the United Nations, George Salomon, announced on Aug. 5, 1978, that Haiti would include all of its revenue in its national budget, including the revenue of the Regie du Tabac, beginning Oct. 1, 1978 (Washington Star, Aug. 6, 1978; A4).

¹³⁵ Wall Street Journal, Feb. 3, 1978, p. 1, 24.

¹³⁶ U.S. Congress. Senate. Committee on Appropriations. Review of Factors Affecting U.S. Diplomatic and Assistance Relations with Haiti; submitted by Senator Edward W. Brooke. (Committee Print) Washington, U.S. Government Printing Office, 1977, pp. 52-53.

¹³⁷ The Jamaica Daily News, Nov. 20, 1977, p. 2.

¹³⁸ U.S. Congress. Senate op. cit., pp. 56-57.

TABLE 2.—AID COMMITTED TO HAITI FROM INTERNATIONAL FINANCIAL INSTITUTIONS

[Fiscal years, in millions of dollars]

Type	1976	Transition quarter	1977
IBRD			
IDA	5.6	16	10.0
IDB	38.8	5	15.7
UNDP	.8		.7
Other U.N.	1.0		

Sources: National Advisory Council. Annual report, July 1, 1974–June 30, 1975. U.S. Agency for International Development. Congressional presentation, fiscal year 1979. Annex A, 1978. U.S. Overseas Loans, Grants, and Assistance from International Organizations, Obligations and Loan Authorizations, July 1, 1945–Sept. 30, 1977. Washington.

STATE DEPARTMENT REPORTS

The 1978 Department of State report to Congress leaves the reader with only a surface description of the human rights situation in Haiti. Such phrases as “brutal treatment, verging on torture,” and “brutality as opposed to deliberate torture” tend to portray to the casual reader a greatly improved human rights situation in the country. However, human rights advocates are critical, arguing that State could better assess the actual situation. They charge that the report fails to deal with the structural barriers to human rights existing in Haiti. One recent visitor to Haiti expressed the view that U.S. officials cannot adequately assess the existence or nonexistence of specific acts of repression because: “Our Embassy officials do not to our knowledge receive any in-depth sociological, or anthropological or historical education which would enable them to comprehend the dynamics of Haitian society. Additionally, only one member of the Embassy staff to our knowledge has linguistic capability in Creole, the language spoken by over 80 percent of the population.”¹³⁹

The most serious problems with the report, however, are the lack of detail on some issues raised in the report and the omission of other issues altogether. For example, State mentions the national reconciliation program but fails to mention the rearrest of some of the returned exiles. The Coalition for a New Foreign and Military Policy, in a highly critical assessment of the report, argues that the 11 men exiled after their release in September 1977—whom the State report mentions—were such returnees who had been rearrested. The coalition reportedly gave the State Department extensive testimony from 4 of the 11, and subsequently 1 of the men was interviewed by State Department officials.¹⁴⁰

The coalition assessment further argues that the acquittals in the criminal trials in 1976 and 1977, which the State report used as evidence that justice is more available than before, involved public officials charged with exactly the corruption which the report describes as endemic. According to the coalition assessment, State is inaccurate

¹³⁹ Horblitt, Stephen A. and James Burke. Report to Representative Walter Fauntroy on Trip to the Republic of Haiti, Sept. 14–24, 1978.

¹⁴⁰ Coalition for a New Foreign and Military Policy. International Human Rights and the Administration's Security Assistance Program for Fiscal Year 1979: A Critique. Washington, D.C., March 1978, p. 2.

in its description of freedom of movement in Haiti. Haitians traveling from one town to another outside the capital, the coalition maintained, must register with the local chief of section or face imprisonment in the district jail.¹⁴¹

Differences also exist regarding the status of refugees from Haiti. While the Department of State contends that the majority of Haitian refugees have economic reasons for voluntary exile, many critics of State's handling of the matter say that due process procedures have often been violated in the case of the Haitian refugee. Amnesty International reports that some returned refugees have not been seen by relatives several weeks after their arrival in Haiti.¹⁴² According to the coalition, 3 persons, whose names appear on a list of 150¹⁴³ individuals who died while in detention, were refugees who had been denied political asylum in the United States, deported back to Haiti, and imprisoned once more.¹⁴⁴

In general, the State Department report fails to convey to the reader the lingering atmosphere of repressiveness that many recent visitors to Haiti report. A number of visitors to Haiti report that *tonton macoutes*, identified as such by local Haitians, are still to be seen on the streets of Haiti, dressed in civilian garb, minus the characteristic dark dark sunglasses but still carrying sidearms.

U.S. SANCTIONS AND THEIR IMPACT

The United States human rights policy appears to have had a very definite impact on Haiti. While no sanctions have been applied since the USAID mission was reinstated in 1973, the Haitian Government seems to be aware of the necessity to improve its image in the area of human rights in order to remain a recipient of U.S. economic assistance.

The impact of the United States human rights policy is recognized by the government, as well as by the Haitian people and others. Although President Duvalier has many times denied that outside pressure has figured in any of the changes that have taken place in his country, he has reportedly hired a U.S. public relations firm to tell the world that "the story of Haiti today is change."¹⁴⁵ Duvalier, in speaking about the need for a public relations firm, is reported as saying that the U.S. media know that it pays to emphasize the sensational. He added that by "distorting the reality of Haiti . . . [they] disturb the social and economic development of the country. Since our means are rather limited, until now we have not made an important effort to counteract."¹⁴⁶ President Duvalier believes his economic revolution cannot become a reality without the help of foreign aid, of which the United States is a major contributor.

Many Haitians outside the government also speak of the impact of the U.S. human rights policy. The press and recent visitors report that the Haitian people recognize the efforts to improve the image of Haiti as a response to U.S. pressure because of the need for assistance.

¹⁴¹ Ibid.

¹⁴² Amnesty, August 1978.

¹⁴³ The list, provided by the 11 exiles of September 1977, reportedly contained only the names of individuals of whom the 11 exiles had first hand knowledge. This list should not be confused with the Haitian Government's list of 103 prisoners who had died in detention since 1972.

¹⁴⁴ Coalition, op. cit., p. 1.

¹⁴⁵ Washington Post, Sept. 10, 1978, pp. 23, 26.

¹⁴⁶ Ibid.

Many people in that country feel that the liberalization may be short lived. One journalist is reported as saying, "We must make our gains now, while Carter is still around. If he's not reelected * * * the American pressure may ease, and Jean-Claude will crack down."¹⁴⁷ Some exiles accuse the United States of fostering a cosmetic approach to the question of human rights. They do, however, credit President Carter's human rights campaign with forcing the Duvalier regime to pay at least lipservice to the concept of improvement in the human rights area.¹⁴⁸

Much attention was paid to Ambassador Andrew Young's trip to Haiti in August 1977. In a press conference, Young delivered the message that the United States had no intention of meddling in the internal affairs of Haiti. However, improvement in the human rights situation would have a direct effect on the aid and cooperation Haiti received from the United States. Whether his most quoted phrase: "When people understand the way the winds are blowing and if they want to go with those winds, they trim their sails accordingly,"¹⁴⁹ was heeded by the Duvalier government or not, 104 political prisoners were released 1 month later.

U.S. Government officials interviewed on human rights policy toward Haiti said that human rights is the overriding concern in dealing with Haiti. They reported that all projects must meet the "basic human needs" requirement, and some projects had been turned back for more specific information establishing that requirement. Those interviewed also attributed improvements in the Haitian human rights situation to U.S. policy.¹⁵⁰ However, they reported that the Embassy has a real concern about how far and how fast the Haitian Government can be pushed.

HONDURAS*

BACKGROUND

Honduras has a longstanding tradition of military rule. In 1972, a military coup ended the rule of Ramon Ernesto Cruz, the only democratically elected leader since the early 1960's. The coup against the civilian government, which had lasted only 1 year, was declared "necessary to end economic, political, and social chaos in Honduras."¹⁵¹ Since that time there have been two other coups, both involving military factions against military governments. The most recent coup occurred August 7, 1978.

Honduras, the second poorest country in the Western Hemisphere at the start of the decade, is now the third poorest country. Although the country is still bedeviled by poor economic conditions, Honduras has been somewhat successful in its fight to recover from natural disasters and other problems to make slight, but significant, improvement.

*Prepared by Roslyn D. Roberts, Analyst in Latin American Affairs.

¹⁴⁷ Wall Street Journal, Feb. 3, 1978, pp. 1, 24.

¹⁴⁸ The Jamaica Daily News, Nov. 20, 1977, p. 2.

¹⁴⁹ Washington Post, Aug. 16, 1977, pp. A1, A12.

¹⁵⁰ The Aug. 5, 1978, announcement that all revenues would be included in the national budget beginning Oct. 1, 1978, is credited to the recommendation and insistence of the Joint Commission, of which the United States is a participant.

¹⁵¹ New Times, No. 52, December 1972, pp. 27-28.

The question of land reform is a major issue for the Honduran Government. Conflict between landowners and rural peasants, who form one of the best organized agrarian groups in Central America,¹⁵² was sparked by the government's delay in acting on the issue and resulted in death and violence in 1975. Honduran peasants and many outside observers hold the view that the military government is more aligned with the interest of the landowner than it is with the interest of the landless peasant.

Although some questions were raised with respect to the government's role in the violence in 1975, the military government is largely regarded as committed to development and improvement of the quality of life for the masses, and has been credited with a concern for justice and equity.¹⁵³

HUMAN RIGHTS CONDITIONS

Recent concerns for human rights in Honduras were sparked during the agrarian crisis of 1975. Violent clashes between the landless and the landowners resulted in massive arrests and the death of nine persons, including some peasant leaders. According to Amnesty International, most of those detained were released following negotiations by representatives of peasant trade union organizations with members of the Supreme Military Council.¹⁵⁴

Following a military commission investigation of the 1975 killings, several landowners and subordinate military officers were charged and detained. According to Amnesty International's 1977 annual report, the trial of 20 men charged with the murders is still in progress, having emerged from an earlier secret proceeding.¹⁵⁵ Subsequently, sources asserted that the landowners and military officers were detained for an extended period pending the court's verdict.¹⁵⁶ In May 1978, two army officers were found guilty and civilian codefendants acquitted by an appeals court.

Amnesty International in March 1978 expressed concern over the "apparently arbitrary nature of the detentions" of nine peasant trade union leaders. The trade union leaders, who had been detained since February 1977, were accused of "misuse of public funds," a charge which can only be made against public officials according to Honduran law. Although a lower court acquitted them, Amnesty International reports that the union leaders continue in detention pending a decision by the government.¹⁵⁷

Sources within human rights reporting organizations, such as Amnesty International and the Washington Office on Latin America, believe that the lack of adverse reporting from Honduras is an indica-

¹⁵² The Catholic Church is credited with the organization of the peasants.

¹⁵³ U.S. Agency for International Development. Congressional Presentation, fiscal year 1979. Annex A. Washington, 1978, p. 743.

¹⁵⁴ Amnesty International. "The Amnesty International Report, 1975-76." Amnesty International Publications, 1976, p. 103.

¹⁵⁵ "Amnesty International Report, 1977," p. 146.

¹⁵⁶ U.S. Congress. House. Committee on International Relations. Senate. Committee on Foreign Relations. "Country Reports on Human Rights Practices, Submitted by the Department of State." Feb. 3, 1978, p. 178.

¹⁵⁷ Amnesty International Newsletter, London, May 1978.

tion that the country's human rights problems are minor compared to those of many other countries.

U.S. Government officials, interviewed on the status of human rights in Honduras, expressed the feeling that Honduras was not among the major violators of human rights in Latin America and that the country had no significant human rights problems. They pointed to the fact that no aid requests had been denied on human rights grounds and that there had been only one case of reported torture as evidence that Honduras' human rights record was relatively good.

Although Honduras is not democratically free, it is felt by many that the military government largely respects civil and most political liberties. Trials are considered fair, and citizens are free to travel and emigrate except for restrictions at some border crossings because of the border conflict with El Salvador. The recent military junta, in power since August 9, 1978, pledges that elections will be held in 1980. In addition, the military government has evidenced its commitment to the fulfillment of vital needs for the poor through the objectives of the Honduran 5-year development plan (1975-1979).

STATE DEPARTMENT REPORTS

The 1978 Department of State report on human rights in Honduras is in accord with information available from other sources, such as the Washington Office on Latin America.¹⁵⁸ The report is quite comprehensive, giving the reader a clear picture of the human rights situation in Honduras.

SUMMARY OF AID

The decline in levels of economic assistance after 1975 (see table 1) reflect the emphasis in the earlier year on emergency food supply and other assistance that was a direct response to the disasters of Hurricane Fifi and subsequent drought. The AID program, in accord with the New Directions mandate, now focuses on reforms and development programs in the agricultural sector that would benefit the rural poor. In addition, AID is involved in an assessment of the health sector.¹⁵⁹

TABLE 1.—UNITED STATES ASSISTANCE TO HONDURAS

[Fiscal years, in millions of dollars]

	1975	1976	Transition quarter	1977	Est. 1978
AID.....	25.4	14.8	1.9	7.8	12.6
Public Law 480.....	9.0	5.9	.3	2.8	1.8
Title I.....	(5.3)	(2.1)			
Title II.....	(3.7)	(3.8)	(.3)	(2.8)	(1.8)
Other.....	1.2	1.3	.2	1.6	
Total economic aid.....	35.6	22.0	2.4	12.2	14.4
Military assistance.....	4.2	3.4	.1	3.1	

¹⁵⁸ U.S. Congress. House. Committee on International Relations. Senate. Committee on Foreign Relations. Country reports on Human Rights Practices submitted by the Department of State. Feb. 3, 1978.

¹⁵⁹ U.S. Agency for International Development. Congressional presentation, fiscal year 1979. Annex A. Washington, 1978, pp. 743-758.

TABLE 2.—AID COMMITTED TO HAITI FROM INTERNATIONAL AGENCIES

[Fiscal years, in millions of dollars]

	1976	Transition quarter	1977
IBRD-----	3.1	-----	47
IDA-----	-----	14	5
IDB-----	26.2	12	103
UNDP-----	2.3	-----	(1)

¹ Less than \$50,000.

Sources: U.S. Agency for International Development. Congressional presentation, fiscal year 1979. Annex A. Washington, 1978, pp. 743-758. U.S. Overseas Loans, Grants, and Assistance from International Organizations, Obligations and Loan Authorizations, July 1, 1945-Sept. 30, 1977, Washington, p. 53.

Assistance from other external donors is on the increase (see table 2). The programs are largely concentrated in agriculture, forestry, and infrastructure.

U.S. HUMAN RIGHTS ACTION AND THE HONDURAN RESPONSE

Government officials interviewed in connection with this report felt that the Honduran Government had been minimally responsive to the U.S. human rights policy, but that the policy may have been a significant factor in protecting the press. It was noted that the human rights policy was a factor in holding down the amount of money given in military assistance, though not the level of Honduras' purchases of arms from the United States. The AID program in Honduras is designed to help the small farmer and the poor in accordance with the New Directions mandate.

NICARAGUA*

BACKGROUND

The political and human rights situation in Nicaragua is of particular interest to the United States not only because of Nicaragua's potential influence over neighboring Central American States but also because of the longstanding "special relationship" which has existed between the two countries. This relationship covers a minimum of 60 years of direct U.S. involvement in Nicaraguan affairs plus commercial and business ties which date back to the last century.

In 1914, the United States and Nicaragua signed a treaty granting the United States a 99-year option to construct a transisthmian canal through Nicaragua. Although the United States eventually opted for a route through Panama, the treaty was not officially terminated by

* Prepared by Rosemary P. Jackson, consultant in Latin American Affairs.

Since the time that this report was written, the situation in Nicaragua has changed considerably. On June 23, 1979, the Organization of American States called for the removal of the Somoza Government and the replacement of it with a democratic regime. The Carter administration took the lead in negotiating President Somoza's departure and in discussions with the Sandinista's junta based in San Jose, Costa Rica.

On July 20, 1979, the Government of National Reconstruction assumed power in Nicaragua. The five-man junta represents a coalition of all those forces which opposed Somoza. The United States, which never broke relations with the Somoza regime, has an ambassador in Managua. Although the United States has expressed concern over the political orientation which the new government may take, the United States has provided considerable economic relief assistance to Nicaraguan people who were displaced in the civil war. At this time, a larger economic assistance package is being developed by the administration.

the United States until 1971. In order to protect U.S. interests and insure the political stability of Central America, the U.S. Marines occupied Nicaragua from 1912 to 1933. During this 21-year period, the United States trained what was to become Nicaragua's *Guardia Nacional* (National Guard)—a combined army-police force of 7,500¹⁶⁰ (plus an equal number of reserves)—which continues to be one of the most important forces in Nicaraguan national life. The Marines also played a role in the 1932 coup which led to the installation of General Anastasio Somoza Garcia (father of the current president).

After inheriting the command of the national guard from the United States in February 1933, General Somoza reportedly ordered the murder of the leader of the nationalist guerrillas, Gen. Cesar Augusto Sandino. However, the guerrilla movement continued. In 1936 Somoza assumed the Presidency, and in 1956 he was assassinated. His eldest son, Luis Somoza Debayle, who succeeded his father, was also faced by numerous internal uprisings. Street riots and other violence followed the tightly controlled presidential elections of January 1967, which resulted in the election of Gen. Anastasio Somoza Garcia a mere 3 months before the death of his brother Luis from natural causes.¹⁶¹ Thus a family dynasty survived despite years of internal opposition and in part with the apparent support of the United States.

Indeed, until recently, the U.S. Government had provided the Somoza family with ongoing support, both diplomatic and in the form of economic and military assistance. In return, during the Cuban missile crisis of 1962, Nicaragua permitted the United States to use the country as a staging base for U.S. operations. For this, and other reasons, including the fact that the current President was educated at West Point, General Somoza makes frequent reference to his family's historical alliance with the United States against communism. He further implies that the fall of his government might result in a Central America populated by Cuba-like states hostile to the United States.

With a gross domestic product of \$2,228 million (1977 estimate) and a per capita income of \$640 per year, Nicaragua is classified by the Overseas Development Council as a lower-middle income country and accorded a rating of 53 on its Physical Quality of Life Index—a composite of a country's ratings on various development measures such as infant mortality, life expectancy, and literacy.¹⁶² While this PQLI compares favorably with certain other Latin American countries, it fails to reflect several features unique to the politicoeconomic situation in Nicaragua. For example, it is estimated that some 50 percent of the population receives but 15 percent of the national revenues and that in the countryside per capita income equals \$130 per year. It is further estimated that some 6 percent of the farmers own 30.5 percent of all cultivatable land while 3.4 percent of such land is owned by over 50 percent of all farmers.¹⁶³ Widespread malnutrition and a high rate of infant mortality characterize these country areas. In addition, the PQLI fails to account for the vast holdings of the

¹⁶⁰ The National Guard strength was increased to 9,500 men in December 1978.

¹⁶¹ New York Times Magazine. National Mutiny in Nicaragua. July 30, 1978, sec. 6, p. 34.

¹⁶² Sewell, John W. and the staff of the Overseas Development Council. The United States and World Development: Agenda 1977. Praeger. New York 1977, p. 166.

¹⁶³ New York Times Magazine. National Mutiny in Nicaragua. July 30, 1978, p. 42.

Somoza family itself. Total assets of the Somozas in 1973 were estimated to be \$500 million. According to a recent New York Times report, the Somoza family controls:

* * * Much of the economy including the "national airline," shipping line, 20-30 percent of the arable land, a newspaper and television station, vehicle distribution firms (including the Mercedes-Benz franchise which explains the proliferation of the luxurious automobile in Managua), and a port facility (yes, Puerto Somoza).¹⁶⁴

Although the government is still dominated by Somoza's Nationalist Liberal Party, whose only legal opposition is the Conservative Party, opposition to the regime has been growing in recent years. The catalyst for resistance has been the Frente Sandinista de Liberación Nacional (FSLN), also known as the Sandinistas. The group, which derives its name from the guerrilla Sandino, was founded by students in 1967 as a Marxist-Leninist group dedicated to the violent overthrow of the Somoza government. Official Sandinista membership is estimated to be only 1,000-1,500 members, but their influence on the political scene is far greater.

In recent years, more moderate elements have increasingly adopted the goals of the Sandinistas in committing themselves to the removal of the Somozas from power. The most important of these more moderate factions is the Frente Amplio de Oposición (FAO), or the Broad Opposition Front, which includes business, church, and landed interests. In addition to the already mentioned goals, the group has called for the restoration of democratic government, the protection of human rights, and greater equity in the distribution of wealth.

Criticism of the Somoza government has also been expressed by other Latin American countries, the United States, and several international organizations. Various investigations have charged that the Somoza family has amassed its fortune and assured its power often at the expense of internationally recognized standards of human rights.

HUMAN RIGHTS SITUATION

President Somoza was reelected for a 6-½ year term on December 1, 1974, and declared a state of siege 28 days later. Although constitutional rights were reestablished on September 19, 1977, a new state of siege was reimposed on September 11, 1978, and, while this was lifted in part in December 1978, the salient feature is that for most of President Somoza's second term, Nicaraguans have been denied basic civil rights. In its most recent report on the status of human rights in Nicaragua, the Organization of American States' Inter-American Commission on Human Rights describes the state of martial law as follows:

Within that law, whose essential objective is to insure public order, a series of preventative measures and executive decrees can be carried out arbitrarily, including, among others, the issuance of arrest warrants to investigate disturbances of the peace and the incommunication [sic] of prisoners for a reasonable period of time; the compelling of people to

¹⁶⁴ Ibid. New York Times Magazine, p. 42.

move from their residence; the suspension of radio and television broadcasts or spoken or written or printed communications, or any other media, and the seizure of publications for a period deemed appropriate; the suspension or prior censorship of those publications; domicile searches; the occupation for military purposes of any real estate or property of any person; the dissolution of any seditious groups, utilizing force for that end until they obey; and the power of military tribunals to hear cases if crimes are against the internal or external security of the state and against public order.¹⁶⁵

These powers are augmented by provisions allowing the government to establish fines by decree and by article 6, which states "that every person is considered responsible for the crimes that have been committed at that time. The same presumption shall fall on those that are apprehended or fleeing after having been with the rebels or subversives, at the time when those acts are committed."¹⁶⁶

Thus, when the Commission resolved in June 1978 to press for permission to conduct an investigation of the situation in Nicaragua, it was because of the plethora of complaints it had already received. In January 1978 the assassination of journalist Pedro Joaquín Chamorro, opposition spokesman and editor of the newspaper *La Prensa*, had precipitated a new level of violence, which attracted considerable world attention. Moderate opposition leaders, at that time the largest group being the Union Democrática de Liberación (UDELA), had called for a work stoppage which virtually paralyzed the economy. But the strike had not obtained its real objective—the resignation of President Somoza. The loss of the opposition leader and the subsequent failure of the strike appeared to have left much of the moderate group frustrated and more willing to accept violence. The Inter-American Commission commented on this ensuing period as follows:

Although the general strike had ended in early February, the climate of tension was still apparent between the government and most of the citizenry. The period between February and June was characterized by several confrontations between the National Guard and civilian groups which resulted in numerous casualties.¹⁶⁷

The Commission noted that by the end of February 1978, anti-government demonstrations in province cities had resulted in numerous deaths—the February 27 uprising in Masaya alone resulting in some 100 deaths plus numerous missing and wounded. According to the Commission, it was during this period that it began to "receive numerous new complaints of alleged violations of human rights in Nicaragua * * * of a serious nature."¹⁶⁸ In July new demonstrations broke out in relation to the situation of political prisoners, the closing of a radio station belonging to the opposition and to the return of the

¹⁶⁵ Organization of American States. Inter-American Commission on Human Rights. Report on the Situation of Human Rights in Nicaragua. Findings of the onsite observation in the Republic of Nicaragua, Oct. 3–12, 1978. Adopted by the Inter-American Commission on Human Rights, Nov. 16, 1978. Washington, p. 29.

¹⁶⁶ Ibid., pp. 29 and 30.

¹⁶⁷ Ibid., p. 5.

¹⁶⁸ Ibid., p. 6.

Group of Twelve,¹⁶⁹ which was composed of 12 well-known intellectual, professional, and religious personalities who had been exiled for protesting against the government. Another general strike, also called by the Broad Opposition Front, closed down some 80 percent of all businesses.

When guerrillas of the FSLN seized the National Palace on August 22, 1978, violence reached near civil-war levels. The guerrillas seized 1,500 hostages and demanded that the government release 159 political prisoners, provide for their safe passage out of Nicaragua and pay a ransom of \$500,000. These demands were met by the government within 48 hours. Insurrections in various cities followed and again a nationwide strike was called by the guerrillas.¹⁷⁰ In the ensuing clashes between rebels and the National Guard, casualties are estimated to have been between 1,000 to 5,000.¹⁷¹ These clashes were accompanied by widespread reports of atrocities—allegedly committed by both sides. Government forces were accused of the mass murder of peasants and the summary execution of many youths. According to Tom Farer, U.S. representative to the Inter-American Human Rights Commission:

* * * the great majority [of the deaths] occurred in one of two ways. One way was during the aerial assault on the towns, particularly Leon and Esteli; and we found as a fact that not only were people not allowed to evacuate their homes before the assault in the different barrios of the towns, but in fact they were told by loudspeakers coming from the planes to remain in their houses. And they went into their houses, remained in their houses, and then their houses were strafed rocketed and bombed. So that was one of the ways, in which a very large number of the casualties occurred; that's clearly a violation of the laws of war as well as humanitarian law. The other way was the simple rounding up of people, particularly youths between the ages of 14 and 21, who happened to have lived in any of the areas where the fighting occurred, and they were simply shot down.¹⁷²

The team, composed of seven members representing the United States and other Latin American countries, visited Nicaragua October 3–12 and issued its findings in November 1978. The report, which was regarded by many observers as the most critical ever published by the Organization, attracted such wide attention that it probably helped to pressure the Somoza government into accepting outside efforts to mediate what had clearly become a crisis situation.

On December 7, 1978, President Somoza agreed to lift martial law, to free political prisoners and to end restrictions (the so-called black code) on radio newscasts in order to keep talks going with the opposition leaders and to convince the OAS mediators (from the United States, Guatemala, and the Dominican Republic) to continue their efforts to find a peaceful solution to the political problems in Nicaragua.¹⁷³

¹⁶⁹ Ibid., p. 7.

¹⁷⁰ New York Times, Nov. 6, 1978, p. 50.

¹⁷¹ Organization of American States. Op. cit., p. 29 and 30. The Commission maintains that the number is 3,000, which is disputed by other sources.

¹⁷² The MacNeil/Lehrer Report. Nicaragua. Library No. 822. Show No. 4102. Nov. 21, 1978. WNET/WETA television. Transcript, p. 4.

¹⁷³ New York Times, Dec. 8, 1978: p. A-11.

With reference to the problems of political prisoners, the number of casualties resulting from the September fighting and the frequency of atrocities, reliable information is difficult to obtain because the situation has been so highly politicized and fluid. For example, the State Department believes the greatest number of political prisoners to have been 250, while Amnesty International has cited a figure of 500. These figures do not reflect the release of 59 prisoners following the attack on the National Palace in August 1978, or the release of another 110 individuals under the amnesty in December.

The problem of accounting for casualties is complicated by the inherent political biases of the monitoring agencies. For instance, the Nicaraguan Red Cross estimates September deaths at 5,000, the Inter-American Commission believes the number to be 3,000, and the State Department suggests that the number may actually be between 1,000 to 1,500.

Other human rights problems include the 8,500 Nicaraguan refugees in Honduras. State Department observers believe that some of these individuals might return to assist with the 1978-79 harvest and to visit relatives. Such individuals, having left of their own accord, might be targeted upon return. An undetermined number of Nicaraguans have also fled to Costa Rica, and another 500 individuals, including several of the "Group of Twelve," who have been offered guarantees of personal safety by the Nicaraguan Government, have taken refuge in various embassies in Managua until they are permitted passage out of Nicaragua.

Concerning freedom of expression, the Inter-American Press Association (IAPA), in its most recent report, noted the severe problems facing the press in Nicaragua. The Association criticized the government for its failure to fully investigate the slaying of newspaper editor Chamorro. Moreover, according to the IAPA, the paper which he edited, *La Prensa*, suffered seven bombings and shootings in the months following the slaying, and these incidents also went without full investigation. The Association made special mention of the serious restrictions imposed on the media from September 13 through October 19, 1978, when the state of seige was in effect, noting the abuses of the censorship laws and the destruction of two radio stations, apparently by the National Guard. The Association also stated that several newspaper correspondents were arrested, tortured, and imprisoned during this period. In conclusion, the Association noted that:

Freedom of the press has existed in the past in Nicaragua. However its future is uncertain and the free exercise of journalism implies a serious threat to human life.¹⁷⁴

Several basic observations on the Nicaraguan situation can be made. First, the overall situation with respect to human rights has been deteriorating over the past few years. In 1977, a report by Amnesty International documented violations which included not only civil and political abuses but also torture. According to the report, forms of torture included beatings, striking of the ears with cupped hands, electric shocks, near drownings, hanging by the arms and feet, cigarette burns, cold room confinement, threatened castrations, rape and threats thereof, hooding for long periods of time and deprivation of food and

¹⁷⁴ Inter-American Press Association. Report of the Committee on Freedom of the Press and Information. XXIV General Assembly. Oct. 9-13, 1978. Miami, Fla. 1978, p. 4-A.

water. Amnesty International noted that of 50 cases taken before the Military Court of Investigation, 70 percent of the prisoners claimed to have been tortured. In addition, the organization claimed that the proceedings were biased against peasant defendants as they were often brought to trial without counsel, and their lawyers were denied access to important trial records and were generally impeded in their defense efforts. Disappearances and the illegal execution of prisoners were also noted.¹⁷⁵

Although Amnesty International has not published a subsequent report as comprehensive as the 1977 document, other human rights organizations, the State Department and the press have reported similar abuses in 1978. Indeed, the incidence of such violations appears to have increased since the October 1977 attack by the FSLN on the National Guard barracks at Masaya—a well-coordinated operation conducted from the Costa Rican and Honduran borders. After the FSLN seizure of the National Palace, the Sandinistas were seen as having moved from action principally in the countryside into the urban areas with success. Clashes with the National Guard have escalated as a consequence.

Second, it is reasonable to conclude that despite the recent concessions made by Somoza in response to domestic and external pressures, these improvements are subject to reversal at any time by the reimposition of martial law. In addition, the opposition factions themselves are far from united, which further clouds expectations for restoration of law and order in the future. The Sandinistas themselves are composed of three factions—"Terceceristas" (the largest faction), the "Proletaria," and the "Guerra Popular Prolongada." In addition to being composed of divergent elements, U.S. observers believe that the strength of the already fragmented Broad Opposition Front has been diminishing further as mediation efforts have failed to achieve results. Consequently it appears that the more moderate opposition elements are becoming increasingly demoralized.

Third, the basic human rights of most Nicaraguans are still prejudiced by poor health, education, and employment opportunities. According to certain U.S. officials, it is this last category which has been most adversely affected by delays and cut-offs of development assistance programs.

STATE DEPARTMENT REPORTS

Because of the events of 1978, the State Department's report on Nicaragua, which was issued in February 1978, is of course out of date. The generally positive tone of the report, which noted a marked decline in arbitrary detention, torture and other human rights abuses, has been called into question by subsequent events.¹⁷⁶

For several years, the U.S. Embassy had reportedly relied on the Capuchin monks for information on the activities of the National Guard—especially in the rural areas where the Sandinistas often clashed with government forces. Within the Embassy, a political officer was also responsible for monitoring human rights. Critics argue that these resources have been proved inadequate.

¹⁷⁵ Amnesty International. *The Republic of Nicaragua: including the findings of a mission to Nicaragua May 10–15, 1976*. Amnesty International. London, 1977, pp. 12 and 13.

¹⁷⁶ Joint Committee Print. *Country Reports on Human Rights Practices*. Feb. 3, 1978. U.S. Government Printing Office, Washington, 1978, pp. 188–189.

Another problem stemmed from the highly politicized nature of the situation itself and the political biases of many of the human rights organizations. The State Department believes that both the Nicaraguan Red Cross and the Nicaraguan Commission on Human Rights were to be regarded with some caution because of their political orientations. With reference to the recent Inter-American Commission report, the United States offered support but declined official comment because, as of this writing, the Commission report had not been officially accepted by the OAS General Assembly. Furthermore, the State Department has been drafting its own assessment, and, since the United States has been acting with Guatemala and the Dominican Republic as mediators, comment at this time might prove counter-productive to their efforts to arrange a national plebiscite.

SUMMARY OF U.S. AID PROGRAMS

Even before the United States' human rights and New Directions policies, the subject to aid to Nicaragua had become controversial. Specifically, the debate followed the 1972 earthquake which levelled Managua. Immediately thereafter, the Somoza family entered new business endeavors, including land speculation, construction and cement making. It was widely rumored that the family was also misusing relief moneys sent by many foreign governments to enrich itself. These charges not only prompted foreign governments to investigate their own programs but also sparked new criticism of the Somoza government by many of the Nicaraguan elite who had long supported the regime. An investigation by the United States reported no evidence of misappropriation of U.S. aid.

In any case, with this history of apparent corruption and human rights abuses, U.S. assistance to Nicaragua has declined in recent years as the character of the regime has come under increasing attack. According to State Department and AID spokesmen, there have been no military grants to Nicaragua since 1976 although sales credits have been provided for items such as hospital equipment (for use by the National Guard), light aircraft and small weaponry. For 1978, credits totalling \$2.5 million had been programed. According to U.S. officials, these FMS credits were signed by the United States after President Somoza lifted the state of seige on September 18, 1978. However, the agreement was never implemented, at least in part because of continuing violence. As of September 22, 1978, all new shipments of military goods and all new training programs were suspended. Effectively, U.S. military aid to Nicaragua has been embargoed and Nicaragua has declined to make a request for fiscal year 1979 assistance. On the economic assistance side, there has been a downward trend in total assistance, and all such assistance has been increasingly debated, delayed and often cut. For example, two loans for fiscal year 1977 were not authorized or signed until 1978, and other requests were withdrawn. During 1978, the subject of U.S. aid received further publicity as educational and nutritional assistance, totaling \$3 million and \$7.5 million, respectively, were authorized for fiscal year 1978, but were not finally signed until August 1978. Although some observers linked the approval of this economic aid with human rights reforms announced by President Somoza, U.S. officials maintain that the aid had already been approved by the human rights office in March 1978, and that these programs directly served basic

human needs. Nevertheless, the approval generated considerable press attention in part because of the July 1978 letter written by President Carter to President Somoza which offered congratulations for the improved human rights measures he had announced.

TABLE 1.—U.S. ASSISTANCE TO NICARAGUA

[Fiscal years, in millions of dollars]

	1975	1976	Transition quarter	1977	1978 estimate
Economic aid:					
AID.....	40.1	16.8	0.9	1.0	15.9
Public Law 480.....	1.4	.9	.1	.3	.15
Peace Corps.....	.7	1.2	.3	1.1	1
Total economic aid.....	42.2	18.9	1.3	2.4	17.2
Military aid:					
MAP grants.....	1.1	.9	.2	.003	.4
Foreign military training.....				.6	12.5
Military credit sales.....	3.0	2.5		2.5	
Excess defense.....	.2	.2			
Total military aid.....	4.3	3.6	.2	3.1	2.9

¹ Decision made not to sign the \$2,500,000 FMS credits in fall 1978.

Sources: For fiscal year 1975: U.S. Agency for International Development. U.S. Overseas Loans, Grants, and Assistance from International Organizations. Obligations and Loan Authorizations. July 1, 1945–Sept. 30, 1977. For fiscal year 1976 Transition Quarter and 1977: AID Congressional presentation for fiscal year 1978.

In other international lending institutions, Nicaragua has fared rather poorly in 1978 although in December it did receive a \$20 million credit from the Central American Common Market and in May \$12.5 million in economic aid and a soft loan of \$32 million from the Inter-American Development Bank were also approved. U.S. officials maintain that no loans by international banks which would meet basic human needs have been opposed by the United States. However, the United States supported deferral, on technical grounds, of an International Monetary Fund compensatory finance credit of \$20 million. After the credit was deferred for the second time in November 1978, Nicaragua withdrew its request.

TABLE 2.—ASSISTANCE COMMITTED BY INTERNATIONAL FINANCIAL INSTITUTIONS

[U.S. fiscal years, in millions of dollars]

	1975	1976	Transition quarter	1977	1978 estimate
IBRD.....		16.2		22.0	
IFC.....		7.4			
IDA.....		—50,000.0			
IDB.....	9.4	16.5	16.8	33.2	

¹ The Nation. Sept. 16, 1978, p. A31.

Sources: For fiscal year 1975: U.S. Agency for International Development. U.S. Overseas Loans, Grants, and Assistance from International Organizations. Obligations and Loan Authorizations. July 1, 1945–Sept. 30, 1977. For fiscal year 1976, transition quarter and 1977: AID congressional presentation for fiscal year 1978. Complete figures for 1977 and 1978 not available.

In response to such U.S. moves, Nicaraguan sources have hinted that Somoza was “fed up” with President Carter’s human rights policy. According to a Nicaraguan official, “There is a limit to how far you can go with a friend and I think we’ve reached that limit.”¹⁷⁷

¹⁷⁷ Washington Star. Sept. 5, 1978, p. A2.

Other objections to the U.S. actions in the IMF were raised by bank officials, who described the U.S. action as a "flagrant violation of the fund's principles and aims" and criticized the introduction of "political criteria in its operations."¹⁷⁸ Clearly, relations between the United States and Nicaragua were strained by the IMF decision, which threatened to dry up most sources of financing for Nicaragua until completion of the winter harvest—an event the Sandinistas have threatened to disrupt.

U.S. SANCTIONS AND THEIR IMPACT

A thorough assessment of U.S. sanctions and their impact would be premature at this time because of the rapidity of events. Nevertheless, it is apparent that the United States still has a substantial impact on the Nicaraguan economy. Recent U.S. actions relating to the aid program have been criticized by both Nicaraguan Government officials and opposition leaders, particularly cutbacks and delays in economic assistance which appear to have hurt the neediest segments of the population. According to AID experts, such programs had been planned for the benefit of the rural poor. The results of the U.S. actions have bred a certain confusion among nearly all interested parties. According to one representative account, the Nicaraguan moderates had been encouraged:

When the Carter administration pressured General Somoza into making human rights concessions. Then, when the U.S. cut off most military aid to the regime, these moderates * * * mistakenly thought U.S. support for their cause was just around the corner * * *. Instead, the U.S. piously declared that it was no longer in the business of meddling in the affairs of other countries; Nicaragua was a good place to test nonintervention.¹⁷⁹

Consequently, the July 1978 letter from President Carter to President Somoza generated considerable animosity among the moderate forces in Nicaragua. At the same time, it appeared to offer President Somoza the prospect of renewed U.S. support, which was not forthcoming.

While the national guard has not received further U.S. military aid, some observers maintain that this has had little effect since other countries, in particular Israel, have supplied weapons. Critics of the military aid cutoffs maintain that straining relations with the guard may prove counterproductive in the long run since the guard is perhaps the only national institution likely to survive a change in governments.

Meanwhile, the U.S. economic role overall remains considerable. Nicaragua sells 30 percent of its exports to the United States and supplies 31 percent of its import needs with U.S. products.¹⁸⁰

At this writing, U.S. policy toward Nicaragua appears to be in transition. Obviously, the Carter administration has departed from the traditional U.S. position that the Somoza regime represents an effective barrier against communism in Central America and the Caribbean. While the exact direction of U.S. policy remains to be seen, and depends to a great extent on events in that troubled country,

¹⁷⁸ Washington Post. Nov. 3, 1978, p. A16.

¹⁷⁹ Wall Street Journal. Sept. 19, 1978, p. 22.

¹⁸⁰ Fact Book. July 1978, p. 150.

the U.S. State Department announced new measures directed at Nicaragua on February 8, 1979. Citing President Somoza's refusal to accept mediation efforts, the State Department announced that President Carter had ordered the withdrawal of 47 U.S. personnel from Nicaragua, including the four-man military assistance groups, the Peace Corps program, some members of the Embassy staff and officials of the Agency for International Development, the termination of the already suspended military assistance programs, and the halting of all new nonmilitary aid projects to the government except those that are in advanced stages and meet basic human needs. The aid cuts will defer initiation of two development loans, totaling \$10.5 million and a freeze on any further economic assistance to the government. Termination of the military aid program will result in the loss of some \$800,000 in military equipment which had been in the pipeline to Nicaragua. According to State Department spokesman Hodding Carter, the United States stopped short of breaking diplomatic relations or recalling the U.S. Ambassador as "an expression of hope that a settlement is still possible."¹⁸¹

¹⁸¹ Washington Post, Feb. 9, 1979, pp. A1, 10.





