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# The Difficult Task of Protecting Human Rights

*Hon. Eugenio Velasco\**

## I. THE HISTORICAL BACKGROUND

Since the beginning of history, humanity has recognized certain fundamental rights as inherent in the nature of human beings.<sup>1</sup> However, for centuries these rights were accepted in only a very limited sense. They were subordinated to widespread and, at the time, more important principles such as the absolute and divine power of rulers and the legitimacy of slavery.<sup>2</sup>

Certain historic events have been significant in the development of these fundamental rights. The Councils of the Catholic Church held in Toledo during the VIIth Century and the Magna Carta, signed in England in the XIIIth Century, are examples of such events.<sup>3</sup>

However, it is only in the late XVIIIth Century with the drafting of the Bill of Rights, in the United States, and the Declaration of the Rights of Man and the Citizen, in France, that right to life and to personal freedom, freedom of thought and speech, and equality before the law attained the status of indisputable principles. During the XIXth and XXth Centuries, the nations of Europe and the Americas incorporated these rights in their constitutions, al-

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1. The Code of Hammurabi, the Laws of Manu, the Twelve Tables and the Deuteronomic Code all recognized the right to life, property and honor as inherent rights of human beings.

2. See generally III and IV INT'L COMM. FOR A HISTORY OF THE SCIENTIFIC AND CULTURAL DEVELOPMENT OF MANKIND, HISTORY OF MANKIND: CULTURAL AND SCIENTIFIC DEVELOPMENT (Vol. III 1975 and Vol. IV 1969); R. WINKS, SLAVERY (1972).

3. Those Councils established, in addition to the right to life, the right to property, personal freedom and due process, but the latter two did not apply to either slaves or freedmen. M. FIGUEROA, ESTUDIA DE HISTORIA DE LAS INSTITUCIONES POLITICAS Y SOCIALES (1968). The Magna Carta contained in its thirty-ninth chapter the following provision: "No freeman shall be taken or imprisoned or disseised or exiled or in any way destroyed, nor will we go upon him nor send upon him, except by the lawful judgement of his peers or by the law of the land." W. McKECHNIE, MAGNA CARTA 375 (2d ed. 1958).

though few nations actually respected them in practice.<sup>4</sup> These inalienable rights have now been accepted by practically all philosophies, religions and political ideologies.<sup>5</sup>

The end of World War II marked the beginning of a broader and more novel conceptualization of these rights. In reaction to the crimes of Nazism, the most atrocious and massive violation of fundamental rights in history, a consensus was reached to strive for the respect of human rights throughout the international community. This consensus is embodied in the Charter of the United Nations which states that one of the organization's main goals is "to reaffirm faith in fundamental human rights, . . . in the equal rights of men and women and of nations large and small."<sup>6</sup> The first Article of the Charter provides that one of the specific purposes is "[t]o achieve international co-operation . . . in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion. . . ."<sup>7</sup>

As a first step in the attainment of this objective, the United Nations drafted the Universal Declaration of Human Rights [hereinafter Universal Declaration].<sup>8</sup> The Preamble states that the Universal Declaration is a:

[c]ommon standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction."<sup>9</sup>

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4. See, e.g., the following constitutions which established civil rights similar to those adopted in the Bill of Rights of the United States of America: Argentina (1860); Austria (1867); Belgium (1831); Brazil (1891); Chile (1833); Italy (1848); Japan (1889); Mexico (1857); the Netherlands (1887); Norway (1814); Portugal (1826); Russia (1977); Spain (1876); Sweden (1809); and Switzerland (1874).

5. See HUMAN RIGHTS: COMMENTS AND INTERPRETATIONS (1949). This UNESCO symposium contains the opinions, among others, of Jacques Maritain, Mahatma Ghandi, E.H. Carr, Richard McKeon, Salvador de Madariaga, John Somerville and Chung-Sho Lo. Although the authors represent different philosophical, religious and ideological backgrounds, through diverse reasonings they have all arrived at the same conclusion regarding the existence and protection of human rights. See generally L. SOHN & T. BUERGENTHAL, INTERNATIONAL PROTECTION OF HUMAN RIGHTS (1973).

6. U.N. CHARTER Preamble.

7. U.N. CHARTER art. 1, para. 3.

8. Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, at 71-77 (1948) [hereinafter cited as Universal Declaration].

9. *Id.* Preamble.

This declaration has become essentially a universal gospel representing the feelings of humanity after the Second World War and is viewed by many experts as detailing Members' duties under the United Nations Charter.<sup>10</sup>

In the field of international law, there have been many attempts to convert the principles of the Universal Declaration into effective law, and consequently several international treaties have been adopted, including: the International Covenant on Civil and Political Rights;<sup>11</sup> the International Covenant on Economic, Social and Cultural Rights;<sup>12</sup> the International Convention on the Elimination of All Forms of Racial Discrimination;<sup>13</sup> the [European] Convention for the Protection of Human Rights and Fundamental Freedoms;<sup>14</sup> the American Declaration of the Rights and Duties of Man;<sup>15</sup> the American Convention on Human Rights;<sup>16</sup> and the Final Act of the Conference on Security and Cooperation in Europe.<sup>17</sup> Some of these conventions established commissions, and even courts, for the investigation and punishment of human rights violations.<sup>18</sup>

10. There seems to be an agreement that the Declaration is a statement of general principles spelling out in considerable detail the meaning of the phrase 'human rights and fundamental freedoms' in the Charter of the United Nations. As the Declaration was adopted unanimously, without a dissenting vote, it can be considered as an authoritative interpretation of the Charter of the highest order. While the Declaration is not directly binding on United Nations Members, it strengthens their obligations under the Charter by making them more precise.

Sohn, *A Short History of United Nations Documents on Human Rights*, in 18th REPORT OF THE COMMISSION TO STUDY THE ORGANIZATION OF PEACE 71 (1968).

11. International Covenant on Civil and Political Rights, *opened for signature* Dec. 16, 1966, *entered into force* March 23, 1976, G.A. Res. 2200, 21 U.N. GAOR, Supp. (No. 16) 52, U.N. Doc. A/6316 (1967) [hereinafter cited as Civil and Political Rights Covenant].

12. International Covenant on Economic, Social and Cultural Rights, *opened for signature* Dec. 16, 1966, *entered into force* Jan. 3, 1976, G.A. Res. 2200, 21 U.N. GAOR, Supp. (No.16) 49, U.N. Doc. A/6316 (1967) [hereinafter cited as Economic, Social and Cultural Rights Covenant].

13. International Convention on the Elimination of All Forms of Racial Discrimination, *opened for signature* Dec. 21, 1965, *entered into force* Jan. 4, 1969, G.A. Res. 2106, 20 U.N. GAOR, Supp. (No. 14) 47, U.N. Doc. A/6014 (1966), 660 U.N.T.S. 195 [hereinafter cited as Int'l Racial Discrim. Convention].

14. Convention for the Protection of Human Rights and Fundamental Freedoms, *done* Nov. 4, 1950, 213 U.N.T.S. 221, E.T.S. No. 5 [hereinafter cited as European Convention].

15. American Declaration of the Rights and Duties of Man, *reprinted in* INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, HANDBOOK OF EXISTING RULES PERTAINING TO HUMAN RIGHTS, OAS Off. Rec., OEA/Ser. L/v/II. 23, Doc. 21 (English) Rev. 2, at 15 [hereinafter cited as American Declaration].

16. American Convention on Human Rights, *opened for signature* Nov. 22, 1969, OASOR, OEA/Ser. K/XVI/1.1, Doc. 65, Rev. 1, Corr. 2 (1970), 213 O.A.S.T.S. 1 [hereinafter cited as American Convention].

17. Final Act of the Conference on Security and Cooperation in Europe, *reprinted in* 14 INT'L LEGAL MATERIALS 1292 (1975).

18. Section II, Article 19, of the European Convention provides:

Human rights have, thus, become part of man's cultural heritage. Having been recognized by nations of the most diverse political philosophies, they are no longer a subject of ideological controversy.

The Universal Declaration of Human Rights and the above-mentioned treaties have also broadened the concept of human rights so as to include not only the traditional "civil rights," but also the so-called social, economic and cultural rights: that is, the right to a decent life with a minimum standard of material well-being and with access to health care, employment, housing and education.<sup>19</sup> It

To ensure the observance of the engagements undertaken by the High Contracting Parties in the present Convention, there shall be set up:

(1) A European Commission of Human Rights, hereinafter referred to as 'the Commission';

(2) A European Court of Human Rights, hereinafter referred to as 'the Court'.

European Convention, *supra* note 14, art. 19.

Section III (Articles 20-37) contains the regulations for the Commission, and Section IV (Articles 38-56) contains the regulations for the Court. *Id.* arts. 20-56.

Similarly, Part II (Means of Protection), Chapter VI (Competent Organs) of the American Convention states:

The following organs shall have competence with respect to matters relating to the fulfillment of the commitments made by the State Parties to this Convention:

a. the Inter-American Commission on Human Rights, referred to as 'The Commission'; and

b. the Inter-American Court of Human Rights, referred to as 'The Court'.

American Convention, *supra* note 16, art. 33.

The provisions governing the organization, functions, competence, jurisdiction and procedures for the Inter-American Commission and the Inter-American Court may be found in Articles 34-51 and 52-69 respectively. *Id.* arts. 34-69.

Similarly, Part IV (Articles 28-45) of International Covenant on Civil and Political Rights establishes, and provides the governing regulations for, an International Human Rights Committee composed of nationals of the State Parties to that Covenant. Civil and Political Rights Covenant, *supra* note 11, arts. 28-45.

In addition, the Economic and Social Council of the United Nations, by resolution 5(I) of Feb. 16, 1946, and in accordance with the mandate of Article 68 of the United Nations Charter, established the U.N. Commission on Human Rights.

Finally, at the Fifth Meeting of Consultation of the Ministers of Foreign Affairs of the Organization of American States, held in Santiago, Chile in August 1959, the Inter-American Commission on Human Rights was created in accordance with the provisions of the American Convention on Human Rights. The Statute of this Commission was approved by the Council of the OAS in June 1960.

19. For provisions reaffirming Social Rights, see Universal Declaration, *supra* note 8, arts. 16, 22, 24 & 25; Civil and Political Rights Covenant, *supra* note 11, arts. 23-24; Economic, Social and Cultural Rights Covenant, *supra* note 12, arts. 9-12; European Convention, *supra* note 14, art. 12; American Declaration, *supra* note 15, arts. V, VI, VII, XI, XV, & XVI; and American Convention, *supra* note 16, arts. 17, 18, 19 & 26.

For provisions reaffirming Economic Rights, see Universal Declaration, *supra* note 8, art. 23; Civil and Political Rights Covenant, *supra* note 11, art. 22; Economic, Social and Cultural Rights Covenant, *supra* note 12, arts. 7-8; European Convention, *supra* note 14, art. 11;

should be noted that these new rights are of a different nature than the traditional human rights. While the very nature of civil rights does not allow any justification for their violation, the social, economic and cultural rights cannot be thought of in the same terms. Rather, they are goals to be achieved by all nations, especially the underdeveloped ones. In fact, most underdeveloped nations do not have the means to provide their citizens with a decent standard of living and, thus, fulfill these rights—a sad truth if it is kept in mind that these countries comprise over two-thirds of the population of the world.

## II. HUMAN RIGHTS VIOLATIONS AND THEIR CAUSES

It would seem that by now humanity would have reached such a stage of progress that the violation of civil rights and fundamental freedoms would have been eliminated. Nevertheless, an examination of the current international situation will reveal that there is a deep abyss between the theoretical principles of international law and the actual respect human rights receive throughout the world. In fact, we could safely state that the more governments boast about their duty to protect human rights and the more universal human rights theoretically become, the more methodically and massively they are violated by many States.<sup>20</sup> Regarding this abyss, President

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American Declaration, *supra* note 15, arts. XIV & XXII; and American Convention, *supra* note 16, arts. 16 & 26.

For provisions reaffirming Cultural Rights, see Universal Declaration, *supra* note 8, arts. 26-27; Civil and Political Rights Covenant, *supra* note 11, art. 27; Economic, Social and Cultural Rights Covenant, *supra* note 12, arts. 13-15; American Declaration, *supra* note 15, arts. XII-XIII; and American Convention, *supra* note 16, arts. 16 & 26.

20. See, e.g., the following publications by Amnesty International: THE AMNESTY INTERNATIONAL REPORT 1977 (1977); THE AMNESTY INTERNATIONAL REPORT 1975-1976 (1976); REPORT ON ALLEGATIONS OF TORTURE IN BRAZIL (1976); PARAGUAY: INTERNATIONAL BRIEFING (1976); TORTURES TO DEATH IN URUGUAY, 22 CASES (1976); CHILE: AN AMNESTY INTERNATIONAL REPORT (1974); REPORT ON AN INQUIRY INTO ALLEGATIONS OF ILL-TREATMENT IN NORTHERN IRELAND (1972); JOURNAL OF THE HUMAN RIGHTS MOVEMENT IN THE U.S.S.R. (1975); and R. TASOFF, REPORT ON HUMAN RIGHTS IN ARGENTINA (mimeographed ed. 1977).

See also: ACTIVITIES OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS 1965-1969 (1969) (relating to Cuba, the Dominican Republic, El Salvador, Guatemala, Honduras and Paraguay); The Report of the Inter-American Commission on Human Rights, submitted to the Second Special Inter-American Conference (March 25, 1965) (relating to Cuba, the Dominican Republic, Guatemala, Haiti, Honduras, Nicaragua and Paraguay); FOURTH SESSION OF THE INTERNATIONAL COMMISSION OF ENQUIRY INTO THE CRIMES OF THE MILITARY JUNTA IN CHILE, ARBITRARY ARRESTS AND DETENTIONS IN CHILE (1976); INTERNATIONAL COMMISSION OF JURISTS, CUBA AND THE RULE OF LAW (1962); INTERNATIONAL COMMISSION OF JURISTS, FINAL REPORT OF THE MISSION TO CHILE, APRIL 1974, (mimeographed ed. 1974); INTERNATIONAL COMMISSION OF JURISTS, INFORME DE LA MISION AL URUGUAY (mimeographed ed. 1974); A. SOLZHENITSYN, GULAG ARCHIPELAGO 1918-1956 (1973); Human Rights and U.S. Policy: Argentina,

Carter has stated:

[s]trengthened international machinery will help us to close the gap between promise and performance in protecting human rights. When gross or widespread violation takes place—contrary to international commitments—it is of concern to all. The solemn commitments of the United Nations Charter, of the United Nations Universal Declaration for Human Rights, of the Helsinki Accords, and of many other international instruments must be taken just as seriously as commercial or security agreements.<sup>21</sup>

What are the causes of such a strange and contradictory phenomenon? Some of the causes are common and widespread, while others are local and vary from continent to continent and even from nation to nation within a given continent.

Two important and closely related common causes are evident. The first is the depth, intolerance and messianic character of the ideological struggle among those groups which attempt to forcefully impose their own way of thinking or to suppress an ideology different from their own. Even though they do not admit it, it seems clear that the leaders of those nations where Marxism/Leninism has been imposed—always through force, never through democracy—feel predestined to build a better and more just society. They think that this task is of such historic importance that the suppression and even physical elimination of anyone who dares criticize or dissent is justified.

Similarly, those who rule through conservative military dictatorships believe that their historic mission is to save the world from the all encompassing evil of communism.<sup>22</sup> They feel, of course, that

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Haiti, Indonesia, Iran, Peru and the Philippines, Report Submitted to the House Committee on International Relations, by the U.S. Department of State (Dec. 31, 1976); *Human Rights in South Korea and the Philippines, Implications for U.S. Policy: Hearings Before the Subcomm. on International Organizations of the House Comm. on International Relations*, 94th Cong., 1st Sess. (1975).

21. Address to the General Assembly of the United Nations, 13 WEEKLY COMP. OF PRES. DOC. 401 (Mar. 17, 1977).

22. See, e.g., the comments of General Pinochet, the Chilean dictator, in a speech made on September 11, 1976, commemorating the third anniversary of the military coup, as distributed by the Chilean Government:

Marxism is not merely a mistaken doctrine, as we have had so many in history. No. Marxism is an intrinsically perverse doctrine; therefore anything flowing from it, regardless of how healthy it may appear to be, is corroded by the venom that gnaws its root. This is what is meant by saying that its error is intrinsic and, therefore, overall insofar as it provides no room for dialogue or possible transactions.

However, present day reality indicates that marxism is not only an intrinsically perverse doctrine. It is moreover, a permanent aggression, currently at the service of Soviet imperialism.

such an important mission allows them to exterminate all those people contaminated by communism and also those liberals who, through their defense of democracy, could indirectly contribute to the survival of communism.

In this way the extremes come together. In the Soviet Union, Cuba and members of the Soviet block, arbitrary arrests, forced labor and the imprisonment of dissenters in asylums as if they were mentally ill are everyday events.<sup>23</sup> In Chile, Iran, Uruguay, Nicaragua and the other dictatorships of Central and South America, assassinations, arbitrary detentions, physical and psychological torture, expulsions and "disappearances" are among the most commonly used methods of repression.<sup>24</sup>

Since human rights are, in theory, so important for the modern world, no government would ever dare question their validity or admit that it violates them. Hence, all those nations in which repression is an established policy not only deny their own violations but also accuse their ideological opponents of the same crimes.<sup>25</sup> In this way they all contribute to the creation of a state of degrading collective hypocrisy which is a breeding ground for further violations.

The second worldwide cause is that human rights violations also form a part of the programs of many dictatorial regimes. As recently as a century ago in the most advanced nations of Europe and America, and until a few years ago in many Asian and African nations, politics was the exclusive concern of certain elite groups.

Those who are amazed to see many ideological sectors that claim Christian inspiration, and even some sectors of ecclesiastic origins—in spite of their conceptual rejection of marxism—finally becoming 'fellow travelers' thereof, may find the answer to this in the lack of deep understanding which such sectors possess on the nature of the marxist enemy.

To them, marxism is merely a mistaken doctrine, and therefore [th v] place it at one level with liberalism; however, through moral weakness or selfish ambitions of power, they either do not realize the intrinsic perversity of marxist doctrine or else do not regard it as a permanent aggression. And in any of these two events, marxism will finally condition and use their action. This is the tragic reality.

*Id.* at 46.

So, General Pinochet stated in that speech that "Chile . . . has decided to face and fight [Marxism] until it is totally defeated." *Id.* at 45.

23. For numerous examples, see the authorities cited at note 20 *supra*.

24. *Id.*

25. For example, the U.S.S.R. and Cuba sponsored and supported in a very hardline manner the Final Resolutions approved by the United Nations in 1974, 1975, 1976 and 1977 condemning the Chilean Military Junta for its violations of human rights. However, when the Chilean Delegation to the United Nations denounced similar violations perpetrated in the U.S.S.R. and Cuba and requested an investigation, both nations refused saying they could not accept any interference in their internal political affairs.



Therefore, dictatorships traditionally stayed in power by simply eliminating or imprisoning a few of their opponents. Today, however, most people have become aware of their rights and the workers have an active role in the political role of a nation. Consequently, the dictators of our time have had to resort to the repression of ever-growing numbers of people in order to stay in power. They do not hesitate to use assassination, imprisonment and torture on a massive scale.<sup>26</sup> Modern, sophisticated weapons safeguard the dictator from any popular reaction to such repression. Tanks, jets, rockets and missiles give an insurmountable fire power advantage to the dictatorships. Modern weapons are so expensive that they can be acquired only by States. The masses can obtain no comparable weapons. Thus, all dictatorships must be military or, at least, have the strong support of the armed forces. Without an army and its repressive potential, no modern dictator could ever hope to remain in power.

With regard to local factors, we must remember that the majority of the African and Asian nations were colonies until shortly after World War II. They were brutally exploited by the colonial powers in order to promote the parent powers' primary objective of stripping them of their raw materials. The mental and physical health of the Africans and Asians was of no interest to the colonial masters.<sup>27</sup> Therefore, when propitious circumstances enabled the colonies in Africa and Asia to achieve political independence, they found themselves facing serious obstacles preventing them from establishing democratic regimes. They suffered from high illiteracy, extreme poverty, absolute lack of political and labor organizations, and the absence of political maturity or collective responsibility.<sup>28</sup>

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26. For numerous examples, see the authorities cited at note 20 *supra*.

27. See generally W. NIELSEN, *THE GREAT POWERS AND AFRICA* (1969).

28. The following figures are eloquent:

	Literacy	Infant mortality: people under 1 year (per 1,000)	Per capita income in dollars
Algeria	26%	86.3	660
Burundi	10%	150	90
Cameroon	10%	137	260
Central Africa Empire	8%	190	110
Chad	6%	160	94
Congo	20%	180	350
Egypt	28%	100	279

	Literacy	Infant mortality: people under 1 year (per 1,000)	Per capita income in dollars
Ghana	25%	156	394
Guinea	10%	216	590
Ivory Coast	20%	138	600
Kenya	25%	51.4	209
Liberia	10%	159	235
Libya*	22%	130	2,599
Malawi	22%	142.1	128
Mali	10%	120	73
Mauritania	5%	187	183
Morocco	21%	149	440
Mozambique	—	92.5	300
Niger	5%	200	100
Nigeria	25%	—	201
Rhodesia	25%	33.5	502
Rwanda	10%	132.8	54
Senegal	10%	92.9	273
Somalia	5%	177	110
South Africa	35%	117	1,871
Sudan	12%	93.6	143
Tanzania	18%	160	162
Tunisia	32%	125	714
Uganda	25%	160	132
Upper Volta	5%	182	67
Zaire	12%	104	124
Zambia	—	206	504
Afghanistan	8%	182	120
Bangladesh	22%	132	75
Burma	60%	195	105
India	34%	122	136
Indonesia	60%	125	158
Iran*	37%	139	1,295
Iraq*	26%	27.5	951
Jordan	32%	21.9	432
North Korea	85%	110	380
South Korea	88%	60	496
Kampuchea (Cambodia)	59%	127	100
Laos	20%	123	150
Malaysia	43%	35.4	659
Mongolia	95%	75	500
Nepal	9%	99	96
Pakistan	16%	124	149
Philippines	72%	58.9	325
Taiwan	85%	18	800
Thailand	70%	21.8	318
Vietnam	68%	150	130

\*Oil Exporter

Figures to be compared:

Australia	98%	16.5	6,311
Austria	99%	20.8	4,436
Denmark	99%	11.5	6,245

In the chaos of independence, the armed forces were the only organized groups.<sup>29</sup> The new nations of the Third World thus fell under the rule of military leaders who regarded power as their exclusive right, a prize to be awarded to the most audacious or brutal among them. The violation of human rights was, and continues to be, viewed as a necessary evil in their struggles as military rulers.

Foreign support is decisive in these struggles. In return for economic and military aid, dictators give away raw materials and agree to the adoption of a particular political system. Superpowers and transnational corporations<sup>30</sup> become involved in the dispute for

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	Literacy	Infant mortality: people under 1 year (per 1,000)	Per capita income in dollars
France	99%	24	5,639
West Germany	99%	21	6,029
Italy	93%	22	2,759
Japan	99%	10.8	4,038
New Zealand	98%	13.8	3,943
Spain	94%	13.8	2,235
Sweden	99%	8.3	7,557
Switzerland	99%	12.5	7,810
U.S.S.R.	99%	27.7	2,010
Great Britain	98%	16	3,684

The preceding chart has been prepared with the latest available figures from [1977] WORLD HEALTH STATISTICS REPORT (World Health Org.); [1976] UNESCO STATISTICAL Y.B.; and [1976] Y.B. OF NAT'L ACCOUNTS STATISTICS (United Nations).

29. See generally G. CARTER, *INDEPENDENCE FOR AFRICA* (1960); W. GUTTERIDGE, *THE MILITARY IN AFRICAN POLITICS* (1969).

30. Over the last 20 years, the ebb and flow of foreign capital into and out of the Third World has meant a net loss for us of many hundreds of millions of dollars, besides leaving us in debt to the tune of nearly seventy thousand million.

Another factor that should be regarded as more favorable, stems from the increasingly obvious conflicts between the public interests of the wealthy nations (those which are of real benefit to their peoples) and the private interests of their great international corporations. The over-all cost (military, economic, social and political) of operating a thorough multinational enterprise exceeds their contribution to the central economies and becomes more and more burdensome to the taxpayer.

We should also take into account the depredations of these consortia, and their powerful corruptive influence on public institutions in rich and poor countries alike. The peoples affected oppose such exploitation and demand that the Governments concerned should cease to leave part of their external economic policy in the hands of private enterprises, which arrogate to themselves the role of agents promoting the progress of the poorer countries and have become a supranational force that is threatening to get completely out of control.

This undeniable fact has profound implications for the proceedings of the present Conference. There is a serious risk that even if we arrive at satisfactory understandings among the representatives of sovereign States, the measures upon

power among the military leaders and, in order to protect their own interests, are forced to collaborate in the concealment of the violations of rights committed by their allies.

In some exceptional cases, it is not military leaders who wield power in the former colonies but elite groups descended from the previous colonial governments. These residues of earlier colonial powers, despite being a minority, oppress the masses of the people through crimes, abuses and racial discriminations, as in South Africa and Rhodesia.<sup>31</sup>

In Latin America the historical background is different,<sup>32</sup> but by a different path the same result is reached. With a century and a half of political independence, Latin American nations have remained, with very few exceptions, in a state of social and economic underdevelopment.<sup>33</sup> Some of the reasons for the lack of develop-

which we agree may have no real impact, inasmuch as *de facto* these companies quietly handle the practical application of the agreements in conformity with their own interests.

They have their objectives, their own policies with regard to trade, shipping, international affairs and economic integration, their own view of things, their own activity, their own world. We spend our time at international meetings discussing the visible features of the Third World's structure of dependence, while its underlying determinants slip by us unseen, like the submerged three quarters of an iceberg.

UNCTAD should look very carefully into this threat. This flagrant intervention in the internal affairs of States is more serious, more subtle and more dangerous than that of Governments themselves which is condemned in the Charter of the United Nations. The corporations actually seek to upset the normal functioning of the Government and institutions of other nations, to start world-wide campaigns against the prestige of a Government, to make it the victim of an international boycott and to sabotage its economic relations with the rest of the world.

Address by Salvador Allende, President of Chile, at the Inaugural Ceremony of the Third Session of the United Nations Conference on Trade and Development (UNCTAD), in Santiago, Chile (April 1972).

31. See, e.g., AMNESTY INTERNATIONAL, THE AMNESTY INTERNATIONAL REPORT 1977 90-93 and 96-102 (1977); AMNESTY INTERNATIONAL, THE AMNESTY INTERNATIONAL REPORT 1975-76 70-72 and 74-77 (1976).

32. See M. DE ARJONA, HISTORIA DE AMERICA (1973); W. GORDON, THE POLITICAL ECONOMY OF LATIN AMERICA (1965); F. MORALES, HISTORIA DE HISPANOAMÉRICA (1972); Morales, *Historia General de America*, in 6 MANUAL DE HISTORIA UNIVERSAL (1962) (especially chs. LIX-LXI).

33. The following figures confirm this statement:

	Literacy	Infant mortality: people under 1 year (per 1,000)	Per capita income in dollars
Argentina	93%	59	1,885
Bolivia	45%	77.3	329
Brazil	60%	94	905
Chile	90%	77.8	661
Colombia	74%	62.8	515

ment are: the irresponsibility of local *caudillos*<sup>34</sup> who encourage a proud nationalism which prevents political and economic integration and fosters division and petty rivalries; the predominance of small oligarchies who ally themselves with the armed forces and prevent the education of the masses in order to maintain their power; and the intervention of imperialist powers and, currently, of multinational corporations whose only concern is for the protection of their own economic interests.<sup>35</sup> The result is the existence of mili-

	Literacy	Infant mortality: people under 1 year (per 1,000)	Per capita income in dollars
Costa Rica	89%	37.6	899
Cuba	85%	28.9	590
Dominican Republic	68%	43.4	702
Ecuador	68%	70.9	577
El Salvador	57%	58.3	382
Guatemala	38%	81.2	470
Honduras	45%	34.1	306
Mexico	76%	52	632
Nicaragua	58%	46	633
Panama	79%	32.9	1,147
Paraguay	79%	38.6	536
Peru	72%	65	518
Uruguay	91%	45.4	1,091
Venezuela*	82%	46	2,035

\*oil exporter

The preceding chart has been prepared with the latest available figures from [1977] WORLD HEALTH STATISTICS REPORT (World Health Org.); [1976] UNESCO STATISTICAL Y.B.; and Y.B. OF NAT'L ACCOUNTS STATISTICS (United Nations).

34. *Caudillo* is a Spanish word of Indian origin which literally means "chief", "leader", "director", or "principal man". When used in a political context, it denotes a 'strong man' or dictator.

35. The present Chilean military dictatorship received from official agencies of the United States 116.7 million dollars in 1974, 179.1 million in 1975 and 137.2 million in 1976. In comparison, the constitutional governments of Presidents Frei and Allende received substantially less from the same agencies; Frei: 96.3 million dollars in 1968, 80.3 million in 1969 and 59.3 million in 1970; Allende: 21.6 million in 1971, 13 million in 1972 and 9.8 million in 1973. U.S. Dept. of State, International Policy Report of the Center for International Policy (Sept. 1976 & June 1977). According to a study prepared by the Transnational Institute of Washington, D.C., and published in the Washington Post on April 12, 1978, private American banks have lent approximately one billion dollars to the Chilean Military Junta since the coup of September 11, 1973. This amount is the highest received from these banks in the history of Chile.

Referring to these same loans, Senator Edward M. Kennedy said in his Senate floor statement of May 4, 1978:

the friends of Chile face the question of what more can they do to further the course of human rights and democracy in that unhappy country. Three levels of effort are vital:

....

tary tyrannies throughout Central and South America while the people vegetate in ignorance, poverty and underdevelopment.

After World War II and during the subsequent "Cold War" between the superpowers, a new factor appeared throughout Latin America and more particularly in certain South American Republics. This phenomenon was a new kind of militarism, different from the traditional *coup d'état* led by colonels or generals who sought power as a result of personal ambition. In this new type of militarism the armed forces as a unit, with strict adherence to hierarchy and discipline, usurp the control of the government and attempt to remain in power indefinitely.<sup>36</sup>

Second, denial of back-door economic support, for example the private loans of hundreds of millions of dollars to Chile by leading U.S. banks—undercutting the suspension of official assistance—especially Bankers Trust, Chemical Bank, Citicorp, First Chicago, Morgan Guaranty, and Wells Fargo.

This shocking banking behavior was recently documented by Isabel Letelier and Michael Moffitt of the Transnational Institute—and should be stopped by the Congress if it is not ended voluntarily by the banks. I will cosponsor legislation to require full bank disclosure of all loans to countries, including Chile, where our foreign aid has been cut off for human rights reasons.

124 CONG. REC. S6983 (daily ed. May 4, 1978).

36. On April 1, 1964, the Brazilian Armed Forces overthrew the constitutional President of the Republic and seized the power which they still exercise. They imposed upon the Congress the election of General Humberto Castelo Branco, one of the Generals who led the coup, as President of the Republic. Every four years since then, the Armed Forces have appointed a new President of the Republic from among their generals. The name of the new President is proposed to the Congress who must, thereafter, vote for him.

Similarly, on October 3, 1968, the Peruvian Armed Forces overthrew the constitutional President of the Republic. They dissolved the Congress, formed a Revolutionary Junta composed of the Commanders in Chief of all branches of the military and appointed General Juan Velasco Alvarado, the Commander in Chief of the Army and President of the Joint Command of the Armed Forces, as President of the Republic. In 1975, they replaced General Alvarado with General Francisco Morales Bermudez.

On June 27, 1973, the President of Uruguay, Juan Maria Bordaberry, with the agreement and support of the Uruguayan Armed Forces, dissolved the Congress and the political parties, and took complete control of the government. However, the real rulers were the Commanders in Chief. As soon as a disagreement arose, they overthrew Bordaberry and appointed Alberto Demicheli as President. A few months later, on September 1, 1976, they replaced Demicheli with Aparicio Mendez.

On September 11, 1973, the Chilean Armed Forces overthrew the constitutional President of the Republic, organized a Military Junta composed of the Commanders in Chief of the Army, Navy, and Air Force, and the General Director of the "Carabineros de Chile," the Chilean military police. General Augusto Pinochet, Commander in Chief of the Army was appointed President of the Junta, and later was appointed President of the Republic. For a more complete discussion of the events leading up to the 1973 coup, see Velasco, *The Allende Regime in Chile: An Historical and Legal Analysis* (pts. 1-3), 9 *LOV. L.A.L. REV.* 480, 711, 961 (1976).

On March 23, 1976, the Argentinian Armed Forces overthrew the constitutional President of the Republic, organized a Military Junta and seized the power which they still exercise. The Junta was formed by the Commanders in Chief of all branches of the military. General

The Latin American militarism is the product of two closely related circumstances. First, high officers from the Latin American nations have been trained in Panama and at other American military bases as experts in "anti-subversive war." However, the tactics taught them are used to oppress the people of their homelands whom they were supposed to protect.<sup>37</sup> Second, a new doctrine of national security has been born.<sup>38</sup> This new dogma views the military's role as encompassing not only the protection of the territorial security of a nation but also the fostering of certain principles which are considered indispensable to the progress of the people but are essentially reactionary. These principles include: military nationalism; patriotic chauvinism; the establishment of formal discipline and order; the hatred of politics, politicians, democracy and freedom; the rejection of all socialist ideologies; and the exaltation of private property and of neo-liberal economic policies.<sup>39</sup> The new

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Jorge Videla, Commander in Chief of the Army was appointed President of the Junta and of the Republic.

37. During the so-called "Cold War," the United States and the other American nations signed the Inter-American Treaty of Reciprocal Assistance, *done* Sept. 2, 1947, 21 U.N.T.S. 77, 62 Stat. 1681, T.I.A.S. No. 1838. According to Article 3: "[t]he High Contracting Parties agree that an armed attack by any State against an American State shall be considered as an attack against all the American States. . . ."

In order to implement this treaty, the American nations each signed individual military assistance agreements with the United States between 1950 and 1953. *See, e.g.,* Military Assistance Agreement Between the Republic of Chile and the United States of America, signed April 9, 1952, 186 U.N.T.S. 53, 3 U.S.T. 5123, T.I.A.S. No. 2703. According to Article I(1): "[e]ach Government will make or continue to make available to the other, and to such additional governments as the parties hereto may in each case agree upon, such equipment, materials, services, or other military assistance as the Governments furnishing such assistance may authorize. . . ." Further, Article V(1) provides that "[e]ach Government agrees to receive personnel of the other Government who will discharge responsibilities of the other Government in connection with the implementation of this Agreement."

In order to carry out the obligations arising under these treaties, additional agreements have been signed by the United States and each American nation with two objectives: 1) to send U.S. military missions to assist the other States; and 2) to train officers of the Armed Forces of those nations in centers especially prepared by the United States (the Pentagon) in the Panama Canal Zone and within the U.S.

38. Regarding the new concepts of "national security" and "anti-subversive warfare," see the interesting collection of essays contained in *SEGURIDAD NACIONAL Y BIEN COMUN* (1976): Arriagada, *Seguridad Nacional y Política*; Santos, *La Seguridad Nacional: Condición del Bien Comun*; F. Orrego, *Libertad y Seguridad Nacional*; Lopez, *Participación y Seguridad Nacional*; and C. Orrego, *Consenso y Seguridad Nacional*.

39. In his speech of September 11, 1976, commemorating the third anniversary of the Chilean military coup (as distributed by the Chilean Government) General Pinochet stated:

[t]hat memorable journey of 11 September 1973 is not only recalled as the everlasting Chilean lesson; it now forms part of the glorious traditional unity of the Armed Forces and people of Chile that, throughout the national territory, fought bravely to expell [sic] beyond its borders those who had sought to destroy the Motherland from its very foundations.

militarism forbids freedom of thought and speech regarding dissident doctrines, proscribes democracy as a viable system of government since it is assumed that only the military are educated and honest enough to protect national security, and eliminates all possibility of progress for the masses. Further, it is a constant threat to peace because it is a potential source of aggression against any neighbor who becomes an obstacle to the defense of its principles.

Naturally, these militaristic regimes can survive only through repression, which is inseparable from the violation of human rights. Imperialism also plays a role in maintaining the stability of such regimes. If a government which protects the interests of a foreign nation or of a transnational corporation violates human rights, such violations must be carefully concealed. Otherwise the government's existence would be endangered as would be the interests of the foreign power or the transnational corporation. From the foregoing it becomes easier to understand the reasons for the contradiction between the stated principles of human rights on the one hand and the reality of governmental behavior on the other.

However, there are nations in which respect for human rights is the general rule, and violation of these rights the exception which ratifies the rule. These nations include Canada, the United States, Sweden, Denmark, Norway, Finland, the Netherlands, Belgium, France, Great Britain, West Germany, Switzerland, Austria, Italy, Australia and New Zealand, among others. We can immediately appreciate certain common characteristics among this group. They

. . . [T]he struggle was in defense of the freedom and future of Chile, that were being lost in the midst of chaos and demagoguery.

*Id.* at 13.

Let those former politicians, who under the clothing of democracy actually speak in connivance with foreign circles and interests, be aware that the people of Chile will never accept the betrayal of that saga of a complete generation as incarnated by our glorious September 11.

*Id.* at 28.

. . . [N]ational security arises as a concept intended not only to protect the territorial integrity of the State, but very particularly to defend the essential values that form the national soul or tradition, inasmuch as in absence thereof national identity would be destroyed.

And from that firm pedestal, national security dynamically projects itself to the field of development, as seen not only in its material sense, but in harmony with and at the service of the spiritual advancement of man.

National security, including therein authentic tradition, and national spiritual and material development appear then as integrating elements of the common good of a given community; and, in the particular case of Chile, acquire a significance that our recent experience draws from the field of mere theories, to take to the field of a fully dramatic reality.

*Id.* at 45.



are all countries with a high degree of economic, social and cultural development and, consequently, a high standard of living. Most importantly, they are governed by authentic democracies in which authorities are elected through universal suffrage and in which the authorities represent the will of the people. Moreover, in all these nations there is a separation of powers to prevent any one individual, group or branch of government from holding too much power. There are also legal opposition groups to the governments in power which have a real hope of being elected to office by popular vote.

### III. THE SOLUTION

There is a conclusion to be drawn from these empirical observations: violations of human rights can only be committed by those who have power based on the use of force. Such force may be exercised through the manipulation of armed forces, police, security forces, intelligence agencies, etc. Who has the force? The Executive Power. When can the Executive use this force to threaten human rights? Only when the Executive has been established without the approval of the people and when it lacks the necessary counterbalance provided by a legislature elected by popular vote.

It is important to realize that a constitution and laws which guarantee respect for human rights are of no use if power is exercised in an absolute manner.<sup>40</sup> Human nature tends to abuse power and the only effective restraints are the other branches of government, most particularly the legislature where the opposition is represented.

The fate of too many nations in the past thirty years affirms this irrefutable conclusion. When military dictators were in power in Venezuela and Colombia, Chile and Uruguay lived under exemplarily democracies. Violation of human rights was frequent in the former and nonexistent in the latter. Today, Venezuela and Colombia live in peace and respect for human rights because democracy and freedom have been re-established, while the people of Chile and Uruguay are subjected to repression and fear under the rule of military dictatorships.<sup>41</sup>

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40. The Constitutions of the U.S.S.R., Cuba, Argentina, Chile, Uruguay and Paraguay, among many others, establish perfect rules to protect human rights. Moreover, the Chilean dictatorship proclaimed the third Constitutional Act on Constitutional Rights and Duties to be the most perfect set of rules in the world for the protection of human rights. However, the authorities collected at note 20 *supra*, among many others, clearly indicate that Human Rights are consistently violated in each of these nations.

41. The numerous reports issued by the Inter-American Commission of Human Rights confirm these assertions.

In Spain and Portugal long-lasting tyrannies practiced the systematic violation of these rights. However, democracy has been re-established in both countries, and the Spanish and Portuguese peoples now have no fear that their rights will be violated.<sup>42</sup>

Yet, our conclusion as to the possibility of universal respect for human rights in the future cannot be very optimistic. The Universal Declaration of Human Rights will only be valid in a permanent and secure way when all nations on earth have representative governments and have reached a minimum standard of economic development. While this prolonged educational, cultural, social and economic process struggles on, is there anything that can be done to foster protection, however partial, of human rights?

Initially, there is a collective task to be undertaken by all those democracies which have achieved a certain degree of economic progress. They must be able, as President Carter has suggested, to subordinate their own vested interests to minimum ethical principles.<sup>43</sup> Only in this way can they agree on and organize an effective system of financial and technical aid which will enable the nations of the Third World to advance towards democracy without being subjected to illicit political pressures and imperialistic economic sanctions. This is evidently a very difficult goal to attain as many initiatives along this line have failed completely.<sup>44</sup> Unfortunately, the

42. After a long period of dictatorship, the Portuguese Army, led by General Spínola, overthrew the government in April 1974. The dictatorship was often accused of violating human rights. After a difficult time, the new government scheduled elections for a Constituent Assembly in June 1975. In May 1976, a Congress was elected followed a month later by the election of a President of the Republic. Given the restoration of freedom and democracy, violations of human rights are now seldom mentioned.

In Spain, General Francisco Franco ruled for almost forty years following the Civil War of 1936-39. After his death, in November 1975, King Juan Carlos assumed the throne. Under his leadership, Spain has held a referendum (the first free voting since 1935) in order to approve the new democratic system (Dec. 15, 1976). A Spanish Congress was elected on June 15, 1977, and the new Constitution was approved on December 6, 1978. The severe human rights violations committed under the Franco regime have definitely stopped.

43. See Inaugural Address, 13 WEEKLY COMP. OF PRES. DOC. 87-89 (Jan. 22, 1977).

44. The majority of the nations which form the so-called "Third World" organized the "Group of 77" (today there are 96 States involved) in order to defend themselves and to assert their economic and social goals in their relations with the industrialized nations and each other. In order to satisfy their aspirations, the United Nations initiated the Conference on Trade and Development (UNCTAD) which has held four sessions: the first in Geneva (1964); the second in New Delhi (1968); the third in Santiago (1972); and the fourth in Nairobi (1976). The results so far have been only speeches and meetings, nothing concrete. For this reason, President Ferdinand E. Marcos of the Republic of the Philippines stated at one of the plenary meetings held in Nairobi:

[d]espite the warnings expressed at previous conferences, the present deficient international order has failed to bring about significant economic and social change or secure alternatives to poverty, hunger, social fragmentation and strife. The clear

need to solve crucial domestic problems often forces governments to be flexible in, and even abandon, the application of these ethical principles. Thus our objective becomes more remote.

In a more practical and less ambitious respect, these democracies could agree on a policy designed to strengthen and increase the powers of the Human Rights Committee established by the International Covenant on Civil and Political Rights.<sup>45</sup> Furthermore, an effort should be made to create an international court of human rights similar to the one which exists for Members of the Council of Europe.<sup>46</sup> We must keep in mind, however, that the power of international organizations will always be limited by the fact that most serious violations of human rights are often the result of policies planned and carried out by the governments of member states. Consequently, any measures taken will be dependent on possible political repercussions and even on member states' refusal to accept the responsibility and subsequent sanctions for their acts. Nevertheless, experience indicates that denunciations have a moral impact on international public opinion. This serves as an important restraint on the behavior of regimes which tend to violate human rights.<sup>47</sup>

Regional organizations such as the Organization of American States [hereinafter OAS], should undertake a similar project. Un-

and urgent need was for a firm conviction leading to bold programs instead of half-hearted measures and mere words. Despite the United Nations Development Decade declaration for the 1960's and again for the 1970's, the world has not only failed to secure a general advance in the sharing of its resources, but has witnessed a retreat, in the face of crisis, to nationalism. During that period, the developing countries' growing aspirations have not been matched by a corresponding commitment from the developed countries.

The problems facing the world at the time when UNCTAD was first set up have not only persisted, but have gained in intensity.

See also the comments of President Allende of Chile, note 30 *supra*.

45. According to Articles 40-45 of the International Covenant on Civil and Political Rights, the Human Rights Committee has the following limited attributes: to consider the reports submitted to the Secretary General of the United Nations by the State Parties regarding the factors and difficulties, if any, affecting the implementation of the Covenant; to study the reports submitted to it by the State Parties and to transmit those reports, and the Committee's comments thereon, to the Economic and Social Council; to deal with written communications brought by a State Party which considers that another State Party is not giving effect to the provisions of the Covenant, if possible via a friendly solution of the matter on the basis of respect for human rights; to appoint an *ad hoc* Conciliation Commission, with the prior consent of the State Parties concerned, if a friendly solution cannot be reached; and, finally, to submit to the General Assembly of the United Nations an annual report of its activities. International Covenant on Civil and Political Rights, *supra* note 11, arts. 40-45.

46. European Convention, *supra* note 14, arts. 38-56.

47. The reactions provoked in Chile by the consecutive Final Resolutions of the United Nations General Assembly condemning the military dictatorship for its violations of human rights are a good example.

fortunately, in the Latin American context, this does not seem very likely. The Charter of the OAS<sup>48</sup> reaffirms the principle that international solidarity "require[s] the political organization of those States on the basis of the effective exercise of representative democracy,"<sup>49</sup> but today most State Parties live under cruel tyrannies which abhor democracy and systematically violate human rights. Naturally, they have no interest whatsoever in promoting the protection of these rights. This is the reason that the American Convention on Human Rights, although signed in 1969, has only entered into force within the last year.<sup>50</sup> The fact that this Convention contemplated the creation of an Inter-American Court of Human Rights<sup>51</sup> evidently delayed ratification.

Actions of an economic, political or diplomatic character which would be aimed at enforcing respect for human rights in one particular nation or group of nations are also a viable possibility. Their efficiency varies depending on different factors, some of which relate to the nation or nations which undertake the action and others to the nations which are affected by it. Regarding the former, it is highly desirable that these actions be collective as their moral and practical effect is thus greater and selfish interpretations are thereby avoided. The impact of unilateral actions undertaken by a single nation depends on the power of that nation as well as its historical, cultural and economic relations with the accused nation. Any such unilateral action must spring from a genuine interest in the defense of human rights. Any other motivation will not only greatly diminish the effect of the action but also make it illicit. If this occurs, the action will do very little to advance the protection of human rights. On the contrary, it is likely to become a pretext used by the violating government to accuse the complaining nation of illegitimate intervention in its internal problems. Thus, the violations themselves will be ignored by world public opinion or at least receive less public attention.

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48. Charter of the Organization of American States, April 30, 1948, 119 U.N.T.S. 48, 2 U.S.T. 2394, T.I.A.S. No. 2361 (entered into force Dec. 13, 1951).

49. *Id.* art. 5(d).

50. American Convention, *supra* note 16. Article 74 provides that "[a]s soon as eleven states have deposited their instruments of ratification or adherence, the Convention shall enter into force." Prior to the signing of the Convention by President Carter in July 1977, only Colombia and Costa Rica had deposited ratifications. Since then eleven additional States (the Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Panama, Peru and Venezuela) have ratified the Convention. Interview with Edmundo Vargas, Executive Secretary of the Inter-American Commission on Human Rights, in the Chilean newspaper *El Mercurio*, Aug. 21, 1978.

51. American Convention, *supra* note 16, arts. 33 & 52-69.

Once a line of action is agreed upon, it must be firmly adhered to until the objective has been attained. Any modification, regardless of the reason, will be counterproductive. Even modifications based on a relative or transitory improvement in the human rights situation will have a negative effect. Moreover, in the long range they would probably be the cause for further violations. As a matter of fact, dictators could use this sort of pardon as evidence that previous violations either did not exist or were not as severe as claimed. Thus, they would feel encouraged to renew or increase violations.<sup>52</sup>

The nature and intensity of any measure aimed at affecting a particular nation must be determined by reference to that nation's specific characteristics. This is a crucial point if a line of action is to have a positive impact. A policy may be most effective for one nation and completely useless for a different one. For example, any diplomatic or political action taken against the dictator of a poor nation with a high illiteracy rate will probably go unnoticed by the people of his nation and will consequently be almost useless. On the other hand, this same kind of action could be very effective in stimulating a nation, such as Chile or Uruguay, which is currently under a dictatorship but which has a strong democratic tradition and a good educational level.

Of course, the legality of actions designed to promote the observance of human rights must be considered. Nations accused of violating human rights often argue that such actions breach international legal principles, in particular the recognized principle of non-intervention in the internal affairs of a sovereign state. However, these same States validate such measures when applied to their political opponents. This double standard reveals the falsehood of the argument. Furthermore, as has been demonstrated *supra*, human rights are part of mankind's heritage and are recognized by

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52. In March 1977, after the Special Group appointed by the Human Rights Commission of the United Nations issued a new report against the Chilean Military Junta, the U.S. Department of State announced in an official declaration that: "[t]he Government of the United States expresses its satisfaction that the Government of Chile has cooperated in many ways with the Commission on Human Rights." Although the State Department immediately conceded with regret that the Junta did not permit either the Commission or the Special Group to enter the country, the statement added that the United States "fully recognizes the improvements that have occurred recently in the human rights situation in Chile and, particularly, the liberation of virtually all those who were retained for political reasons and without being charged." As a consequence of this strange congratulation, which had no basis in concrete fact, repression again rose in Chile to such an extreme that in December 1977 the United States sponsored the Final Resolution approved by the U.N. General Assembly condemning the Junta for its violations of human rights.

mandatory international treaties. Consequently, an action aimed at stopping their transgression cannot be regarded as illicit interference in the internal affairs of a nation. It is simply the legal and legitimate exercise of a right recognized by international law.

It would seem appropriate to revise and restate the principle of non-intervention in order to adapt it to a world flooded by dictators who oppress their people while claiming to represent them. The principle of non-intervention is clear. It is obviously valid when applied to relations among representative governments which are authentic spokesmen for their nations. Every State has the sovereign right to establish the system of government or the political policies it prefers, and no foreign power has the right to intervene in this process. But, what must be regarded as intervention or non-intervention in dealing with governments which breach international law and morality by violating human rights? This is a delicate question, analysis of which can initiate a very interesting discussion. Unfortunately, this goes beyond the scope of this article.

Economic measures against dictatorships are the most controversial of actions designed to promote protection of human rights. But, if it is accepted that neither a resolution of condemnation passed by an international organization nor any ensuing diplomatic move constitutes intervention, why should an economic measure that pursues the same objective be considered interventionist? Let us reverse the question. Suppose for a moment that the denial of economic aid, subject to the improvement of the human rights situation in a particular nation, goes against the principle of non-intervention. Then, why would not the opposite course of action (that is, the approval of a loan that will contribute to the stability of a dictator who violates international law) constitute a breach of the principle as well? It is clear that the close framework of economic, cultural and scientific interdependence in which international relations take place and the growing importance of transnational organizations have made this principle, as it is currently conceived, obsolete. It is thus advisable that the non-intervention principle be modified to reflect the fact that current circumstances are very different from those under which it was created.

Finally, the United States can play a special role in protecting human rights. President Carter has described this protection as one of the essential goals of his foreign policy. Furthermore, he has said that "[i]t is entirely appropriate [for the United States] to take the leadership role and let the world say that the focal point for the preservation and protection of human rights is the United States of

America."<sup>53</sup> There is not a more beautiful kind of leadership the United States could seek to obtain. History will be grateful for it. However, its execution is difficult, complicated and even dangerous. Therefore, the United States must design a policy that, while being really effective, will not create any new sources of international tension. The strategy must be based on gradual development. Action should initially be taken in those regions or nations where circumstances are most propitious and where hope for positive results within a reasonable period of time exists.

If we look to Latin America, and within it to those nations with a deep tradition of freedom and democracy which now live under the oppression of military dictatorships, we will soon find the place to initiate the systematic policy which will make President Carter's promises come true. A great and significant task awaits the United States of America in this field.

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53. President's News Conference, 13 WEEKLY COMP. OF PRES. DOC. 1867-68 (Dec. 15, 1977).