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# HUMAN RIGHTS AND DEVELOPMENT

INTERNATIONAL VIEWS

EDITED BY  
DAVID P. FORSYTHE

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# HUMAN RIGHTS AND DEVELOPMENT

# **Human Rights and Development**

**International Views**

**Edited by**

**David P. Forsythe**

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University of Nebraska*

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# Foreword

## HUMAN RIGHTS AND DEVELOPMENT: AN ASIAN PERSPECTIVE

Problems of human rights have often been viewed in different ways, especially the question of how much emphasis should be placed on each category of rights—civil and political, or economic, social and cultural. Arguments have been advanced in favour of economic and social rights as prerequisites for the enjoyment of civil and political rights. On the other hand, it has been argued that civil and political rights are preconditions for the realisation of economic and social rights. Lately, in the context of the Third World, there has been talk of a ‘trade-off’ between civil and political rights and a right to development. It is argued that the right to development should have priority over all other rights. All such approaches amount to callous disregard of the truth that the various components of internationally recognised human rights constitute one indivisible whole.

What is ignored is that the problem of human rights is intrinsically bound up with the social environments and the relationship that exists, at a given time, between a person and the institutions on which his or her social existence depends. Since conditions continue to change, so does, like any other social norm, the nature of human rights. Nonetheless, there remains one core aspect: the right to life, or, one should say, the right to live as a human being. This in turn demands the presence of the basic conditions essential for the protection of the human dignity which nature has bestowed on each human being. From this primordial right spring all other rights—such as the right to liberty and security of person, freedom of movement, freedom of expression and also the right to a minimum standard of living.

There is an incredibly widespread assumption that ‘human rights’ is a Western concept, meant for a certain group of people and not for all human beings, universally. This is sheer political propaganda perpetuated by Third World leaders with vested interests. In fact, the genesis of the concept of human rights could be traced back to the dawn of civilisation, when man first started living in groups. With the passage of time these ‘rights’, or established customs and understandings, including the relationship between the ruler and the ruled, were



brought together in different forms, in various parts of the world. They found expression, for instance, in the Confucian system in China and the 'Panchayat' system in India.

Human rights, as we understand them today, were first crystallised in the Western world because of various historical factors. What is of more significance here is the fact that Western countries have reached such a high level of socioeconomic, legal development that they can concentrate their efforts on the observance and respect for civil and political rights alone. In the countries of the Third World, however, very different socio- and economic environments prevail. In Asia, for instance, some 40 per cent of the population, that is, 800 million people, live below the poverty line. In rural Asia some 80 per cent have no access to 'safe water'; 47 per cent in urban areas and 87 per cent in rural areas have no access to sanitary facilities. Hence millions of people are trapped in a vicious circle, in both cause and consequence, of poverty, malnutrition and disease. Indeed, no amount of writing can capture the magnitude and complexity of human rights problems, especially in Asia.

The right to food, derived fundamentally from the core right to life, has been repeatedly endorsed by the United Nations and international conferences, yet it remains an insult to humanity that the developed states spend vast sums of money on agricultural subsidies, and further vast sums for storage of food to maintain market prices, while in the developing world millions starve from 'food shortages'. For every ton of surplus grain—there were 300 million tons in 1986—there is a starving person. Particularly horrifying is the 'invisible malnutrition' affecting children in the Third World, with three-fourths of them in Asia. Some 40 000 children die of malnutrition in the developing world each day while in the developed world pet dogs and cats are provided with balanced diets. Malnutrition, it is estimated, can be overcome specifically in terms of 'caloric intake' if only one per cent of the grain production of the world, or 15 per cent of what is kept in storage, is directed to meet the needs of the hungry children.

One often comes across the argument that, in the countries of the Third World, what the common people need are minimum facilities of shelter, food and clothing, requiring drastic changes of government priorities. Therefore, the argument runs, authoritarianism can bring about desired results; so-called human rights are to be restricted for the broader goal of national development. Such arguments are fallacious. They are advanced by those who represent

vested interests or those who do not know the meaning of human rights. While pursuing the goal of national development, there is no reason why fundamental human rights should be denied to an individual: freedom from arbitrary arrest and torture, freedom of expression, and so on. Liberty and security of persons are no less fundamental for human dignity than food and shelter.

Few countries in Asia, however, have the semblance of a rule of law. According to the reports of Amnesty International, political disappearances, summary trials and arbitrary killings are all too frequent. The UN Code of Conduct for Law Enforcement officials has been largely ignored; illiterate slum-dwellers have been particularly victimised.

Then there is another dimension of the situation in Asia. This region continues to be a major centre of gravity of international politics; cross-currents of political forces rival those in other parts of the world. In terms of ideology, nearly half of the population resides under a Communist regime. Growing conflict among the Communist countries themselves manifests itself more glaringly and menacingly here than in any other part of the world. Quite a number of states exist with little or no military capacity to defend themselves. Some have resources but need technology to exploit these resources for development. It is but inevitable that these states are subjected to manipulation by extra-regional powers, particularly the super-powers. It is unfortunate that a massive amount of resources is diverted to the purchase of arms; these come from industrially advanced countries—of both East and West, and the sale of which in the Third World indirectly helps the economy of the supplier country. What is still worse is that extra-regional powers aid and abet a particular regime which is willing to be its 'satellite'. This partly explains why authoritarian regimes—ranging from absolute monarchical system to one man/party rule to military rule—abound in Asia.

As a consequence, most Asian governments lack what is the foundation of the human rights system—the principle that the authority of the state shall be exercised by the will of the people themselves, and that their participation in government shall be truly representative and genuine. It is not surprising, therefore, that almost all Asian countries are experiencing turbulence and turmoil of one kind or the other, as well as threats to national security, apparent or real. Time and again, these governments resort to stringent security measures, thereby leading to violations of human rights and the fundamental freedoms of their people. Very often the ruling elite

identifies its own security (and the perpetuation of its rule) with national security, and thus attempts to suppress all dissidents and factors impelling genuine change. The tragic part is that such regimes are financed and sustained by outside powers.

All this brings us to the point that the inter-dependence of the world is an inexorable fact, though it manifests itself more by its tragic consequences than by its positive affirmation. The fundamental problems of human conditions, and therefore of human rights, know no national, regional, political or ideological frontiers. While local national efforts are essential, there is need for tackling the problem at the global level, too.

In the context of Asia, the right to development has a significance of its own. It is gratifying to know that in recent years the international community, as represented at the United Nations, as well as scholars have turned their attention to the special problem which the developing countries are experiencing in their efforts towards the realisation of human rights—which includes the improvement of economic and social conditions. In this context, mention in particular should be made of the adoption of the declaration of the right to development in December 1986. The right to development in the Asian context—given the contemporary socioeconomic conditions—is a corollary derived from the primordial right: the right to life, or the right to live in a manner that befits human dignity. For what are human rights and fundamental freedoms if there is no food, or what is meant by equality of law when there are no jobs? An unemployed, starving man does not have much of a choice to make between human rights/human dignity and a status of bonded labour; on the other hand, food without freedom, jobs without justice, would be the negation of human dignity.

The Human Rights Research Committee of the International Political Science Association is to be commended for organising a conference on human rights and development and publishing its resulting analyses. The problems of improving the implementation of internationally recognised human rights in the developing world are enormous. Certainly a useful way to attempt progress is to assemble capable minds from both sides of the economic and cultural divide in an effort to agree on problems and solutions. It is hoped that the pages which follow make precisely that contribution.

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# Preface

The Human Rights Research Committee of the International Political Science Association decided to hold a conference on human rights and development, in order to bring together leading thinkers from both the developed and developing world. We wanted to look anew at the problems of and prospects for human rights in the Third World, in a fertile exchange of ideas. The meeting was held at The Hague, the Netherlands, in June 1987. This book resulted from that international meeting.

As is usual in these situations, a wide variety of views were obtained, which could be reduced to four orientations: a focus on the private sector, a focus on the public sector, country studies, and an integrated or general analysis. A central theme also emerged from the meeting. In the view of a large number of participants, the key to better implementation of internationally recognised human rights in the Third World rests with political choice. This theme challenges much argument heretofore which concludes that the fate of human rights is determined by such economic factors as being in the periphery of the world economy, or being far behind other nations economically, or being caught in a period of rapid economic growth. It also challenges the notion that the fate of human rights in the developing countries is determined by history and culture. In the view of most participants, while all these other factors affect human rights, they do not negate a decisive role for political choice in whether there will be an emphasis on human rights in general, and which rights are to be protected in particular.

The local arrangements chair for the conference was Peter R. Baehr, who did an excellent job in comfortably installing us in the Institute of Social Sciences. D. J. Wolfson, Rector of the Institute, was a gracious host. We were well received both by the International Peace Palace, and by the Dutch Foreign Ministry. The Dutch Government was kind enough to provide us with a financial subsidy which underwrote the participation of most of the conferees from the Third World and which helped with the preparation of this book. Theo van Boven, former Director of Human Rights for the United Nations, took time from his busy schedule to deliver the keynote address, in return for perhaps the smallest honorarium of his entire career.

Dr Timothy Shaw of Dalhousie University and Mr T. M. Farmiloe of Macmillan were both supportive and helpful.

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# **Part I**

## **The Private Sector**



# 1 Women's Human Rights Groups in Latin America

MARICLAIRE ACOSTA

## INTRODUCTION

This chapter analyses how a group of women have become involved in the political process of El Salvador, in a situation of revolutionary conflict and massive repression.

Interviews were conducted with a leading member of a *Comité de Madres y Familiares de Presos, Desaparecidos y Asesinados Políticos de El Salvador-Oscar Arnulfo Romero* (Committee of Mothers and Relatives of Political Prisoners, Disappeared and Assassinated Persons of El Salvador-Oscar Arnulfo Romero), a human rights organisation formed by the relatives of the victims of repression (mostly female) commonly known as the *Comadres*. The interviewee tells her own story, and in so doing, learns to identify as a political actor.

The testimony presented is structured in three distinct sections. The first deals with the impact of State terror on the personal life of the interviewee, explaining how the disruption of normal routine and stigmatisation of family forced an appeal to an organised group such as the *Comadres*, in order to seek the psychological and political support necessary for survival. It then explains her gradual involvement in the tasks of the group, beginning with the need to resolve a personal situation and evolving towards a commitment to the plight of other women, and eventually to the full recognition of her political role as a member of the *Comadres*, a group which is sustained by an ideology of motherhood which aims to open a political space by denouncing the repressive nature of the present Salvadoran government.

The second section of the testimony is less personal, analysing the history and development of the group. The *Comadres* began as an association of the victims of political repression and eventually became a fully-fledged organisation with ample international recognition. It is devoted to the defence of fundamental human rights, with an impressive array of strategies and experiences designed to counteract

the effects of state terror on Salvadoran society. It has also tried to force the successive governments of the country to account for the tens of thousands of political killings and disappearances which have taken place since 1972.

The final section of the testimony analyses the present situation of the Comadres as a human rights group which plays a leading role in the mobilisation of mass support for social change as well as for an end to the civil war that has erupted in that country since 1980. Comadres demands a negotiated peace settlement between the contending political and military forces, represented on the one hand by the US-backed, Christian Democratic, Duarte government, and on the other, by the FDR-FMLN, a coalition of political-military organisations involved in guerrilla warfare.

The testimony will make clear that although the Comadres are not political in a strict sense, but rather a human rights group closely linked to the Catholic Church, there is no doubt that it has begun to play an important role in the political process of its country. Both in its strategies and discourse, the Committee has moved away from the traditional demands of the organisations of its kind to broader conceptions of the role of human rights and their importance in a revolutionary context.<sup>1</sup> In the late 1980s the Committee plays a leading part in the mobilisation of the urban population of the country against the war and in favour of peace with social justice.

Of all the life-histories collected, this one portrays the best description of how the movement in El Salvador was started, under what conditions, how the group has evolved since then, and what the women think of themselves and their role. Deliberately omitted from the account is the story of the informant's life before entering the Mothers' Committee. It is probable that the key to understanding some of the questions about how and why women undertake political activities can be found in those early years and in the events that shaped her life. The length and complexity of her story far surpasses the limits of this presentation, however, so the focus is on her participation in the Mothers' Committee.

From about 1970 many such groups have emerged in practically all Latin-American countries where the ruling military circles, or military-backed governments, have applied the Doctrine of National Security, resulting in a policy of massive human rights violations. The first group of this sort to emerge publicly appeared in Bolivia in 1972, followed by a similar organisation in Chile during the year 1974 (*Agrupación Chilena de Familiares de Detenidos Desaparecidos*).

Since then, many other organisations along similar lines have sprouted up throughout the region, the most widely known of them being perhaps the Mothers of Plaza de Mayo, which appeared in Argentina in the year 1977, during the period of military dictatorship in this country, when the policy of government by terror was at its peak.<sup>2</sup>

Most of these organisations work along similar lines and share the same origins. They all represent a popular response to counteract the effects of organised State terror on their respective societies. They have many things in common: namely, that they all emerged as apolitical grass-roots movements, led by female relatives of the victims of repression, who took up an organised search for their loved ones, and gradually moved on to more 'political' activities under the banner of human rights.<sup>3</sup>

In the year 1981, these different groups formed a federation, FEDEFAM (Federación de Familiares de Detenidos Desaparecidos). Since then, FEDEFAM has undertaken the leadership in the struggle for human rights in Latin America, emphasising the need to establish truly democratic regimes as a prerequisite for the true observance of these rights.

In periods of acute repression, these organisations of relatives of the victims have played a fundamental role in destroying the hold of organised terror over the population and in mobilising support for broader issues, such as the respect for the rule of law and fundamental rights. In this sense, they are subversive movements in that they undermine the power of State terrorism by creating a pole of active resistance to organised fear.<sup>4</sup> Whether they are capable of changing the balance of power in their respective countries is another matter. This possibility seems to be related to other factors, such as the political process itself as well as the role of other actors. In the case of Comadres, the fact that it has the support of the Catholic Church and that there is a revolutionary movement going on in El Salvador has been very important in its transition from a human rights group to an organisation committed to change. This has not necessarily been true in other situations, such as the case of GAM (Grupo de Apoyo Mútuo) in Guatemala, or the Mothers of Plaza de Mayo in Argentina.<sup>5</sup>

## TESTIMONY I

They call me Miriam. I am 41 years old and I joined the Mothers' Committee in 1979<sup>6</sup> when my husband was kidnapped and 'dis-

appeared' by security forces in San Salvador. He was a student and a photographer, and because of his political involvement he was sent to prison where he spent several months. Barely a few weeks after he was released, he disappeared. I found his body in a body dump on the outskirts of the city some time later. He was terribly mutilated, but I recognised him, and thanks to God, I was able to give him a decent Christian burial. I was very lucky. Very few women have found the bodies of their loved ones.

He was my second husband; we were together for six years. We had two girls and a boy. Only the girls survived. The little boy died shortly after birth. Since I had another child, a boy, from a previous marriage, we brought up a total of three children. We were happy together. I used to work as a clothes vendor in different markets around the countryside. We lived with his family. After he was sent to jail, all that changed. My mother-in-law was so frightened; and since she had already lost another son, murdered by the Death Squads, I promised her to leave the house and set out on my own with the children.

I was able to find lodgings not far from where I lived before. In those days—1979—things were terrible in El Salvador. Terror was rampant. Many people were kidnapped by the animals, which is what we call the Death Squads, and killed. Their bodies were mutilated and then burnt in the refuse dumps for the pigs to eat.

So I had to change my name and not let my new neighbours know that my husband was a political prisoner. His detention had been in the newspapers because they accused him and his companions of all sorts of crimes. The children were very small, except the boy, who was twelve, and they also learned to keep their mouths shut. We could trust nobody. The National Guard and other security forces had a lot of stool-pigeons and collaborators around, and if the neighbourhood found out my real situation, we could be classed as 'subversives' and God knows what could happen.

It was during this period that I decided to go to the Mothers' Committee and seek help. I knew about them because of the preachings of Monsignor Romero, the Archbishop of San Salvador. So I went to the Archbishopric where I knew they had a small office to state my case. I was also lucky enough to be able to talk to Monsignor Romero personally and he denounced my husband's capture in his Sunday homily.

He gave me strength to go on, and the Mothers' Committee did a great deal to help me. They kept in touch with the political prisoners

even when their families were forbidden to see them, so I was able to find out about my husband and send him food and other things. They also gave me some material support to ease my economic situation for the time being.

When he was released I never thought I would have to join the Committee. As far as I was concerned, the whole thing was over.

Of course we had to move again and find a place to live where nobody knew us. We found a small room in a suburb of San Salvador, close to one of the markets where I had clients.

The kidnapping came two months after my husband's release. It was on the day of my little girl's birthday. He had insisted on celebrating it, so I had a cake and some little gifts ready. We waited up all night and he never came back. Of course I knew what had happened, but there was little I could do. We were sharing lodgings with other families in that house, and naturally they were curious to know why he hadn't come back. I pretended that he had another woman and cried to them that he had probably chosen that very same day to visit her. They were sympathetic and consoled me, but I knew what had really happened; so early in the morning, before sunrise, I took the children and ran, leaving my belongings behind.

I knew that the Mothers' Committee was the only place to go. I didn't dare to go to my mother-in-law's or anywhere else. It was too dangerous for them. So back to the Archbishopric it was. The Committee kept track of the kidnappings, and a few days later they confirmed what I already knew: that my husband had been taken by the Death Squads and was 'disappeared'.

At the Committee I found the strength and consolation that I needed. It was the only place where I could really be myself and express my tremendous grief and suffering. The rest of the women were wonderful. Everyone there had suffered a loss, so it was easier to make oneself understood. Also, it was only with them that one could feel safe. So it was like that when I joined them. Since I was desperately searching for my husband, I was assigned the task of visiting body dumps with other women who were also looking for their husbands and sons. It was a terrible time. I had nowhere to leave my two little girls, so after work I would take them with me to identify bodies. They were terribly frightened, and aside from the frightful things that we would encounter they were also afraid that the National Guard would find out about us and kill them. My eldest girl has had a heart condition and many psychological problems since then. The smallest one was still a baby, so it wasn't so hard on her.

They used to cry a lot, and I would feel my heart bursting with pain. I was fortunate to find his body. It was a great relief. After that, I would take the children to visit their father in his grave.

After this experience I decided to stay on with the Committee. It was the only place where I felt I belonged. I was assigned other, various tasks that were compatible with my occupation, selling in the different markets of the region. This went on for several years until one day I was sent here, to Mexico, to represent the Committee, almost two years ago. I brought my two girls with me, since the boy married at 17. Unfortunately I have been unable to keep them with me since I work all day and have nobody to help me look after them in this enormous city. I sent them back some months ago to live with another mother, where I know they are safe and well looked after. I miss them very much, as well as my companions in the Committee. I am very lonely. I do not like Mexico at all. Nothing: the people, the food, nothing. Everything is awful. But I have a duty to fulfil. And that is to tell the world about our struggle for peace and justice in our country.

You see, we are the mothers of the people. We started out looking for our children and loved ones, and now we do for others what they can't do for themselves. That is why, after a while, one becomes insensitive to pain, fear and even death. I don't know what it is, but we take on a spiritual strength that helps us when we have to look for unidentified bodies among the coffee bushes. You see, we are doing what other mothers cannot do: identify bodies of their own sons. We have been joined together in our pain. This group of mothers has renounced the love of life in order to keep up our struggle. Life before was very difficult. Now it is only to think for the people. To share the joy or pain of a people at war. One becomes conscious of this through suffering and grief.

There are 700 of us now in the Committee. Mostly women. We come from all social classes, but mostly we come from poor classes, because those are the ones who have been hit hardest by the repression. We grow more every day and now we even have incorporated some mothers of common soldiers who have disappeared in action. You see, since we fight for the people as a whole, we called upon all the mothers of El Salvador to join, and these women have come to us because their sons were buried in a common grave, nobody knows where.

The Committee works in this way. First we have several committees which perform different tasks, such as the one which investigates

the denunciations brought to us and keeps a record of them. Then, we also have a group that writes bulletins and press releases. It also broadcasts daily for 20 minutes on YSAX, the Church station. This programme is called *Desde la prisión* (from prison); it gives news about the political prisoners with whom we are in touch every day. This group also organises the monthly masses in commemoration of Monsignor Romero's assassination which we hold on the 24th of every month,<sup>7</sup> as well as our bi-weekly sit-ins at the Ministry of Justice and other marches.

Another group keeps up the contacts and relationships with the labour unions, political organisations, government offices and the press. Every two weeks we hold a press conference with foreign and national correspondents. This committee is also the one which organises the representation of Comadres in Costa Rica, Mexico and Canada.

Finally, there is another group which gives material aid to the families of the victims as well as to the prisoners themselves. We manage to give them a weekly ration of rice, beans, sugar and milk. We are very interested in working with the displaced people who live in the refuges of San Salvador and all over the country. The mothers in this group seek them out, investigate their cases, obtain legal support for them if possible and give them whatever material aid we can manage. They go into the refuges and ask for the mothers of victims of disappearances or killings. After they have located a few, they organise them into a group to talk about their problems and help each other out. After a while, this group joins the Committee, or at least, joins us in our demonstrations and other activities. We call this task 'moralisation', because these women are very demoralised.<sup>8</sup>

All of our decisions are taken collectively. Our task is to go everywhere, to tell the people, denounce what goes on, give talks, go to the schools. There are many situations: investigation of the clandestine jails, or picking up information in the streets, parks or buses.

Our task is to bring the truth about what really goes on in El Salvador to the people. For instance, every two weeks we organise a 'sit-in'. In these public demonstrations, each one of us carries a poster with a photograph and details of her disappeared relative. In every 'sit-in', the denunciations that have come to us during the past two weeks are read out loud, as well as the position of the Comadres on a series of issues such as the dialogue between the government and the insurgents, the bombings of the civilian population that the

government carries out, the forced recruitment of soldiers, etc. Every poster carries the legend 'They were taken away alive, we want them back alive'.

Most of our sit-ins take place in the Cathedral in down-town San Salvador. Some also take place in front of the US Embassy,<sup>9</sup> the Legislative Assembly or the Ministry of Justice.

I think that women tend to join the Committee more than the men do because we are the givers of life. You see, we give our children life and then, when they are kidnapped or murdered, as mothers or relatives we naturally try to find out what happened. Sometimes, when a mother finds out that her captured son was not involved in political affairs, she asks herself the following questions: 'But if my son did nothing, why did they kill him?' Maybe he was unlucky enough to be killed at a road barrier, or they may have taken him out of his house by force because a neighbour suspected him. Not all of those who die are 'subversives' as they want to make us believe. Many innocent people die. This is when a mother suddenly becomes conscious of things, and says to herself: 'Why should I not die? If my son died for nothing, if I also have to die, then it will be for something worthwhile, something that I shall have done. Something more important'. This is how many women acquire consciousness.

Then again, sometimes it happens that a woman knows that her husband or son participated in something political, for instance, in a labour union or something like that. Then she may decide to take up his cause, and she says: 'If my son died, it was not because he wanted to harm anybody, but because he saw how others were being exploited and ignored; maybe they needed a better salary and nobody listened to them'. This is how her pain and suffering become the will to fight and to tell the people what is really happening.

Sometimes it takes a long time for a woman to join our struggle. I'll give you an example: a woman comes to the Comadres to denounce the disappearance of her son. Well, we go with her to the police. They always deny that he is there, so then we go to the Red Cross (the International one) and then to the Human Rights Committee (the one of the people, not of the government), and denounce his capture everywhere.<sup>10</sup> After that we try to give some consolation, and we share with her whatever we have in the Committee: food, clothes, whatever. We try to make her feel that she is not alone, and we write press communiqués and open letters in the newspapers trying to publicise her problem. So then, it is not the mother alone who has the problem, but the whole Committee. Then she knows she



is not alone because, after that, somebody visits her every week to give her information and ask her to join and take part in our activities and give her testimony. After a while, you begin to notice the change in her. She starts reacting and no longer just stays at home to cry. She feels better, is more animated and wants to go on living. This is when her consciousness begins, and after a while, she joins us in our visits to the embassies and jails.

## TESTIMONY II

Our committee was founded on Christmas Eve, in the year 1977.<sup>11</sup> Before that, it was just a group of women who were desperately searching everywhere for their sons and relatives. They would go and see Monsignor Romero, and take him all their grief and despair. He became the shepherd of his people. The women knew that Monsignor Romero was with them. So one day he invited a group to supper on Christmas Eve, along with some other priests, and proposed to them that they start the Committee. He compared these women to the Virgin Mary, and told them that they had to join their voices in order to be heard. It was then that he offered the radio programme which we still have, and so the first denunciations were broadcast. Monsignor was the founder of the Comadres. He told the mothers not to fight for only one of the victims, but for a whole people.

For a time, the mothers met in the Archbishopric, until the Committee was able to find an office of its own. But before that, because of security reasons, the Committee met in the fields or in out-of-the-way places.<sup>12</sup> When I joined, it was still like that. In order to hold a meeting we would pretend to go on an outing in the surrounding countryside. We would choose a place, and sit under a tree. There, we would write out our communiqués and discuss various ways to make our voices heard. Everybody would pitch in. When the meeting was ended, we would file out in twos and threes in order to avoid suspicion. Monsignor's support was very important to us in those days. We used to communicate all our decisions to him. He lent us his bank account, so that our first financial aid was given to us through him. The money was used to buy things for the political prisoners, like medicine and food. Also to pay for our press releases.

At first we would just go together to the barracks and police stations to enquire about the victims. Since that didn't work we realised that we had to make the largest amount of people find out in

the shortest period of time that someone had been captured. If a capture or a kidnapping is publicised immediately, the person has a better chance of survival. So little by little, we realised that we had to be more active and visible. That was when we decided to start 'taking' public places, like churches or government offices.<sup>13</sup> The point of the action was to take the place in a pacific way, but to make sure that it was full of people, especially children. This way, they became our 'hostages', and we acquired some strength to make the government hear our voices.

In order to 'take' a church or a public office, we had to plan very carefully what we wanted to do. We would break up into small groups, and some of us would enter the place, say a church, and announce to those inside that they were our hostages until the government acceded to our petitions, which we read out to them. In the meantime, another group of women would stay outside to watch, as well as to mobilise the public and explain what was happening. Another group had to figure out a way to get food and drink to the people inside, and others would conduct the negotiations with the government. We decided on this tactic of taking 'hostages' because the press began to refuse our bulletins. It was very risky. One time, we decided to take the Red Cross Offices for three months. It was terrible.

Sometimes we were thrown out violently by the security forces. Then, a group of us would start a scandal in the street to draw attention to our cause. After the Red Cross, our most important action was the 'taking' of the Cathedral.

After some time, things began to ease up and we again had access to the newspapers and other media. After a while, the Committee decided to link up with the rest of the world. This was in 1978, and a delegation was sent to Mexico.

Some time later we were strong enough to have our own offices. By 1980, when the leaders of the Electrical Workers Union (STECCEL) were captured, we had an office and held our first press conference there.<sup>14</sup> At the time, we decided to go to the barracks of the National Guard where they were held, to pressure them to let the prisoners go. I was among the chosen ones. We had to leave our documents at the entrance and they made us carry an ID card around our necks. We finally saw our companions in a large room, on the floor, all tied up like animals. The Guards jeered at us and asked why didn't we form a group to protect their rights against the guerrillas.

Anyway, after this incident, we decided to go to the schools and

factories to ask for food and clothes for the new prisoners. This was a way to spread the word a bit further. It worked, and we found all sorts of ingenious ways to enter factories without arousing suspicion.

Once, when a member of the Committee was captured, we decided to spread the news by stuffing fliers into some egg-crates which we took to the markets.

Little by little we discovered international support. That is when we began to travel. Now we are known outside El Salvador, and have offices in Mexico, Costa Rica and Canada. Two years ago we were awarded the Robert F. Kennedy prize in the United States, but only one of us was able to collect it. The State Department denied the other two delegates visas. Recently we were given another prize; this was the Bruno Kreisky award in Austria.

We have travelled all over the world telling people about our work and about our grief, but mainly asking them to help us end this war which is causing us so much grief and pain.

We have paid a very high price for all of this activity. Many of us have had to leave our country. Our families have been destroyed, and many of us have been captured, tortured and even killed. The latest case was only last May, when María Teresa Tula was kidnapped by the Death Squad and raped and knifed in Cuscatlán Park. A few weeks later she was captured again and sent to jail, where her baby was born. Fortunately, the strength we have gained was big enough to force the National Guard to release her. Everyone came to our aid, and people are no longer afraid to protest, but as long as this war goes on, incidents like this are common in El Salvador and our Committee is not immune to them.

However, we will continue to fight and struggle wherever we can. In the streets abroad, everywhere, to make the voice of the Salvadoran people heard. They have tried to silence us by murder and death, but they will never succeed. We are the voice of the people and we have given the people back their courage and strength to tell the truth. Even if they murder the last one, he will still say the truth.

### TESTIMONY III

But it's not only the truth about repression that we're after. We've gone a long way these nine years. Now we also want a liberated people. A people with the freedom to express whatever they want

and to be equal. We want a country where children can have their milk, their food, a roof over their head and a doctor to look after them.

We want a free country, a country free to choose its own representatives, who can appreciate the rights of their citizens and look after their people. The people of El Salvador are at war because they are tired of being exploited. If they ever win this war, better leaders have to come, leaders with more awareness of what is really needed. Those who govern right now are the rich and they don't care about us because they have never suffered hunger and cold. They don't know what it's like to be illiterate like me or to have to sleep on the sidewalk. They despise the poor because they have never put themselves in that person's place. They do not care about him as a person, they only care about his work.

So this is why there is a war. There is no way out. It is the only thing left to the people: rebellion against suffering and hunger. The people are tired to death of being hungry.<sup>15</sup> War is the result of all this, and the Comadres want the war to end. We demand that the government and the guerrilla start a dialogue. We are on nobody's side. We need peace, we want peace, and it has to be peace with justice. As a Christian organisation we want this war to stop because we cannot go on like this any longer. That is why we want negotiations. If Mr Reagan of the United States sends money to the government to continue the war instead of using it for the thousands of orphans or widows, then we have to hold him responsible for all the deaths and suffering. You see, when a country is at war, not only those who are in combat die, a whole people dies.

That is why we want peace. In order for it to be real peace, it has to be accompanied with justice. That is, a peace where people's rights will be respected. Our real struggle is for human rights: and for us, human rights are the rights to work, to go to school, to join a union, to say what we want . . . These are the rights of the people. Human rights are part of life . . .

## CONCLUSION

Miriam's testimony, given in the previous section, offers a detailed account of how a popular strategy against massive repression appeared and became consolidated in El Salvador. The political context of that country is very particular, since El Salvador is

involved in a civil war. Nevertheless the mothers' movement for human rights described by her is very similar to others which have made their appearance in other Latin American countries dominated by militarism. Thus, Comadres is only a part of a broad social movement for democracy, comprising practically the whole region.<sup>16</sup>

Clearly this movement is a genuine grass-roots response to the effects of militarism and the destruction of certain social relations and structures implicit in the Doctrine of National Security.<sup>17</sup> In a way the emergence of the Committee is a 'natural' response to this situation, since its driving force comes from the tremendous sense of loss and emptiness caused by repressive practices such as 'disappearances' and the widespread use of torture.<sup>18</sup> The primary aim of the women is the search for their sons and relatives who have been victimised by the governmental security forces responsible for these disappearances. These committees start out as groups of concerned women who band together, sometimes under the auspices of the Catholic Church, at other times without a visible sponsor, to ease their pain and suffering, as well as to protect themselves from the terrible stigmatisation wrought on them by the repressive action of the State.

Their search, and the attempt on the part of the authorities to accuse them of being responsible for the fate of their relatives, eventually kindles the beginning of a consciousness, and develops into a political struggle for life. The women involved in this kind of activity begin to demand that the State effectively protect life and provide the political, legal, social and economic conditions necessary for its sustenance. Hence there is a demand for the respect of social and economic rights of the population, as well as for the establishment of truly democratic regimes.

Not all of these movements in Latin America have been able to incorporate these demands into their political activity, although every one of them has done so in their discourse.<sup>19</sup> This difference stems from the political context of every country, especially the development of opposing political forces, as well as the intolerance of the State and the ruling classes of popular mobilisation.<sup>20</sup> Other reasons, such as the ability of the group to link up with international human rights organisations and other political and social forces in their own country, are also very important in explaining their transition from a group of concerned relatives to a fully-fledged political movement. All of these committees, even the least developed of them, has had a sizeable impact in their respective countries. They all display a highly

important trait: the ability to curtail the effects of organised terror on their society and to reveal the destructive impact of militaristic governments on the social body. This is no small feat, as we have seen in Miriam's testimony. It requires a degree of holism which can only be explained by the extreme suffering of these women. In a sense, they have been driven out of their normal lives by forces which they do not understand at first. Gradually, as their struggle to regain normality develops, they realise the extreme abnormality of the situation. This is their great strength: they are able to de-legitimise, by virtue of their grief, the ideological base upon which authoritarian governments stand.

The fact that motherhood has great symbolic value in Latin America is a highly important factor in the process of politicisation of these groups. Furthermore, in all authoritarian and militaristic regimes, the motherhood role has always been played up by the ruling classes as an element of political domination. Women are constantly reminded of their importance in keeping the family, the State and the Fatherland intact. What is truly provocative about the mothers' movements for human rights is that they have subverted the elite's intentions stressing the role of mothers in giving and sustaining life.<sup>21</sup>

This brings us to the last set of questions posed at the beginning of this essay. Clearly the development of mothers' movements for human rights signifies the emergence of women as a new political force in Latin America. But does this mean that these women have discovered a feminine way of doing politics? Will these movements break down traditional gender-domination structures? Are they feministic? Clearly not for the moment. Their supporters claim, however, that in the process of their political activity they have acquired a consciousness of themselves as persons which they did not have before.<sup>22</sup> They have innovated political strategies and types of action that are specifically feminine.<sup>23</sup> This is brought out clearly in Miriam's testimony. Giving aid and relief to political prisoners and their families, and adopting children, can be seen merely as an extension of the mothering role. The political content of this activity, however, is radically different from normal charitable action. The Comadres have to mother a whole people, because the institutions which normally do so in society have proven their inability.

The impact of these organisations on Latin American societies and politics is still an open question and must be dealt with on a country-by-country basis. One fact is evident: mothers' movements for human rights are here to stay, and will continue to play an important role in the political process.

## NOTES

1. Morna McLeod, *GAM-COMADRES: un análisis comparativo* (Mexico, CITGUA, Serie Cuadernos, 1986) pp. 12, 3, 46.
2. FEDEFAM, Encuentro regional, 'Los desaparecidos: paz, justicia y democracia' (La Paz, Bolivia, July 1986) p. 43.
3. For further elaboration on this point see Patricia Chuckry, *Subversive Mothers: Women's Opposition to the Military Regime in Chile*, Paper presented at the XIII International Congress of the Latin American Studies Association, Boston, Mass., October 1986, (mimeo); Gloria Bonder, 'Cuál mujer? Cual política?', *Fem*, Año 10. 46 (June-July 1986), Mexico, 5-11; Hebe de Bonafini, *Historias de vida*, Redacción y prólogo, Matilde Sánchez, Buenos Aires, Fraterna, 1985, 240; Teresia de Barbieri and Orlandina de Oliveira, 'Nuevos sujetos sociales: la presencia política de las mujeres en América Latina', *Nueva Antropología*, Revista de Ciencias Sociales, VIII, 30. Mexico (November 1986) pp. 5-30.
4. Hernán Vidal, *Dar la vida por la vida: la Agrupación Chilena de Familiares de Dettenidos-Desaparecidos (Ensayo de antropología simbólica)* (Minneapolis, Minn.: Institute for the Study of Ideologies and Literature, 1982).
5. See Morna McLeod, op. cit.; Ernesto Tiffenberg, *Surfimiento y evolución del movimiento de Mádras de Plaza de Mayo en el contexto de los nuevos movimientos sociales* (México: Facultad de Ciencias Políticas y Sociales, UNAM, 1984).
6. The year 1979 marks a time in El Salvador when the traditional oligarchy and military hardliners began to lose their hold on political power. Following the Sandinista victory in Nicaragua, thousands of Salvadorans took to the streets and began massive agitation for social and political changes. In October 1979, a group of reform-minded junior officers ousted General Carlos Humberto Romero from power and tried to push through a series of reforms in order to gain popular support. Their attempts failed. Barry and Preusch, *The Central America Fact Book* (New York: Grove Press, 1986) pp. 205-08.
7. Monsignor Oscar Arnulfo Romero, Archbishop of El Salvador, increasingly began to support popular demands for reform. In February 1980 he asked President Carter to stop military aid to the ruling junta. On 24 March, 1980, he was assassinated by right-wing sharpshooters while saying Mass in San Salvador's Cathedral. His death was the catalyst for the creation of the popular opposition coalition called the Democratic Revolutionary Front (FDR).
8. From 1979 to 1986 an estimated 50 000 persons were killed for politically motivated reasons in El Salvador. Another 6000 were victims of disappearances. The civil war in that country has resulted in the displacement of approximately one million persons, half of whom have found refuge in the US, Mexico, and Honduras. The rest live inside the country in improvised refuges, as displaced persons. M. McLeod, op. cit., pp. 12, 10.

9. For an analysis of US involvement in the civil war in El Salvador, see Barry and Preusch, op. cit.
10. The Christian Democratic Duarte government, elected in the year 1984, created a governmental human rights commission which was ineffectual in curtailing human rights abuses.
11. At the time of its foundation 21 cases of disappearances had been documented in El Salvador.
12. During the year 1980 the office of the Comadres in San Salvador was bombed. This was the reason why they began to work on a semi-clandestine basis for some time.
13. This type of action is not dissimilar to the tactics employed by other mass organisations in El Salvador.
14. STECEL was one of the few unions allowed to function in El Salvador. It was formed by hydroelectric workers and became quite powerful until the years 1979–80 when 18 of its members were killed by death squads. Ten STECEL members were subsequently imprisoned for four years when they were released after intense pressure from both national and international human rights organisations. Barry and Preusch, op. cit., p. 216.
15. Infant mortality in El Salvador is estimated at 79 deaths per 1000 births, one of the highest in Latin America. Forty per cent of the population is illiterate, and 2 per cent of the population owns 60 per cent of the land. The economic and social conditions are among the worst in the Western hemisphere; McLeod, op. cit., p. 8.
16. FEDEFAM, op. cit.
17. M. Acosta, 'La violación generalizada de los derechos humanos como política de gobierno: notas sobre el caso latinoamericano', *Revista Mexicana de Sociología*, Año XLVI, 1 (January-March 1984), pp. 335–55.
18. Amnesty International, *Disappearances, A Workbook* (AI–USA, New York, 1981) p. 166.
19. FEDEFAM, op. cit.
20. McLeod, op. cit., Tiffenberg, op. cit.
21. Bonder, op. cit.
22. Chuckry, op. cit., Bonafine, op. cit.
23. Moscardi, Alicia y Oria, Piera, *Mitos viejos, luchas nuevas, transformación o ruptura de la cotidianeidad en la lucha de Madres y Abuelas de la Plaza de Mayo?* (Buenos Aires: s/imprenta, 1986) p. 60.



# **2 The Right to Health: Transnational Support for the Philippines**

**RICHARD P. CLAUDE**

Article 25 of the Universal Declaration of Human Rights states that 'Everyone has a right to a standard of living adequate for health and well-being of himself and of his family including . . . medical care and necessary social services. . . .' Moreover, Article 22 supplements this standard with the assertion that 'Everyone, as a member of society . . . is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, to the economic, social and cultural rights indispensable for his dignity and the free development of his personality'. In recent years, Article 22 has gained vitality because international co-operation in the sphere of health rights has acquired increasing importance. Such international co-operation includes collaboration and support among non-governmental organisations and professional associations working in support of human rights across national boundaries. This paper details such transnational support for the right to health, focusing on the American Association for the Advancement of Science (AAAS) and recent developments among health professionals in the Republic of the Philippines.

## **THE INTERNATIONAL CONCERNS OF THE AAAS**

The American Association for the Advancement of Science is a non-governmental organisation with membership in North and South America. It has frequently demonstrated its independence by critical perspectives directed at government policies worldwide. It has taken a leading international role in representing the concerns of its constituent scientists in guarding the integrity of the scientific and allied professions and by presenting views on related global issues.

The Committee on Scientific Freedom and Responsibility is an organ of the American Association for the Advancement of Science.

The Committee was created in 1976 to develop policies and procedures to protect scientists, engineers and health professionals against infringements of scientific freedom and responsibility, to sustain an awareness of actions by governments which might affect the professional rights and duties of scientists, engineers, and health professionals, and to develop programmes to foster attention to scientific freedom and responsibility within AAAS and its affiliated societies. Some of the Committee's projects include professional ethics, scientific communication, secrecy and openness in science, and science and human rights.

The Clearinghouse on Science and Human Rights is a major and active project of the Committee. Clearinghouse projects include documenting cases of foreign scientists, engineers and health professionals worldwide whose human rights have been violated. The AAAS refers selected cases to group affiliates such as the American Psychiatric Association and the American Public Health Association. Such affiliates may conduct further investigation where appropriate, sometimes initiating advocacy on behalf of selected cases.

The AAAS sponsors visits to countries to investigate human rights violations as it did in the Philippines in 1983 and 1986. It also examines reports of transgressions of professional codes of medical ethics and assists scientists and health professionals in the application of their professional knowledge and skills in the investigation of violations of human rights.

The concerns of the Committee and the Clearinghouse are universal and independent of the ideology of any government or the individuals they attempt to aid. In its work, the AAAS uses the standards set forth in the Universal Declaration of Human Rights and other international human rights agreements.

In July and August of 1986, the AAAS sponsored a research mission in the Philippines in which the author of this paper participated, along with Mr Eric Stover, Staff Director of the Clearinghouse, and Dr June P. Lopez, MD, director of the Philippine Action Against Torture (PACT), a project of the Medical Action Group (MAG), Philippines. The purpose of our trip was to study the extent to which the situation of human rights under the Ferdinand Marcos regime had affected the ability of Filipino medical practitioners to carry out their professional duties and responsibilities. Our specific interest was to learn how that professional community had responded to the medical consequences of torture through documentation,

prevention, and treatment of its survivors. In addition, we were interested in learning what effect, if any, the 'February Revolution' of 1986, which brought Corazon Aquino to the Presidency, had on the way Filipino health professionals and their associations are dealing with human rights problems, and how they perceive their role *vis-à-vis* the new government. The Aquino government pledged, among other things, to implement a more equitable distribution of health services and promote greater respect for human rights. The Filipino Constitution of 1987 entrenches these goals. Our findings and recommendations were published in 1987 in *Health Professionals and Human Rights in the Philippines*.<sup>1</sup>

## THE DEVELOPMENT OF HUMAN RIGHTS CONSCIOUSNESS AMONG FILIPINO HEALTH WORKERS

In 1972 President Ferdinand Marcos wrecked Filipino democracy by declaring martial law, ostensibly to stem anarchy, lawlessness, urban terrorism and open rebellion by Muslim separatists and the military wing of the Communist Party—the New Peoples' Army (NPA). During the course of martial law (1972–81), the Philippines had no free press, no free elections for representatives, no union organising, and fear and disarray prevailed among vestigial opposition political groups. Virtually all partisan opponents of Marcos were jailed at one time or another, including the late Senator Benigno Aquino. Amnesty International estimated that in the first few years of martial law, over 50 000 persons were detained and held under emergency regulations without charge or trial.<sup>2</sup> Presidential decrees curtailed the rights of assembly, association and expression, and suspended the writ of habeas corpus.

President Ferdinand Marcos formally lifted the state of martial law on 17 January 1981. Even so, the extensive executive and emergency powers that accompanied the martial law period persisted in the form of the Presidential Commitment Order (PCO). In practice, the PCO continued the suspension of habeas corpus after 1981 by empowering the military and police to arrest and detain persons who were suspected of being a threat to national security. The order provided that persons could be held indefinitely without reference to civil judicial authorities. By 1982, Amnesty International estimated that over 1100 persons had been detained under PCOs.<sup>3</sup>

**The Case of Dr Aurora Parong, MD**

In 1982 a Filipino physician, Dr Aurora Parong, presented the first challenge to the legal validity of the PCO. Apprehended that year at her clinic in Bayombong, Nueva Vizcaya, the young physician was charged with providing medical care to patients whom the military found to be politically suspicious. In a habeas corpus petition filed before the Supreme Court, Dr Parong's lawyers petitioned the high court to overturn the Presidential Commitment Order. But the bench, all of whose members served at the pleasure of the Chief Executive, saw otherwise. On 20 April 1983, the Court gave way to the President by upholding the validity of the PCO. By giving Mr Marcos 'the supreme mandate as their President', the justices said, 'the people can only trust and pray that . . . the President will not fail them.'<sup>4</sup>

Dr Aurora Parong's courage in pressing her case to the Supreme Court, and the startling result of that case in revealing the loss of independence in the judiciary gave impetus to the first efforts by physicians to organise politically. Thus, it was in 1982, and not before then, that Filipino health professionals began to work collectively on behalf of human rights. Disheartened by the failure of professional health associations to confront the Marcos government on human rights matters, a handful of physicians, mostly young graduates of the University of Philippines in Manila, banded together to form the Medical Action Group (MAG). The group's aims were to speak out in defence of imprisoned colleagues and to provide medical care to detainees who had been tortured or were in poor health. Today MAG's activities span a wide range of issues including essential drugs, health care delivery in impoverished areas, the medical consequences of nuclear war, the documentation of torture and treatment programmes for torture victims.

During its first two years of existence, MAG encountered several obstacles in its attempts to gain access to detainees. For one thing, the group lacked adequate resources to dispatch physicians to remote areas where detainees were often in the greatest need of medical care and medicines. In some areas, local military commanders were unwilling to let civilian physicians enter detention facilities to examine and treat prisoners. In 1983, for example, MAG physicians in Manila were only permitted to attend to prisoners on three occasions. Government officials frequently deflected the medical group's requests for prison visits, claiming that such visits were under the

authority of the prison medical system or the International Committee of the Red Cross.

Despite these obstacles, MAG eventually opened offices in several provincial capitals and, through negotiations with regional government and military officials, reached agreements that would allow civilian physicians access to political detainees. But problems still persisted. MAG physicians and health workers who called attention to or treated victims of human rights abuse often left themselves open to reprisals for doing so.<sup>5</sup>

### **The Case of Dr Josephine Tan, MD**

The case of Dr Josephine Rances Tan, a young MAG physician who was imprisoned in 1985, illustrates the difficulties health professionals faced as a result of their human rights work. In 1977, Dr Tan graduated from the University of the East Ramon Magsaysay Medical Centre in Manila. Soon after, she returned to her hometown of Lucena, Quezon Province, where she served as a resident physician in a local hospital for two years. In 1981, Dr Tan spent a year as a paediatric resident at the Polymedic General Hospital in Manila. Two years later, she received an offer to practise medicine in the Middle East. But while she was waiting for her travelling documents to be processed, an event took place that radically changed Dr Tan's career plans: the assassination of Senator Benigno Aquino on 21 August 1983. 'After his assassination, I became politicized. It was an emotional thing. Here was this guy risking everything, and I was planning to go abroad.'

Dr Tan turned down the Middle East post, returned to Lucena, and established her own clinic. She also joined the Medical Action Group and several local human rights groups. In March 1984 a nun with the local chapter of the Task Force Detainees (TFD) of the Philippines, the leading domestic human rights group, approached Dr Tan and asked if she would minister to detainees held at the Quezon Provincial Jail and the local military base, Camp Nakar. Dr Tan received permission from the local military doctor to visit certain detainees. Among others, she attended to Vincente Ladlad, a labour leader who had been held in solitary confinement for a year. Requests for consultation by other detainees soon followed. She treated all kinds of detainees—political, civilian and military alike. In the early hours of 6 September 1985, the local police went looking for Dr Tan and eight other human rights workers. Dr Tan believes that

the arrest of the 'Lucena 9', as they were referred to in the Philippines press, was a direct attempt by the military to dismantle the network of human rights organisations in the Lucena area.

Three months after her detention—on 27 December 1985—Dr Tan was released from prison. Soon thereafter Colonel Santiago C. King of the Judge Advocates (military) Office at Camp Nakar petitioned Minister of Justice Gonzales to review the Lucena prosecutor's dismissal of subversion charges against the doctor. In May 1986, the Minister of Justice refused the Army's request to reinstate the charges and, in the process, set a precedent of broad importance to health workers intent on political neutrality in their professional work. Dr Tan's work, Minister Gonzales ruled, in no way constituted

overt acts of affiliating with or becoming a member of the CPP/NPA (Communist Party of the Philippines/New People's Army). Respondent, being a medical practitioner, may be called upon (according to internationally defined standards of medical ethics) to render medical assistance to anyone, without regard to religious belief, race, color, or any political or social inclination of persons in need of her services.<sup>6</sup>

In February 1986, after a revolutionary change of government, Corazon Aquino was inaugurated as President of the Republic of the Philippines. In March, she ordered the release of political detainees. Dr Josephine Tan was included in this order and three months later, according to Minister Gonzales' ruling, Dr Tan was finally cleared of any shadow of illegality and subsequent re-arrest.

## FILIPINO MEDICAL PROFESSIONAL RESPONSES TO HUMAN RIGHTS ABUSES

Filipino physicians and health professionals working with local human rights groups give mixed reviews to the role played by medical and health associations in defending imprisoned colleagues and condemning the use of torture during the Marcos years. The national nurses' association, they say, spoke out in defence of nurses who were harassed for their human rights activities or non-violent opposition to the Marcos government. Similarly, some provincial medical associations such as the Quezon Medical Society responded with appeals and petitions when their members were detained. But,

for the most part, their actions were taken without public support from the national body, the Philippine Medical Association (PMA).

In late 1985, however, the PMA did issue a statement urging then-President Marcos to release detained doctors into the custody of the association so that they could serve their patients.<sup>7</sup> To protect doctors, the PMA submitted to the National Assembly (Batasang Pambansa) a proposal providing stiffer penalties for various crimes committed against doctors and their patients. In addition, the PMA said civilian medical personnel should be allowed to cross police lines and checkpoints to reach or evacuate patients regardless of their political affiliation.

Apart from the 1985 PMA initiative, professional medical associations rarely, if ever, took a public stand condemning human rights abuses and the use of torture in the Philippines. Fear of governmental reprisals may partly explain this lack of action. Moreover, there is little evidence that military medical personnel transgressed their ethical responsibilities by participating in torture or using their professional skills and knowledge to design torture techniques. Even so, human rights groups now possess several testimonials in which former detainees allege that prison medical personnel often treated them with indifference or outright hostility. For example, Vincente Ladlad was detained for political reasons in 1983 and held in solitary confinement for two years and nine months. He later testified that in his first week of solitary confinement guards never allowed him to sleep and threatened him with 'salvaging' for failing to co-operate with his interrogators. On the sixth day, he ran a fever and was examined by a physician. After his examination, he testified, the physician turned to his interrogators and said 'Kaya pa Niya' ('He can still take it').<sup>8</sup>

By 1983, widening dissatisfaction with the Marcos government had resulted in frequent and often violent clashes between the police and anti-Marcos demonstrators in several cities. A year later, human rights groups throughout the country reported that arrests, 'disappearances', and allegations of torture had continued to rise. In Davao City on the southern island of Mindanao, for instance, the Task Force Detainees said that 104 out of 108 detainees arrested that year were tortured while confined at the Philippine Constabulary detention centre in the city. In response, human rights groups in the Davao City area launched an important and innovative institution which they called 'Quick Reaction Teams' in an effort to inhibit the use of torture.

The idea, says Free Legal Action Group lawyer Emelina Quintillan, was to create 'anti-torture teams', composed of professionals who would be dispatched to detention centres within 24 hours of an arrest, the period when torture was most likely to take place. 'We formed seven teams, each consisting of a doctor, lawyer, reporter, and two human rights workers. One team was on call for each day of the week.' A prompt examination of a detainee by a physician had the effect of putting military guards on notice that any later physical signs of torture or abuse would point to government responsibility for human rights violations. The reporter's role, according to Quintillan, an experienced human rights attorney, was crucial, as he or she would be responsible for publicising the arrest after the team's visit. Prompt news coverage of an arrest, the groups had found, was one of the most practical ways of preventing future abuse. Finally, the human rights workers were to serve as documentalists and to ensure that the detainee's family was immediately informed of the arrest. Quintillan believes the formation of Quick Reaction Teams in other countries where torture is a problem could prove useful.

The growing network of health professionals and institutions in the Philippines concerned about torture has made treatment accessible to many more victims than in the past. In January 1986, the Medical Action Group established the Philippine Action Concerning Torture (PACT), a project aimed at providing medical care and psychiatric counselling to former detainees and their families. Through a network of provincial chapters, PACT physicians receive patients, mostly torture victims, on referral from local human rights groups. In 1987, the project's medical staff was treating over 60 torture victims at clinics or local hospitals in Manila, Davao City, Iloilo and Lucena.

In addition to treating and counselling victims, PACT has launched a programme to educate physicians and other health professionals on how to recognise the physical and psychological after-effects of abuse. 'Ordinary doctors who aren't aware of the facts may not realize that they have torture victims on their hands', says the project's medical director and psychiatrist June Lopez. 'Political prisoners, on the other hand, due to embarrassment or fear, will not mention that they have been tortured.'

Shortly after its formation, PACT conducted a retrospective study of torture to identify the problems that torture victims encounter after their imprisonment and to devise means of alleviating the effects of these problems on both the victims and their families. The project's staff interviewed 33 former political detainees who claimed



they had been physically and psychologically abused while in custody.<sup>9</sup> The majority of the study subjects were adult males less than 35 years old. The medical team found that during 'tactical interrogation', the period shortly after arrest and detention, beatings were the most common form of assault. Some detainees reported that they were injected with drugs which caused them to lose consciousness. Women and religious persons reported that they were stripped naked and raped or otherwise sexually abused. Interrogators, the medical group found, also used psychological torture such as verbal threats, sham executions, deprivation of amenities such as toilet privileges and sleep, and prolonged isolation.

The PACT study revealed that the psychological effects of torture persisted long after most of the physical effects had disappeared. Some study participants reported suffering from nagging body aches, even years after their release from prison. 'They came to us bothered,' says PACT director and psychiatrist June Lopez. 'Physically, there was nothing wrong with them, but torture was the last thing they would relate their complaints to.' Even so, several of the study participants, Dr Lopez says, were reluctant to undergo psychiatric treatment.

'Filipinos have a strong tendency to somatize psychological stress', Dr Lopez explains. 'A reactive depression is almost invariably expected to produce such complaints as bodily pains, headache or malaise rather than verbal expression of sadness, guilt or worthlessness. It is not surprising, therefore, to observe that most of the present complaints of the torture victims we have seen revolve around somatic problems.'<sup>10</sup>

PACT's greatest challenge has been to help victims understand that their psychological reactions to the trauma of torture, whether manifested in severe anxiety attacks, insomnia, social withdrawal or suspiciousness, are natural responses to the perverse experience of torture. The project's psychiatric staff has identified factors helpful to torture victims in coming to terms with the experience of torture. For example, mental health providers need to be aware of the availability of psychosocial support 'such as positive family attitudes and non-judgemental responses from fellow detainees' in helping to alleviate many of the problems associated with abuse. Group discussion sessions where detainees meet to share their anxieties about adapting to life outside prison have helped to break down the barriers that have prevented those in need of mental health care from making use of these services.

**AAAS AND THE FORENSIC SEARCH FOR 'THE DISAPPEARED'**

President Marcos' suspension of habeas corpus in 1972 eliminated the most fundamental legal safeguard for protecting Filipino citizens against the practice of arbitrary arrest and subsequent 'disappearance'. Not surprisingly, after 1972 reports of the 'disappearance' of detainees became commonplace in the Philippines, particularly in rural areas. Some prisoners became 'salvaging' victims, their mutilated bodies found by the roadside or in shallow graves, while others reappeared in military detention camps after several weeks or months of interrogation and torture in 'safehouses'. A third category of prisoners, however, 'disappeared' after detention and were never seen again by their families, despite countless appeals to Marcos officials.

Amnesty International specifies that a 'disappearance' has taken place when (a) there are grounds to believe that a person (the victim) has been taken into custody by the authorities or with their connivance; (b) the authorities deny that the victim is in their custody or the custody of their agent; and (c) there are reasonable grounds to disbelieve the denial.<sup>11</sup> Crucial to Amnesty International's definition is the notion that a 'disappeared' person has neither been lost nor vanished. 'Living or dead', the organisation maintains, 'each is in a very real place as a result of a real series of decisions implemented by real people. *Someone* does know and, more importantly, is responsible.'

Philippine human rights groups estimated in 1987 that there were 619 detainees whose whereabouts and legal status were never publicly acknowledged by the Marcos government.<sup>12</sup> Ms Cecilia Lagman, president of the Families of Victims of Involuntary Disappearances (FIND), a private group, says that many relatives of the missing have accepted the real possibility that their loved ones are dead. But, she says, they will continue to press the new Aquino government for a full investigation into the fate of the 'disappeared', including the exhumation of graves believed to contain the remains of missing persons.

In late 1986, an international team of forensic scientists travelled to the Philippines to present a series of seminars on forensic techniques and procedures for identifying human skeletal remains. The team, assembled by the American Association for the Advancement of Science, was invited to assist in the government's investigations of human rights abuses by FIND and MAG and other human rights

groups. Several team members had been involved in the identification and determination of causes of death of the remains of the approximately 12 000 persons killed during military rule in Argentina between 1976 and 1983.<sup>13</sup>

The invitation to conduct the training came from President Corazon Aquino's Human Rights Committee, a government panel charged to investigate past and present governmental human rights abuses and to report its findings to the President. The Committee hoped that the training would prepare Filipino scientists for the task of determining the identities and location of hundreds of persons who reportedly 'disappeared' under the government of Ferdinand Marcos. Most were assumed to have been killed by military or paramilitary personnel and later buried in unmarked graves.

The academic course, held at the University of the Philippines College of Medicine, covered such topics as the application of forensic anthropology in establishing the identity of human skeletal remains, the use of forensic medicine to detect signs of physical torture, and the preparation and presentation of medico-legal reports. Thirty-four Filipino scientists, health professionals and human rights workers attended the workshop.<sup>14</sup>

The Manila-based Families of Victims of Involuntary Disappearances believes that most of those missing were killed and later buried in remote areas of the country. In 1986 the Presidential Committee on Human Rights instructed provincial health officers 'to inform the Committee of any unidentified bodies they have examined . . . and to provide the committee with pertinent medical certificates'. For example, local authorities in Bacoor, Cavite, a town south of Manila, found numerous graves along the sides of a rural road where the remains of 'disappeared' persons are believed to be buried. This area was notoriously called the 'killing fields' because of the large number of bodies which had been dumped in the area in previous years.

The AAAS delegation and the Filipino course participants visited several grave sites. The participants, under the instruction of an American forensic anthropologist, Dr Clyde Snow, and the Argentine forensic anthropology team conducted several exhumations. The remains were then taken to the medical school where participants examined them to determine cause of death and their identities.

As was the case in Argentina, the twin goals of such forensic work were to make positive identifications of the missing for the sake of surviving loved ones, and to develop data useful for future possible criminal prosecutions of human rights abusers. Three members of the

AAAS teaching team were directly involved in investigations in Argentina, in co-operation with Argentine courts, to establish the location and identities of the 'disappeared' in that country. Thus the project, featuring Argentine–Filipino collaboration with an observer from the Inter-American Human Rights Institute, involved an unusual and constructive exercise in South-South 'technology transfer'.

## HUMAN RIGHTS EDUCATION AND THE FUTURE OF THE RIGHT TO HEALTH

In a meeting with an Australian delegation of the International Democratic Union, President Corazon Aquino spoke in 1986 of the need for a national refresher course on the workings of democracy. She said, 'Our people have to unlearn what Marcos taught them about politics and government',<sup>15</sup> and stressed that her government, committed to human rights, non-violence and due process, would never resort to legal shortcuts for convenience. President Aquino issued Executive Memorandum No. 24 in July 1986 requiring the teaching of human rights at all levels of education. Further, all police and military units were directed 'as an integral and indispensable part' of their training to undertake 'the study of human rights'. Memorandum 20 specified that the continuance in office of all police and military enforcement personnel 'shall depend on their successfully completing the course offered' under the human rights education programme.

On 4 February 1987, a new Constitution was promulgated for the Republic of the Philippines. The Constitutional Committee of 48 distinguished Filipinos charged with writing a new plan of government, in its summer 1986 deliberations, took human rights and human rights education seriously. They adopted a section for the new Constitution which specifies: 'The State shall enforce the teaching of human rights in all levels of education, as well as in non-formal training, to persons and institutions tasked to enforce and guarantee the observance and protection of human rights'.

The Constitution of 1987 has strong protective provisions against abuses of personal security. It sets clear-cut guidelines against the practice of 'hamleting' or arbitrary arrests by the military in the absence of a lawful order of a court or as provided by law. In the same vein, the use of military safehouses or secret detention places is outlawed. 'No torture, force, violence, threat, intimidation or any

other means which vitiates the free will shall be used . . .’ against any person under criminal investigation. Also banned is the use of ‘physical, psychological or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under subhuman conditions’. Mandated to be set by law are penal and civil sanctions for violations and ‘compensation and rehabilitation of victims of torture or similar practices, and of their families . . .’ Thus the charter specifically deals with the medical consequences of torture by mandating rehabilitation of victims.

A strong section of the new Constitution of 1987 is devoted to social justice ‘to enhance the inalienable right to dignity’. Its provisions deal with land distribution and labour policy, agrarian and natural resource reform, problems of the urban poor and housing, education, women, indigenous peoples and ‘the people’s right to health’. Health rights are to be protected and promoted by a comprehensive health care programme. Health care ‘shall make essential goods and social services available to all citizens at affordable cost, with priority for the needs of the disadvantaged, the sick, women and children, aged and disabled’.

Among the beneficiaries of the new Constitution are groups organised to deal with human rights violations, and with health rights. A tribute to human rights groups is found in two sections of Article III on the ‘rights of people’s organizations’, designed to institutionalise peoples’ power.

Sec. 15. The State shall respect the role of independent people’s organizations to enable the people to pursue and protect, within the democratic framework, their legitimate and collective interests and aspirations through peaceful and lawful means.

People’s organizations are bonafide associations of citizens with demonstrated capacity to promote the public interest and identifiable leadership, membership, and structure.

Sec. 16. The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged. The State shall, by law, facilitate the establishment of adequate consultation mechanisms.

In the spirit of ‘people’s power’ and in formulating the 1987 charter of government, Constitutional Commissioner Minda Luz Quesada sought input from medical task forces set up nationwide. The

'consultation services' of 'Task Force People's Health' took the form of multiple 'concept papers' on health policy. Published by the Health Action Information Network (HAIN), the resulting 'participatory research' directly influenced the programmatic context of the Social Justice provisions of the New Constitution. Moreover, Commissioner Quesada successfully added to the proposed Constitution a provision calling on all educational institutions, among other values, to teach the duties of citizenship and develop moral character and 'health consciousness'.

In a 'People's Health Manifesto' published on 28 May 1986 the Medical Action Group proclaimed that 'People's power already demonstrated in our country can be applied in the solution of health problems'. This means that people must be educated in health matters and must not be 'mere passive recipients or consumers of health goods and services but active participants in decision-making processes at all levels'.<sup>16</sup>

In its People's Health Manifesto, the Medical Action Group called for the reorientation of the education of health professionals toward a 'more holistic perspective of health and disease'. Additionally, the Medical Action Group affirmed the principle that health professionals and workers are 'ethically bound to the promotion of health . . . and the preservation of life regardless of sex, class, race, creed or ideology'.

Where health education for professionals is concerned, Minister of Health Alfredo Bengzon in the Aquino government has conceded that professional ethics courses taught to medical workers have heretofore been devoid of human rights content.<sup>17</sup> Because of this recognised deficiency, Dean Alberto Romauldez, Jr, of the University of the Philippines, Manila, College of Medicine invited Dr June Lopez of the Medical Action Group to work on plans for medical school ethics classes with human rights content. Planning for such training was the topic of an address on 5 August 1986, sponsored by the AAAS, to the Association of Deans of Philippine Medical Colleges on 'Human Rights Components in the Teaching of Medical Professional Ethics'. The argument was presented to assembled Deans from all over the country that 1978 UNESCO guidelines should be taken into account in achieving President Aquino's mandate for human rights education at every level.<sup>18</sup>

The UNESCO World Congress developed appropriate educational guidelines for the teaching of human rights. Among them was that the incorporation of human rights materials into professional school

training should emphasise the lessons implied in case studies drawing from real indigenous human rights issues and cases. Examples for the Philippines might be the cases of: (1) Dr Aurora Parong and Dr Josephine Tan, who invoked internationally defined medical ethical standards to give medical services to those in need despite their political affiliations; (2) the case of Dr Bobby de la Paz, who chose to work in a remote militarised area of Samar Island with the rural poor, thereby sacrificing his life in the course of his clinical work to an unidentified military assailant; and (3) the case of Dr Lourdes Palma, who documented detention camp cases of torture under martial law with the result that disciplinary action was taken against responsible detention camp officers.

Additionally, the UNESCO Congress recommended that human rights teaching should emphasise the specific terms of domestic and internationally defined human rights norms and standards. Where health rights are concerned, relevant provisions of the Universal Declaration of Human Rights encompass: (1) the right to health (Article 25); (2) the professional needs of physicians in terms of the right to privacy (Article 12); (3) human rights violations with medical consequences, such as the prohibition on torture (Article 5); and (4) general principles of the equality of all rights unaffected by any form of discrimination (Articles 2 and 7).

The Republic of the Philippines is a treaty-signatory to the International Covenant on Economic, Social and Cultural Rights (1966). By its terms the right to health (Article 12) should be ensured through the reduction of the stillbirth rate and infant mortality and the healthy development of the child; improvement of all aspects of environmental and industrial hygiene; prevention, treatment and control of epidemic, endemic, occupational and other diseases; creation of conditions which would assure to all medical service and medical attention in the event of sickness. Thus, the Covenant has greater detail than does the Universal Declaration.

Article XVIII of the 1987 Philippines Constitution is correspondingly addressed to 'Social Justice and Human Rights'. Among its provisions are the following on the right to health:

Sec. 11. The State shall protect and promote the right to health. To this end, it shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health services, and other social services available to all the people at affordable cost. There shall be priority for the needs of

the underprivileged sick, elderly, disabled, women, and children. The State shall endeavor to provide free medical care to paupers.

Sec. 12. The State shall establish and maintain an effective food and drug regulatory system and undertake appropriate health manpower development and research, responsive to the country's health needs and problems.

Sec. 13. The State shall establish a special agency for disabled persons for their rehabilitation, self-development, and self-reliance, and their integration to the mainstream of society.

Sec. 14. The State shall protect working women by providing safe and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realize their full potential in the service of the nation.

## MONITORING PROGRESS IN PROMOTING THE RIGHT TO HEALTH

In any analysis of the right to health in the Philippines, a serious social science assessment might appropriately be expected to provide a detailed profile of health indicators and a presentation of quantitatively specified trends in morbidity and mortality rates where illness and longevity are concerned. However, any such attempt to review health statistics for the Marcos year is bound to be hazardous and unreliable. In an article entitled 'The State of the Nation's Health', Dr Michael Tan, MD, concluded that during the Marcos years from 1965 to 1985, there had been a 'deterioration in the health situation of low income families who form the majority of the population'.<sup>19</sup> But the precise specification of this trend is nearly impossible to document, Dr Tan argued, because the data presented by the yearbooks of *Philippine Health Statistics* are highly questionable. According to Dr Tan, government health statistics have been 'to some extent doctored because of [their] politically volatile nature'. The premise underlying Dr Tan's critical view was articulated by a World Bank analysis in 1984 reporting that 'while poverty is generally a politically sensitive subject, it is even more sensitive in the Philippines than in most borrowing countries'.<sup>20</sup> According to the international lending institution, such sensitivity is due to the fact that the Marcos years of martial law (1972–82) have been 'justified considerably on the basis of their benefits to the poor'. In short, Philippine Health Statistics since 1972 have been 'doctored' to show annual progress so as to



legitimise martial law and the supposed 'trade-off' of economic and social 'gains' at the expense of suspended civil and political rights.<sup>21</sup> The melancholy result of the Marcos policy of self-serving reporting is that there is no reliable data base to profile health conditions in the Philippines.

The Constitution of 1987, precisely in response to such fraud and deception in the reporting of statistics on basic human needs, supplies a potent antidote. The new Bill of Rights (Article III) in Section 6 provides that:

The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.

This guarantee, unique among democratic systems, proffers a serious basis on which to hope that statistical reporting on the health, nutrition, longevity, morbidity and mortality of the Filipino people will be reliably compiled and accurately published in the future. Moreover, the vitality of groups such as the Medical Action Group and the Health Action Information Network of the Philippines can reasonably be expected to ensure that such data are dependably developed and honestly presented in the future.

In its 1987 report on *Health Professionals and Human Rights in the Philippines*, the AAAS presented a recommendation urging a 'watch-dog' role for human rights and health groups where health statistics are concerned. The American Association for the Advancement of Science Report urged:

Since planning for the health needs of the country requires reliable information, adequate resources should be provided and methods developed for the collection of accurate epidemiological data and information on health conditions throughout the country. In addition, nongovernmental health groups should be encouraged to evaluate official health data and to make their findings known to the general public.<sup>22</sup>

## CONCLUSION

In a speech to the Philippines Alliance for Human Right Workers in 1986, the pioneer human rights organiser Sister Mariani Dimaranan,

of the Philippines Task Force Detainees, called upon the assembled groups to think strategically about the future of human rights in the Philippines. She asserted that even with a sympathetic government such as that of President Corazon Aquino, progress in human rights will continue to depend in the future upon the relentless work of non-governmental organisations. In Sister Mariani's view, the need for continued efforts in the post-Marcos era derives from the fact that 'there are still thousands and thousands of Filipinos who were tortured, salvaged, massacred, and hamletted and whose cases now cry out to the high heavens for justice'.<sup>23</sup>

To achieve such justice, Sister Mariani argued, human rights groups must prioritise their efforts. First, they must broaden the human rights movement to *teach* the widest number of people 'about the full dimensions of human rights' including the causes of human rights deprivation. Second, human rights groups must systematise 'the *documentation* of information about human rights violation'. The urgency of this task emerges from the needs of the new Presidential Committee on Human Rights as it 'gears up for the hearing and investigation of human rights cases'. Third, support must be organised for the victims of human rights violations to include their *rehabilitation* and reintegration into society. Fourth, human rights groups in the Philippines must collaborate with one another and build *international ties* with overseas human rights advocates 'in the developed countries and the Third World'.

In 1986, Sister Mariani was appointed by President Corazon Aquino to membership on the permanent Human Rights Commission. The four priorities that Mariani laid out for human rights groups in 1986 have been widely acclaimed and adopted by scores of human rights groups as their strategic perspective for the future.

That Filipino human rights groups have moved quickly to build networks for collaboration and to rationalise their priorities is indicative of their maturity, pragmatic commitment, and new-found legitimacy and popularity. It deprecates not at all from the leading role of Filipino non-governmental organisations in their human rights work to conclude that in the four tasks underscored by Sister Mariani—developing teaching materials, documenting human rights problems, supporting rehabilitation efforts, and building ties of international solidarity—the AAAS has lent a helping hand. The AAAS has promoted Filipino reform of professional ethics curricula for health workers, documented 'good doctor/bad doctor' cases involving human rights, supported the work of MAG and PACT, and

provided international solidarity in the material terms of facilitating forensic technology transfer. In so doing, they have breathed life into Article 22 of the Universal Declaration of Human Rights which urges entitlement to health rights based, in part, on international co-operation.

## NOTES

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# **3 The World of Work, the Right to Work and Worker Organisations**

INES VARGAS

## INTRODUCTION

Generalisations are always dangerous, and this holds for generalisations concerning working situations as well. Societies with different cultures, histories, levels of economic development and social and political conditions will necessarily present different contexts for the rights of workers. I venture here to address the problems which arise between the declared principles of the ‘right to work’ as formulated in international instruments and the realities labourers have to face. I maintain that some rethinking of established approaches should occur; especially do we need to rethink the assumption that ‘the right to work’ is the same as the right to a job. I will try to make the same contrast between freedom of association and the right to organise in trade unions.

I have limited this chapter to an examination of the situation of workers and workers’ organisations in the Western industrialised countries and in Latin America, although a few general views are presented in relation to developing countries. But even narrowing the focus to these regions, one is still confronted with numerous factors and problems—social, political and technological. New social patterns have emerged and increasing tensions are arising. It would go beyond the scope of this chapter to deal with all these issues. However, it should be borne in mind that they too are determinants for labour rights and workers’ conditions.

## THE WORLD OF WORK

Throughout history, attitudes and approaches to work have been based on varying views. The meaning of work itself and the norms and values concerning its role and relation to society have determined, for

example, the place of the slave in slavery, the serf in feudalism and the wage labourer in capitalism.<sup>1</sup>

We need not turn only to history to observe the different conditions of working life. Rather, we need only compare the possibilities and positions of workers in developing countries with those of workers in industrialised countries to see obvious discrepancies. Moreover, in the Third World the situation means not so much *living* on an income but, for large segments of the population, trying to *exist* on meagre incomes.

In industrialised countries, it has long been customary that a worker has a job at a fixed site, belongs to a union and pays taxes. In the Third World, those with a place to work are a privileged minority. The majority make a living as best they can: selling food, newspapers and cigarettes in the streets, taking care of cars, shining shoes, and countless other such activities. These activities are not backed by social security, and there is no money to be earned if the worker falls sick. Thus, losing a job means facing a life of misery and destitution: this is due primarily to the lack or inadequacy of social security arrangements, and secondly to the insecurities of the labour market and the existing massive reserve army of labour. This critical demand for employment means that wages are kept low, often below the existence level. The instability and insecurity of poverty thus forces many of a family's members to work, *including children*, if the family is to have the possibility to survive. A study prepared by the International Labour Office (ILO) clearly states: 'It is not the family that should carry the blame for the fact that the child has to work, since the courses of action open to the family are few in number: it is the society as a whole that is at fault. Like all social problems, child labour is not an isolated phenomenon, nor can it ever be so'.<sup>2</sup>

Work may not be the most prominent factor in determining life. But it is compelling to note how changes in technology and the organisation of production do modify the lives of workers and the structure of the communities in which they live. There are certain constants in the role of work, even though there are differences among countries and societies: wherever it occurs, our work activity defines who we are, where we spend most of our waking hours, how we feel about ourselves, and how we see the reality of daily life, our surroundings and society. Conversely, the negative effects of being out of work, not only for the labourers but also for their families, is a constant. As A. Sinfield points out in a study of unemployment, 'It is therefore important to emphasise the continuing feelings of stigma and shame expressed by many of the unemployed'.<sup>3</sup>

Even in the industrialised countries major problems confront workers. The world of work is changing rapidly, particularly because of the impact of new technologies. New micro-technologies are eradicating far more jobs than they create. According to Richard Swift, three out of four currently existing jobs could be automated away by the end of the century.<sup>4</sup> Computer-assisted forms of production are becoming commonplace. Microprocessor technology not only offers possibilities of incorporating a much wider range of human skills and intelligence into machinery at minimal cost; for the first time it also brings the techniques of the assembly line—standardisation, speed-up, task fragmentation—into office work.<sup>5</sup> Therefore there exists a very real possibility of large-scale displacement of the labour force, involving hundreds of thousands of clerical jobs. On the other side, even in high-technological companies, the labour force is divided: between skilled, well-paid professionals and technical staff on the one hand; and routine, poorly-paid manual and clerical workers on the other.

And in industrial countries the 'workplace' is no longer so clearly defined. The Director of the ILO states: '[Typical employment relationships] include for example temporary work, short-term work, casual work, homework and various kinds of subcontracting arrangements. Self-employment is also becoming more common, partly as an alternative to open unemployment and, more positively, in preference to wage employment'.<sup>6</sup>

Thus, the focus of the debate about 'work' and the future of 'work' has changed. Since the late 1960s, and throughout much of the 1970s, sociological, psychological and labour research was undertaken on questions related to job design. Such studies were based largely on the 'Quality of Working Life' movement, with discussions on 'work humanisation', 'self-realisation at work', 'post-industrial societies', etc. In developing countries, however, issues of this kind have rarely been touched upon. In the Third World, priorities have always been bounded by linkages between poverty, unemployment and under-employment. Today there is the additional general problem of technological changes radically altering production processes and deeply affecting the labour market.

It is not the purpose of this paper to proceed with the current discussion about the nature of work, its meaning and framework. Analyses of 'work' in relation to the contradictions of the total system of production are extremely interesting, in their own right. But our aim here is rather to show that the 'right to work' should be analysed

in a broader dimension than that provided by the employment/unemployment framework of the conventional labour force approach.<sup>7</sup> To conceptualise the situation of the right to work—as is often done—in relation to GNP levels and a labour force approach based on the notion of economic activity is to overlook essential realities of the situation as experienced by the majority of the world's workers. These are the workers in the developing countries.

## THE RIGHT TO WORK CONTEXTUALLY

Traditionally, the term 'work' has been generally related to 'job' or employment. However, it is clear that there are activities which, though not directly providing material means for survival, are also 'work': for example, housework and activities carried out by unpaid family workers. In developing countries, in fact, a great percentage of the labour force is *not* engaged in wage employment. Lyn Squire estimates that the majority of workers in the Third World are self-employed or unpaid family workers, with a smaller percentage of the total labour force engaging in wage employment. While there is considerable variation among countries, Squire's analysis reveals clearly that wage employment accounts for a far larger proportion of the labour force in the industrialised countries than in the developing ones.<sup>8</sup>

In my analysis of wage employment for selected OECD and Latin American countries for a period around 1980, estimates also show that wage employment is far more significant in the labour force in the OECD countries than in Latin America. However, I also concluded that it was not possible to consider the proportions of wage earners as representative in terms of all work activities. For example, Costa Rica ranked first with a 75.3 per cent of wage earners: but this was of *an economically active population of only 34.7 per cent*. In other words, Costa Rica registered about 65 per cent 'inactives'. In Mexico, there were registered 62.3 per cent wage earners of an active population of 28.8 per cent. Among the OECD countries, Sweden ranked first, with 90.2 per cent wage earners with an activity rate of 52 per cent. In the case of Sweden, social security systems provide for those of the population who are not in activity. This, however, is not so in Latin America. Neither the 65 per cent 'inactive' population in Costa Rica or the 71 per cent 'inactives' in Mexico are covered by social security. The same holds for the 68 per cent 'inactives' in Chile.



Certainly, among these there are some too young or too old for carrying out labour activities, some disabled and women without labour experience. However, the major part of them are not inactive: they generally belong instead to the work force called 'informal'.

It is difficult to gauge such a phenomenon as the 'urban informal sector'.<sup>9</sup> Peter Stalker in the *New Internationalist* has estimated that six Latin American and two Asian cities have between 40 and 60 per cent of their urban work force in the 'informal' sector.<sup>10</sup> In Latin America some studies have calculated that in recent decades, the informal sector has grown to embrace about 30 per cent of the urban population in the region. This sector absorbs a major share of rural labour migrating to the cities, and also those who do not find opportunities in the modern urban sector.<sup>11</sup> These are workers who feed and clothe much of the population, selling food and all sorts of goods in the street, but also supplying services to the 'formal' sector. In Latin America, the activities of this sector include not only services, but also to an important extent industrial activities, albeit in very small units. This sector is characterised by low levels of productivity and a low capacity for accumulation. Some three-quarters of Latin America's poor are to be found in the informal sector. Living standards are of absolute poverty, marked by varying degrees of deprivation in nutrition, health, housing, education and other services.

Partial data from PREALC on six Latin American countries prior to 1982 showed that the urban informal sector is expanding.<sup>12</sup> In 1985, it was calculated that this sector accounted for 32 per cent of all urban employment. It was also estimated that for 1980–85, incomes in this sector fell by approximately 27 per cent.<sup>13</sup> The consequences of this are disturbing. Workers in this sector have great difficulties in tackling such problems because of the overall uncertainty of their situation and the impossibility of access to credit through formal institutions. Importantly, the informal sector generally provides the main source of income for its workers. Women from low-income households in particular depend largely upon informal sector activities for making a bare living. As the Director of PREALC points out: 'There was thus a transfer of income from the poor to the very poor, operating as a sort of unemployment insurance financed by the less well-off and generally widening the gap between them and the rest of society.'<sup>14</sup>

Thus, interpreting the 'right to work' as merely the right to have a

job is less than adequate. Working life is a highly complex reality which cannot be properly understood by considering only the employment/unemployment situation. However, this identification of 'work' with employment is widespread. Labourers who are without work are 'unemployed', and those with an independent activity 'self-employed'. This distortion is aggravated by the complexity of work relations, ranging from wage labour in a free-choice employment situation, under just and favourable conditions, to over-exploitation and subjugation. However, what is always present in the situation is the conflict between capital and labour and the changing conditions of workers and their unions. In this conflict, work relations are power relations; and the way they manifest themselves in, for example, 'labour problems', affects the different experiences of work. Finally, how work relations are institutionalised and practised depends, in turn, upon the prevailing political and economic climate.

Owing to 'non-wage' labourers, capital has now managed to avoid paying for all the reproduction of the work force. At the same time, as Thompson and others have pointed out, workers are divided and separated from each other. This of course affects their possibilities for realising their potential—not only by management, grading and payment, but also by geography, culture and other forms of stratification such as ethnicity and gender.<sup>15</sup> Edwards argues that race and sex function to create divisions among workers. He gives examples of American Blacks used as strike-breakers and of women used to separate clerical from manual occupations.<sup>16</sup>

Official unemployment figures are merely the tip of the iceberg. Although unemployment is a major issue in most countries today, statistics have little to say about the realities of underemployment, of hidden unemployment, and of the *discouraged workers*<sup>17</sup> whose number is increasing daily. This basic situation is found in developed and developing countries alike. It is against this background that the rest of this chapter focuses on the quantitative situation of the right to work and freedom of association.

## INTERNATIONAL STANDARDS ON THE RIGHT TO WORK AND FREEDOM OF ASSOCIATION.

The 'right to work' has received recognition in international law and in the constitutions, basic charters, legislation and other official documents of many nations. Perhaps the best illustration is found in

the Universal Declaration of Human Rights adopted and proclaimed by the General Assembly of the United Nations in 1948, which specifies in its Article 23:

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration, ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions, for the protection of his interests.

This is amplified in the International Covenant on Economic, Social and Cultural Rights adopted in 1966. Its Article 6 provides:

1. The State Parties to the present Covenant recognize the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.
2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programs, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Through the framing of the ILO Conventions and Recommendations (the International Labour Code), international labour standards formally illustrate various facets of the right to work and the range of policies, programmes, legal aspects and administrative arrangements involved in implementing this right. Two main ILO instruments concerning the right to work (even if they do not expressly mention it) are the Employment Policy Convention, 1964 (No. 122), and Recommendation, 1964 (No. 122). These provide the basis for the ILO's World Employment Programme, consisting mainly of large-scale research, especially upon the links between employment promotion, income distribution and the international division of labour. At the 69th and 70th Sessions of the International Labour Conference, discussions led to the adoption of the Employ-

ment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169). This Recommendation contains advice and suggestions to member States concerning means for attaining the right to work, emphasising the promotion of full, productive and freely chosen employment as provided in Convention and Recommendation Nos. 122.<sup>18</sup>

Closely related to the 'right to work' is the role played by workers' organisations. Unionisation is one of the most important mechanisms available to labour in its struggle to achieve its aims, to overcome its difficulties and to have the possibility of expressing demands and improving social conditions.

International principles and provisions concerning the *worker's rights to organise* consist partly of provisions concerned with freedom of association, but also of principles and patterns referring to freedom of association in the trade union sphere. The Universal Declaration of Human Rights, besides recognising the right of all individuals to 'freedom of peaceful assembly and association (Art. 20), specifies that everyone has the right to form and to join trade unions for the protection of his interests'. These principles have been developed further not only in the International Covenant on Civil and Political Rights (Art. 22) but also in the International Covenant on Economic, Social and Cultural Rights (Art. 8) as an economic and social right. In this last document, the State Parties even undertake to ensure the right to strike, provided this is exercised in conformity with the laws of the country concerned.

As to freedom of association and trade union rights, the ILO has promoted the adoption of international standards as well as the establishment of a special machinery to deal with the issues involved. The basic instruments adopted concerning such international standards are the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Rural Workers' Organisations Convention, 1975 (No. 141) and the Labour Relations (Public Service) Convention, 1978 (No. 151).<sup>19</sup> The Special machinery for safeguarding these rights is the Fact-Finding and Conciliation Commission and the Committee on Freedom of Association.

## WORKING LIFE AND WORKERS' ORGANISATIONS

Despite the principle of the right to work as found in international law and embodied in the constitutions of most of the world's nations,

opportunities for earning a living are becoming more and more scarce for more and more people, both in the industrialised countries and in the Third World. This is true not only in terms of getting and holding down a job, but also in relation to managing to earn enough to satisfy the basic needs of the individual and the family.

For workers in the formal sector of the economy, systems of job fragmentation and routinised work—with the assembly line as the extreme example—have been spreading, also in the developing countries. Workers play a reduced role when their task consists of mechanical and repetitive movements, especially because such work entails no sense of a larger logic. This system also impedes interrelations with the other workers at the workplace; workers are required to submit either to direct control, the pace of the machine and/or bureaucratic control.

There do exist, of course, enterprises based on high-trust strategies and low levels of supervision. Concerning such work relations, Thompson argues that the most far-reaching job enrichment schemes involve mobilising applied social science to the management of human resources within production. He also emphasises that control implies hierarchy, so the degree of worker 'discretion' is subject to the dictates of the aims of the enterprise—and chief among these aims will be profitability.<sup>20</sup>

What is even more worrying is that jobs are not expanding. With the new technologies, production might rely on far less human labour—some manufacturing and service jobs have already been replaced by robots. On the other side, part-time and temporary employment is increasing, in both industrialised and developing countries. This reflects an imbalance between desirable job security and the possibility of having labour activity. Usually these labourers have to accept low-skilled, low-paid jobs. Generally, they do not enjoy the same benefits as full-time workers, such as overtime allowances and seniority increments. Often they are denied sickness benefits, and their social security coverage tends to be slight or non-existent. Another problem is that the presence of such workers often splits the work force in a plant into different categories of workers, with little solidarity for each other. Part-time and temporary workers are rarely unionised, so they lack recourse to worker organisation for furthering their interests. At the same time, this situation endangers unions, faced with the real danger of representing only a diminishing elite of workers in full-time jobs.

Concerning the industrialised countries, the main immediate

problem is unemployment. For a variety of reasons, it seems unlikely that the OECD countries will continue to sustain the annual growth rate registered since 1983. However, even within this trend, high unemployment rates have persisted. In December 1986, over 31 million people were unemployed and others had given up trying to enter the labour force—this corresponded to an OECD unemployment rate of 8.25 per cent.<sup>21</sup> If Europe is taken separately, the unemployment rate is much higher, reaching about 11 per cent, or 19 million persons. Unemployment is concentrated, occurring especially among youth and among adults with long-term unemployment. Projected youth unemployment for 1987 is 16 per cent in the 12 OECD countries. With regard to long-term unemployment, more than 45 per cent of the unemployed in Europe in 1985 had been out of work for over a year. Another aspect of this situation is the apparent growth of clandestine (or submerged) labour activities.<sup>22</sup>

The situation is even gloomier in developing countries. With slower rates of economic growth in recent years, and with negative rates in some cases, Third World unemployment, underemployment and poverty have increased dramatically. In the early 1980s, it was estimated that some 450 million people in the Third World (about 14 per cent of their total population) were living in extreme poverty and another 800 million (25 per cent) in conditions of absolute poverty.<sup>23</sup> Today the situation is much worse. In its medium-term plan for 1982–87, the ILO estimated that 30 million jobs would have to be created each year in the developing countries simply to absorb the potential work-force.<sup>24</sup> Realities have lagged far behind. Even though evidence indicates deceleration in population growth from the rates originally estimated at the beginning of the decade, the overall conclusion is that pressure on the labour markets in the developing countries is not likely to decrease. This forecasts a massive employment problem, further aggravated by labour-saving technological progress. This will worsen the situation of the working poor. Furthermore, the ILO estimates this pressure will not begin to let up until world population begins to stabilise at the turn of the twenty-first century.

Chile provides one example of the social consequences of the labour situation. Here, more than 30 per cent of the labour force suffers from some form of under-utilisation. Studies of malnutrition among children, drug addiction and prostitution among young people, together with reports and testimonial evidence about miserable occupations disguising unemployment, reveal a dramatic increase in

these problems. Deterioration of the quality of life had been experienced by most Chilean workers. A generalised worsening of nutritional and housing standards, health attention and sanitary services coupled with less leisure time has produced a deterioration which finds dramatic expression in the increase of morbidity for those privileged workers who still have jobs. Moreover, demand for increased productivity and the instability of the work situation have resulted in higher illness rates among workers.<sup>25</sup> There seems no reason to assume that this situation is not widespread on the continent.

One important consequence suggested by this brief analysis is that the current crisis has a strong impact on freedom of association and the right to organise in trade unions.

In industrialised economies among part-time and temporary labourers, the degree of unionisation is very low or non-existent. On the other hand traditionally high unionised sectors, such as old-line manufacturing industries in steel, autos, rubber and textiles, are providing a decreasing share of the nation's employment. Old plants are becoming modernised and new ones being built. In all of them, jobs are and will be open, not only in high technology but also in increasing number in business, financial, electronic and scientific services. Labour in these emerging industrial services, however, is much more difficult to organise, because the number of the employees is fewer, and these are better educated with considerable improvement in their working conditions.

This trend does not exclude the existence of low-skill, routinised work in these workplaces, as has been already pointed out. If changes in the economic structure with rapid industrial transition and high levels of unemployment are also taken into account, trade unions will undoubtedly face many serious problems. The Director of the ILO has recognised this: 'Trade union membership has declined in some countries, sometimes quite significantly, and the union's bargaining position in labour relations has been weakened as a consequence'.<sup>26</sup> This is especially true in the United States, where increased vulnerability has meant that workers in heavily unionised industries have been put under heavy pressure to accept wage cuts in the name of competitiveness. Mass layoffs have also undercut the ability of unions to defend even job security.<sup>27</sup> A serious weakening of solidarity in the labour movement itself has also been registered.

Issues addressed in collective bargaining have also changed in the industrialised countries. Subjects such as employment security, labour market flexibility, work organisation and working time have

come into discussions in addition to the traditional wage issue. In western Europe, even though collective bargaining still tends to take place at the level of the industry sector, we see a new trend towards increasing negotiations at the level of the individual enterprise emerging. The Director of the ILO believes that this has happened because several issues of structural adjustment, such as employment protection, higher productivity and new technologies, can be more easily solved at the level of the individual enterprise. But he also raises the question of whether this might mean a weakening of worker solidarity at national and industry-wide levels.<sup>28</sup>

In the developing countries, we find a totally different situation as to freedom of association and the right to organise in trade unions. State intervention has generally been present, and restrictions on the rights to organise, to bargain collectively and to strike are commonplace. The Director of the ILO has expressed concern about this: 'The conclusion to be drawn from this brief overview of the situation in both industrialised and developing countries is that the principles of freedom of association and of "free" collective bargaining as laid down in ILO Conventions No. 87 and 98 and as interpreted by the ILO supervisory bodies, are no longer fully observed in a growing number of member States'.<sup>29</sup>

## TRADE UNIONS IN LATIN AMERICA

In the Third World it is in Latin America that the trade union movement has developed furthest. Even though Latin American nations are thus not representative of all developing countries, worker organisation there may show the path which other trade unions' development might take in the Third World.

Poverty, unemployment and underemployment are closely linked in Latin America, and the situation of its workers is problematic. Within this vast continent, however, there exist differences among countries. Economic diversity reflects political and social conditions which have been structured by historical and cultural factors, including differential political power, differences between social groups and organisations, and the relations among them and the State in the various Latin American societies.

In Latin America growth has been uneven and by no means equally distributed throughout society. Repressive forms of social control for subjugating labour have long existed to prevent the participation of



broadly based organisations at all levels of mobilisation and decision-making. Among these, I will mainly refer to trade unions, but in a Latin American context this concept should be taken with certain flexibility. Generally, legal and political measures have inhibited the establishment and development of strong and independent trade union movements. This has meant that the evolution of workers' movements has been rather limited. The organisational processes of the working classes and their social organisations in general have taken on different forms in various countries. Accordingly, it is not unusual to find certain organisations, such as national confederations of workers, accomplishing *de facto* the objectives of workers' unions without being formally recognised as such. On paper, the right to establish trade unions is set out in the laws of all Latin American countries; indeed, it is usually incorporated in and guaranteed by their constitutions—even the constitution passed by the Chilean dictator Pinochet recognises it. In practice, however, one mechanism used by dominant social groups to maintain their privileges is systematic infringement of the freedom of association and the right to organise in trade unions, as well as the right to strike.

The predominant characteristics of the various Latin American labour movements relate to ways taken by the industrialisation process in each country and also to the specific features of the pre-industrial situation. Thus, in Argentina, Chile, Mexico and Uruguay, workers' movements have developed in ways different from those elsewhere on the Continent. This has been due mainly to the influence of European migrant workers arriving in the last century, many of whom brought with them anarchist and socialist ideas. In countries like Colombia, where immigration was not so important during the past century and the first decades of the present one, the shape and development of trade unions have been very different. This has also been true in countries with a primarily agricultural economy. Also, this situation has influenced the alternatives selected by labour for its struggles and its social and political weight.

In Latin America, the state has played an important role in the development of the above dynamics. Following the crisis of the 1930s, laws and labour codes began to be approved—but as concessions granted by the state. This was a protectionist and paternalistic legislation, with detailed regulations to govern individual and collective industrial relations. These were further destined to become instruments for controlling and manipulating workers by the state, according to the needs of the dominant social groups.<sup>30</sup>

Thus, historically the state has regulated labour and controlled the workers' movement. Where the state has feared that its control may not suffice to stop labour upheavals, it has strictly repressed labour. This has occurred even in states with populist governments. The intensity of political repression over the past decades in many Latin American countries is well known. Worker organisations have been major targets.

For the region as a whole and especially for those countries where repression has been worst, this period has been characterised by free market economic models. That there is a common pattern here is far from coincidental, since achieving the objectives of such an economic policy requires that labour be controlled and 'disciplined'. But controlling and disciplining labour has not taken on the same form in the various Latin American countries, nor in the different historical periods. Usually the state has used channels for labour conflict as a tool for subjugating labour. Similarly, the wage variable has been used to achieve government economic policies. The policies of stabilisation and adjustment provide a good example here. At the same time, the fragmentation of labour markets has strengthened the control which capital has over workers, yielding sharp differences in possibilities of finding work, the type of work activity, labour intensity, length of the working day, and incomes.

In countries ruled by military dictatorships, efforts towards subjugating labour have gone further. There, even the controlled, existing channels of communication between the state and labour have been eliminated. State attempts to discipline labour have taken many forms, *including massive violations of human rights, imprisonment and persecution*. Through systematic repression of the labour force, military regimes have tried to eliminate channels of popular participation and gain control of popular as well as trade union activities.

In Latin America, the centralisation of capital has been accompanied by a concentration of workers in modern industries. At the same time, a dispersal rather than a concentration of workers has been registered in numerous smaller industries. Both capital and labour in small- and medium-sized industries have shown lower profit rates and have had lower wages than in large-scale industry. Wages have been higher in larger and more modern enterprises because here labour has been able to organise into relatively strong unions. This has been largely due to legislation that generally has made the establishment of unions conditional on a minimum number of workers

involved—usually 20 or more. In turn, this means that the possibility of organising has been effectively eliminated for workers in the majority of enterprises. With the new technologies and the expansion of service industries, unionisation will be even more curtailed, primarily because these service industries employ far fewer workers. We should note that unionisation within agricultural workers is almost non-existent. This is also true of the growing urban informal sector.

Repeatedly, unionised workers have rebelled against miserable wage and employment conditions. This unrest inspired the growing labour agitation of the 1970s and 1980s. Protests have been especially marked among the best paid workers, for example, those in the automobile, air transport, electricity, metallurgic, steel, petroleum, nuclear energy and telephone industries. Several studies<sup>31</sup> have indicated that workers in modern enterprises and better-paid workers evince solidarity concerning such general issues as the role of the trade union in society and the importance of worker political parties. These research findings indicate the existence in these sectors of a political attitude involving consciousness, union and class awareness, all of which make workers here the more combative sector of the labour force. These workers have mobilised around demands related to union rights: but they have also transcended these limits, to raise political and social issues regarding the situation of the population, with special concern for the plight of agricultural workers. In Argentina, Brazil, and Uruguay, all of these worker groups were involved in the demands for a return to democracy. In Chile, this still continues, with those worker organisations suffering repression and with many of their leaders in prison or exile.

Every decade has seen greater numbers of wage earners moving in and out of the ranks of the unemployed, and also in and out of the urban informal sector. With the current situation of crisis and the expanding reserve army of labour, job insecurity is increasing; even workers with permanent jobs know that their position is precarious. All of this has helped to break down the barrier separating unionised and non-unionised workers. The new militancy is not limited to syndicalised workers, but is extending to other segments of the population. Moreover, the current status of workers, and the lack of authentic trade union life—without debates and genuine participation—cannot fail to have repercussions on the unions. In order to survive, unions have had to go beyond functions strictly concerned with labour problems. When the surrounding political context

endangers their possibilities of free operation by state repression, then trade unions are required, on the one hand, to foster channels and forms of expression differing from traditional ones, and on the other, to use as a façade the framework of the labour structure formally recognised and authorised to fight for change in repressive systems.

All of the above has led to different forms of worker resistance and new tendencies have emerged in the Latin American labour movement. It is important to bear in mind that Latin American workers are nearing a boiling point, with worker organisations playing a crucial role despite their weaknesses, fragmentation and divisions.

That is why the struggles carried out by workers' movements are not restricted to the purely traditional labour aspects, but include other expressions of dissatisfaction. These include worker groups participating in protest civic demonstrations (such as the Colombian *Paros Civicos* and the *protests* in Chile) to express solidarity with other sectors, as well as participation in opposition fronts and political groups or parties.

Contradictions do exist within the Latin American labour movement. The highly political orientation of labour organisations and their objectives reflects clear differences in their respective activities. Governmental, Communist, Social Democratic, Christian Democratic, Reformist or revolutionary unions will necessarily be characterised by different practices, concepts and demands. This is true also of populist and nationalist unions. However, this is but one aspect of the overall situation. The urgency of the conditions prevailing on the Latin American continent has prevented such a contradiction from exhausting the labour movement in all its various manifestations.

The above should help to explain the great difference between Latin American and European or North American trade unionism. It should also be clear how inadequate it is to assess trade unionism in Latin America using concepts and models from countries with completely different experiences. The Latin American workers' movement must be understood within the particular context in which it has developed and evolved. The same observation is valid for its future development.

Trade unionism, however, whether in industrialised countries or in developing ones, does have a common feature: unionisation is the most important mechanism available to labour to achieve its interests vis-à-vis capital. Capital fears the labour movement and will try to dominate it by any means possible.

## CONCLUSIONS

This paper has attempted to outline the increasing contradiction between declared principles on the 'right to work' and hard realities facing the majority of those who have a labour activity. We have also mentioned the difficulties of job seekers in finding work, especially if they are young or long-time unemployed. These contradictions are particularly dramatic in the Third World. To take an example given by Craig L. Litter: 'In Mexico City—a city swollen with job-seekers—the labour market for building workers consists of a pavement line of undernourished men each with a card proclaiming "carpenter", "brick-layer" or "labourer". Every day they stand, hoping to be purchased and put to work'.<sup>32</sup>

Having a conventional full-time job is beginning to become the privilege of a minority of workers. Yet the desire to obtain paid work seems deeply inrooted in the labour force. If this traditional concept remains in the near future, with high unemployment rates and new technologies, we cannot but expect increased frustration and tensions. This is especially so because the prospects of massive job creation look bleak. Meanwhile, whether workers like it or not, more flexible approaches to work relations are now common in the industrialised countries. Jobs are getting so scarce that a worker must take them wherever and however possible, even on a part-time schedule or temporary basis.

Informal work is expanding everywhere, especially in the Third World. One cannot but wonder at the true relation between 'the right to work' and the fatigue, discouragement and meagre income which are the lot of those who sell used clothing or food door-to-door, or for the child shining shoes in the cities. 'Employment' and 'work activity' begin to give the impression of being ventures in separate spheres: the former a sort of privilege generally protected by unionisation and social security; and the second unprotected, with no possibilities of unionisation and, in some cases, being even illegal.

Thus, the employment-related concepts included in the labour force approach yield only a narrow frame for analysing the magnitude of the problems involved. The heterogeneity of work realities, such as those of underemployment, do not fit in such a frame. Neither do the discouraged workers, whose number is increasing daily.

A major structural problem is the probable evolution of the world work situation, with changes in labour markets and the influence of new technologies. All of these are already producing changes. It is

becoming less and less relevant to speak for class solidarity and with common demands. Both on a national level and, even more, on an international level, the social structures of working classes are segmented and fragmented. What can we expect in common between a highly specialised and well-educated worker in the advanced electronic industries of the industrialised world, and the person selling newspapers or cigarettes in the streets of Bogota? Thus the basis for broad trade union solidarity is also disappearing. Instead we see the development of professional organisations to take care of the interests of their members only.

In the developing countries, poverty has increased, as have unemployment and underemployment. From the data on the economic and social situation of these countries, we can clearly see that there is very little chance for the 1000 million or more people currently living in absolute poverty to improve their lot in the foreseeable future. The same holds for their working activities.

In the more industrially advanced Third World countries, among them some Latin American ones such as Argentina, Brazil and Mexico, the movement towards technologically sophisticated industries has deepened the uneven segmentation of labour. Computerised technology in the modern service sector has added to this heterogeneity of the work force, with displacements from the formal sector to the informal one. This has also meant that the already weak trade unions have yet more problems to face. Economic and skill differentiation and displacement of labour, however, have not been the main obstacle to trade union action. Authoritarian and repressive political structures, austerity policies and restrictions on their structures and activities have generally been the main problem. In Latin America, economic policies, whatever the regime in power, have always prevailed over workers' rights and trade union rights. But the changing conditions of working activities and the increase of the informal sector are also transforming societies. Social mobility *out of* and *within* the 'working' sectors is acquiring special characteristics, where social violence may well erupt.

In the Western industrialised countries, freedom of association and the right to organise are not formally curtailed. However, the question remains: are trade union structures adequately adjusted to new conditions and future developments?

## NOTES

1. See further the various views of 'work' as a human activity, an ideology and a value system in M. Aglieta, *Regulation et crise du capitalisme* (Paris: Calman-Levy, 1976); Felice Battaglia, 'Work', in Philip P. Wiener (ed.) *Dictionary of History of Ideas* (New York: Charles Scribner's Sons, 1973) vol. IV, pp. 530-5; Harry Braverman, *Labor and Monopoly of Capital* (New York: Monthly Review Press, 1974); Harry Braverman, 'The degradation of work in the twentieth century', *Monthly Review*, 34, 1 (May 1982) pp. 1-13; M. Burawoy, *Manufacturing Consent: Changes in the Labour Process under Monopoly Capitalism* (Chicago: University of Chicago Press, 1979); Richard Durkheim, *The Division of Labour in Society* (New York: Free Press, 1964); Richard Edwards, *Contested Terrain: The Transformation of the Workplace in the Twentieth Century* (New York: Basic Books, 1979); Harry Magdoff, 'The meaning of work: A Marxist perspective', *Monthly Review*, 34, 5 (October 1985) pp. 1-15; Frederick Winslow Taylor, *The Principles of Scientific Management* (New York and London: Harper, 1911); Studs Terkel, *Working* (New York: Pantheon, 1972); Paul Thompson, *The Nature of Work. An introduction to debates on the labour process* (London and Basingstoke: Macmillan, 1983); Ines Vargas, *The right to work and the situation of workers* (Oslo: PRIO Report 15/85, 1985).
2. Elias Mendelievich (ed.), *Children at Work* (Geneva: ILO, 1979) p. 5.
3. A. Sienfield, 'Being out of Work', in Craig R. Litter (ed.), *The Experience of Work* (Hampshire: Gower House in association with The Open University, 1985) p. 191.
4. Richard Swift, 'Useful Work or Useless Toil', *New Internationalist*, 166 (December 1986) p. 5. His assertion is based on Barry Sherman, *Working at Leisure* (London: Methuen, 1986).
5. Paul Thompson, op. cit. at note 1, p. 3. In this book, Thompson describes and evaluates the writings on the labour process, maintaining that conceptions of *work in general* tell us little about changes in social relations, skills and machinery.
6. ILO, *The Changing World of Work: Major Issues Ahead*, Report of the Director General, International Labour Conference, 72nd Session 1986 (Geneva: 1986) p. 26.
7. The labour force approach is based on the notion of economic activity. 'Economically active' are those persons above a specified age who have worked for pay during a particular reference period (frequently one week), or who have been looking for work during the same period. This approach was formally introduced to the ILO at the Sixth International Conference of Labour Statisticians in 1947. The definitions have been reviewed at later Conferences, as have methods implementing the corresponding resolutions. The labour force approach raises many problems, even if its use has been formally recommended by the ILO.

8. Lyn Squire, *Employment Policy in Developing Countries. A Survey of Issues and Evidence* (New York: Oxford University Press, World Bank Research Publication, 1981).
9. I deal here with the 'urban' informal sector because it is perhaps the most significant phenomenon in the situation of 'work' in Latin America.
10. Peter Stalker, 'Street Wise', in *New Internationalist*, op. cit., at note 4, p. 8.
11. See PREALC, *Despues de la Crisis: Lecciones y Perspectivas* (Santiago, Chile: Documento de Trabajo No. 250, 1984). See also Victor E. Tokman, 'Unequal development and the absorption of labour: Latin America 1950-1980', in *CEPAL Review*, 17 (August 1982) pp. 121-33; 'The employment crisis in Latin America', in *International Labour Review*, 123, 5 (Sept.-Oct. 1984) pp. 585-97; 'Adjustment and employment in Latin America: The current challenges', in *International Labour Review*, 125, 5 (Sept.-Oct. 1986) pp. 522-43; and Ines Vargas, op. cit., at note 1; and *The situation of workers in Latin America* (Oslo: PRIO report 9/85, 1985).
12. PREALC, op. cit., at note 11, pp. 24-5; Tokman, 'The employment crisis in Latin America', op. cit., at note 11.
13. Tokman, 'Adjustment and employment in Latin America: The current challenges', op. cit., at note 11.
14. *Ibid.*, 534.
15. Thompson, op. cit., at note 1, pp. 178-9.
16. Edwards, op. cit., at note 1, 196.
17. Discouraged workers are unemployed persons who, feeling that their possibilities of finding work are doubtful, have ceased looking for it and thus are not registered as economically active.
18. The ILO Employment Policy Convention, 1964 (No. 122) provides that ratifying States should declare and pursue an active policy designed to promote full, productive and freely chosen employment.
19. This Convention and its Recommendations have been supplemented by the Workers' Representatives Convention, 1971 (No. 135) and with the new international standards to promote free and voluntary bargaining adopted with Convention 154 in 1981.
20. Thompson, op. cit., at note 1, pp. 150-1.
21. See OECD, *Employment Outlook*, September 1986.
22. The terms 'clandestine' or 'submerged' refer to employment that is not declared for tax or other purposes.
23. ILO, *The Changing World of Work: Major Issues Ahead*, op. cit., at note 6.
24. ILO, *ILO medium-term plan 1982-1987*. Report on programme implementation 1978-79 (Geneva, 1980).
25. Magdalena Echeverria, *Enfermedades de los trabajadores y crisis economica, estudio de casos, Chile 1970-1980*. Programa de Economia del Trabajo, Academia de Humanismo Cristiano, Programa de Investigaciones Sociales sobre la Poblacion en America Latina (PISPAL) (Santiago, Chile: Interamericana, 1984).



26. ILO, *The Changing World of Work: Major Issues Ahead*, op. cit., at note 6, p. 39.
27. See Robert Kuttner, 'Unions, Economic Power and the State', in *Dissident* (Winter 1986) pp. 33–44.
28. ILO, *The Changing World of Work: Major Issues Ahead*, op. cit., at note 6, p. 43.
29. *Ibid.*, p. 41.
30. For a general discussion of trade unions in Latin America see Francisco Zapata, *El conflicto sindical en America Latina* (Mexico: El Colegio de Mexico, Centro de Estudios Sociologicos, 1986). See also Ines Vargas, *The Situation of Workers in Latin America*, op. cit., at note 11.
31. See F. Cortes and A. Jaramillo, 'Relaciones de poder en los conflictos laborales', in *Revista Mexicana de Sociologia*, XLII, 2 (April–June 1980) pp. 799–833. See also Elizabeth Jelin and Juan Carlos Torre, 'Los nuevos trabajadores en America Latina: una reflexion sobre la tesis de la aristocracia obrera', in *Desarrollo Economico*, 22, 85 (April–June 1982) pp. 3–23; and Silvia Sigal, *Attitudes Ouvrières en Argentine* (Paris: Rapport d'enquête, Centre d'études des mouvements sociaux, 1974).
32. Craig R. Littler, 'Introduction: the Texture of Work', in *The Experience of Work*, op. cit., at note 3, p. 2.

# 4 Human Rights and Trade Unionism in Africa: The Nigerian Experience

ADEBAYO OKUNADE

The linkage between human rights and trade unionism is theoretically and pragmatically a valid one, for trade unionism is a form of social action through which workers' rights are supposedly protected. The relationship between human rights and trade unionism is that between 'end' and 'means'; trade unionism is one of the mechanisms for ensuring human rights. If trade unionism champions workers' rights, the relationship between human rights and trade union rights is that between 'a whole' and 'a part'. At a more general level trade unionism has the capacity for promoting political rights, as it has the potential to check excesses and abuses of political power. Trade unionism can also compel the state to fulfil its fiduciary responsibility to the citizens.

The relationship between human rights and trade unionism, however, is not automatic. In reality the extent to which trade unionism can promote human rights depends on a host of factors—for example, the issues involved, the union's strategies, responses of management, toleration of trade unionism by the government, and so on. Trade unionism may or may not promote human rights. It may in some cases be dysfunctional to ensuring trade union rights or human rights in general. Human rights and trade unionism are inextricably linked, but the relationship can be positive or negative.

Trade union rights according to Wogu Ananaba are:

Rights established by law or collective agreement or both, guaranteeing, among other things, the legal existence of trade unions, the right of individual workers, individual unions, and national trade centres to form and join trade unions or trade union federations and confederations of their choice without interference from administering authorities, the right of workers to bargain collectively with their employers and to participate in discussion on . . . policies which affect their lives; and the right of workers to withdraw their labour (go on strike) in furtherance of their claims.<sup>1</sup>

Workers organise themselves into unions in order to pursue the enjoyment of the rights indicated above.

Although the fundamental and enduring concern of a trade union should be the welfare of the workers, nevertheless it has societal-wide responsibilities. In the realisation that labour and management are integral parts of the whole nation, it has been suggested that 'a trade union must concern itself increasingly with the broader question of social and economic policy'.<sup>2</sup>

A trade union may not confine its visions to its traditional responsibility; it might 'include within its perspective the relationship between trade union demands and the creation of a firm foundation of solid social progress and dynamic economic growth'.<sup>3</sup> In essence trade unions frequently play an immense role in socioeconomic advancement, which ultimately protects and enhances their overall position in society. To Adefope, 'the strategy of their involvement and indeed their potential contribution to development planning can be multifarious. These include the organisation of or support for programmes'.<sup>4</sup> Also trade unions can help to effect the vital transformation of the process of development 'from a movement from above into a movement from below', carried forward by the momentum of people's will.

In the lesser developed countries unions are confronted with very complex and exacting problems. For example, the Constitution of the Trade Union Congress of Ghana states its purposes to include, in part,

- (2) to build in Ghana a society in which social and economic justice prevail,
- (3) to advocate provision of social services by the state and local authority . . . , [and]
- (7) to support national effort of Economic Development.<sup>5</sup>

In most lesser developed countries trade unions are concerned with far more than immediate 'bread and butter' unionism. Trade unionism is normally directed to non-industrial goals that can lead to the attainment of certain social and political ends. Generally put, then, trade unionism officially works for social justice and national progress, thus promoting the greatest good of the greatest number.

In spite of the above, labour movements are sometimes seen as hampering government programmes in developing countries.

Governments in the lesser developed countries seem to agree that human rights generally, and especially trade union rights, do hamper development in general terms. To some 'they are luxuries intended for the developed economies of the world' and of no relevance to developing countries of Africa. The proponents of this view normally suggest a policy of wage restriction, moderate social legislation and a certain degree of government control over trade union activities. This view ignores the position approved by the United Nations that in the process of development every segment of the population has a vital role to play. Obviously trade unionism constitutes one such force.<sup>6</sup>

Moreover, there is a persuasive argument that trade unions perform an important service to the nation:

- (1) trade unionism can help to integrate individual workers of developing societies to industrial work; and that,
- (2) through active participation in the economic and social life of the nation, and particularly through promotion of the required institutional adaptation, trade unions can provide a considerable stimulus to the process of development.<sup>7</sup>

Thus unions link the work force to goals of economic development. They can also promote national integration. The trade unionism which led to the massacre of defenceless coal miners in Enugu (Nigeria) in 1946 could be said to be a catalyst to intensive nationalism in addition to consolidating trade unions and changing the relationship between the workers and management in a way favourable to the workers.

In sum, while unions normally work for labour rights, unions can contribute to the general good. Allan Flanders has observed that 'there is nothing selfish or slightly disreputable about unionism, it is an essential part of the democratic process' capable of promoting human rights.<sup>8</sup>

## HUMAN RIGHTS AND TRADE UNIONISM IN AFRICA

The development of trade unionism in Africa is a logical consequence of the transformation of African social structures via industrialisation, urbanisation and monetisation of the economy. This is not to say that trade unionism did not exist in traditional African societies. Africans, as Emiola has argued, had their associations of craftsmen in

villages and big cities, with strict rules to regulate their trades and the relationships, obligations and rights of members.<sup>9</sup> Modernisation merely transformed the principles underlying these older associations into a better organised system of trade unionism.

Trade unionism has changed remarkably in pattern and style from what it used to be, especially since the attainment of independence by most African states. Indeed, the achievement of independence created a crisis in government and trade union relations in Africa. As Michael F. Lofchie and Carl G. Rosberg, Jr. rightly explained the crisis,

the major ingredients in this crisis are a belief among African political leaders that unions must now relate themselves to the problem of creating new national societies and the assumption that the national government will determine what form this relationship must assume.<sup>10</sup>

The trend in Africa today is for governments to institute some form of state control on trade unionism. In the thinking of most African leaders, trade unionism is good only in so far as it is an instrument in the hands of the government.

This explains why in many African countries the main limitation to trade unionism is the political control exercised over them by the government. Trade unionism is 'brought under government and made more or less subservient to its overall policies'.<sup>11</sup>

Trade unionists were and are victims of numerous coercive actions, such as imprisonment, while some are in exile because they have displeased their home governments. Also, trade unions have had their right to strike outlawed, and in some cases they face threats of or actual proscription or de-registration. Moreover, in an attempt at weakening trade union leadership, splits are encouraged, despite the Organization of African Unity's resolution calling for national unity of trade unions.

The trend in Africa is undoubtedly in marked contrast to the situation during the colonial era, especially its dying days, when trade unions enjoyed a high degree of autonomy from African political movements. The same trade unionism which aided the dislodgement of colonialism and in some cases filled a political vacuum when political parties were banned, as in Kenya, is not now accepted without suspicion by African governments.

The relationship between trade unions and African governments

must be understood within the realities of Africa: one party states, strong executives, underdevelopment, and most importantly political instability. They are in varying degrees responsible for the unimpressive level of human rights and trade union rights manifest in the 1980s.

Charles Humana's survey of human rights on a country-by-country basis is helpful in understanding the state of human rights and trade unionism in Africa. It not only confirms the appalling human rights record of the continent but also indicates the hostility of African states to trade unions.<sup>12</sup>

With particular reference to trade union rights, that study reveals that only four (Morocco, Nigeria, Zimbabwe and Senegal) of the 15 countries with complete information were rated as 'moderately free' or 'most free'. The same was true for freedom of association, except Morocco which had a 'severe/restrictive' rating. One wonders how trade unionism could be expected even on a moderate level if freedom of association is abridged.

Excepting Algeria and Egypt, only countries with trade union rights or freedom of association had a tolerable level of human rights, although not all of them signed and ratified the Covenant of Civil and Political Rights. The exception in the case of Algeria and Egypt could possibly be attributed to the supervening socialist ideology in the former and the state of emergency in the latter.

In respect of other African countries assessed in summary form because of insufficient data, the situation was more discouraging. In Angola, which is a one-party socialist state, trade unionism is 'controlled and forbidden', while in the case of Guinea, also a one-party socialist state, trade unions were a political arm of the government and did not enjoy any independence. In Madagascar, a one-party state, trade unions which are not affiliated to acceptable political groups suffer harassment; while in Rwanda, the Constitution permits the establishment of unions and the right to strike, but in practice there are no unions.

Lastly, in Libya, an Islamic socialist state, the state of human rights and trade unionism is best related to Colonel Gaddafi's statement that 'It's a matter of honour to jail or liquidate the enemies of the authorities'. The situation there is such that since it is a 'Republic of the Masses', trade unions and local committees are pressed to participate in workers' control and management, and, following state policy, are attempting to achieve a fusion of national socialism and orthodox Islamic state. Judging from Humana's study, one can safely conclude that the state of trade unionism in Africa is awful.

Michael F. Lofhie *et al.* have given three explanations for the trend in post-colonial African trade unionism.<sup>13</sup> The explanations are essentially a summary and restatement of official government positions from the perspective of African leaders such as 'the primacy of economic development', the 'need to consolidate and stabilise political authority' and the 'differing role trade unions are expected to play in a post-colonial setting'.

Of particular importance is the third explanation, which is predicated on a broad historical and comparative perspective of trade unions. It is stated that the sort of culture on which trade unionism thrives 'has not yet emerged in Africa'. So, unlike the Anglo-American model of trade unionism which was preceded by industrialisation and cultural transformation, in Africa trade unions 'not only preceded full industrialisation but all other social changes in the West have accompanied it'.<sup>14</sup>

As a result trade unionism in Africa started in the earliest phase of economic development without the supporting ethos. Unlike its counterpart in the West, trade unionism in Africa 'must play a substantially different and more varied role than their Western counterparts . . .' Therefore, it is held that,

As opposed to a Western union which performs an almost exclusively 'consumptionist' function, . . . African unions if they are to be effectively involved in nation building, must play a broad 'productionist role'. That is they bear responsibility for increasing overall economic output while accepting conditions of austerity, so that the entire society may benefit.<sup>15</sup>

But given the fact that the goals of trade unionism in many developing countries including African states appear to remain those of 'claim-type', 'opposition type' or 'consumptionist type', trade unionism is usually perceived by African leaders as a problem.

This leads to a related point, which hinges essentially on the nature of post-colonial African states rather than the origin of trade unionism. African states are faced with many socioeconomic and political developmental problems, coupled with people's high aspirations. These latter were encouraged by such pre-independence slogans as 'Freedom for all, life more abundant' of Obafemi Awolowo of Nigeria, and 'Seek ye first the political kingdom and all other things shall be added' of Kwame Nkrumah of Ghana. This dangerous combination makes governments unwilling to tolerate 'disruptive' social groups such as free trade unions.

Contrary to the position of African leaders, human rights and trade unionism can be catalysts to rapid development. Furthermore, attempts at, or actual, suppression of trade unionism can only be counter-productive in the long run, as the 'foundation for industrial peace', according to Adefope, can only be strengthened by fair labour practices.<sup>16</sup> In circumstances in which working conditions are poor and workers are too badly organised or unorganised (by design) to effect development, absence of crisis would only be an indication of misery and poverty.

The situation in Africa ignores the real meaning of development. It is necessary to state that national development is not simply economic development viewed in terms of a nation's Gross National Product (GNP) and Gross Domestic Product (GDP). It also entails social and political modernisation and sees man as a subject of development.

National development has been explained by some seven propositions which are considered central. These are that,

- (1) the central purpose of development is the realisation of the potentialities of the human person in harmony with the community;
- (2) the human person is the subject and not the object of development;
- (3) both material and non-material needs must be satisfied;
- (4) respect for human rights is fundamental;
- (5) the opportunity for full participation must be achieved;<sup>17</sup>
- (6) the principle of equality and non-discrimination must be respected; and,
- (7) a degree of individual and collective self-reliance must be achieved.

From the above it is clear that the conception of human rights and development in Africa is faulty as now practised. Economic progress and nation-building are impossible without the enjoyment of human rights, especially trade union rights.

Omer Becu seems to have emphasised this point when he writes that

. . . the social, economic and political development in any country depends largely upon the existence and indeed the degree of strength and political independence of the trade union movement.



Where the trade union is non-existent, weak or subjugated to any power whether from within or without, either economically or politically, there will be poverty, hunger, slavery and total lack of human rights and freedom.<sup>18</sup>

Theo Van Boven also observes that

A development strategy based on political repression and the denial of human rights might contribute to the realization of economic objectives but could never lead to full and genuine development.<sup>19</sup>

The hostility to trade unionism in Africa cannot be justified on the basis of the permissible limitations, and their restrictions cannot be justified by the principle of necessity or reasons which to Humana are 'necessary when a whole nation is trying to create a better society', a situation in which 'real needs' could justifiably take precedence over 'ideal needs'.<sup>20</sup> African states, despite their anti-trade union and anti-human rights posture, are still very much undeveloped and disunited, with no indication of the direly needed common bond emerging. Even with repression of unions they remain very unstable and show no indications that a better society is emerging.

## HUMAN RIGHTS AND TRADE UNIONISM IN NIGERIA

Trade unionism has been a significant part of Nigeria's history despite the fact that the various labour unions in Nigeria have not been united for collective action. Until 1978, when the Nigerian Labour Congress (NLC) was inaugurated by the Federal Government, trade unionism lacked central coordination. Instead, there were disparate labour centres professing varying ideologies and affiliated to different international labour unions, some of which were religious. In general the history of trade unionism in Nigeria since independence is, in a real sense, the history of Nigeria's political, economic and social development.

The origin of trade unionism in Nigeria is not different from the rest of Africa. It is a product of colonialism and its accompanying developments. With the inception of modern trade unionism came new labour legislation regulating activities among unions, employers' organisations, and government. These laws have undergone significant

changes since the Trade Union Ordinance of 1939 which gave formal recognition to organised trade unions in Nigeria.

Apart from the legal recognition of trade unions, the Enugu Coal miners' strike in 1946 gave great impetus to the development of trade unionism and industrial relations in Nigeria, as it led to increased awareness of trade union rights and the obligations of employers. Between 1939 and 1948, Nigerian workers were able to get some of their grievances redressed through concerted action. For various reasons workers' unity and effectiveness were short-lived. Trade unionism was weak when Nigeria achieved its independence in 1960.

Independent Nigeria saw some labour legislation in the conduct of trade unions and in government reaction to their activities. All of this varied over time. From independence to the inception of the first military regime in January 1966, there were indications of liberal trade unionism in Nigeria. Barely three weeks after independence, Nigeria became a member of the ILO and ratified a backlog of Conventions. The Federal Government also declared that:

It is the . . . policy of the Government to foster and encourage the development of sound, independent and responsible trade unions on democratic lines and to preserve the rights of the trade union movement to develop freely; any restrictions placed on the right will infringe the freedom of association which Government seeks to preserve.<sup>21</sup>

The 1963 Republican Constitution, like the 1960 Independence Constitution, included a freedom of association clause along with the right to form or belong to trade unions and associations.

Despite the avowed liberal policy of President Balewa's regime, certain developments and activities of the regime affected trade unionism negatively. Although the Balewa government at independence professed a policy of non-alignment, in reality the government was pro-West. The effect of this was that the pro-West posture was extended to labour practices, especially in the area of trade union recognition and international affiliation.

Balewa's government supported the capitalist-oriented Trade Union Congress of Nigeria (TUCN), but refused to patronise the Nigerian Trade Union Congress (NTUC), a socialist trade union led by Michael Imoudu. Balewa also discriminated against the World Federation of Trade Unions (WFTU), the International Socialist Labour Movement. On the other hand, the Federal Government

placed at the disposal of the International Conference of Free Trade Unions (ICFTU), which was the union of Western capitalism and neo-colonialism, all the organs of the Federal Government.<sup>22</sup>

Ideological and religious divisions, and discriminatory government favouritism, did not deter an alliance—a temporary one of course—of all trade unions as they formed a Joint Action Committee (JAC) of Nigerian Trade Unions between 1962 and 1964. This alliance was prompted by the disappointment of the unions concerning their expectations of a much better standard of living. For this reason, coupled with the corruption of mismanagement under Balewa's government, the Nigerian labour unions under JAC made some wage demands which went unmet, resulting in a general strike on 27 September 1963.

Following the one-day strike, the Morgan Commission of Inquiry was set up to consider issues of interest to workers. When the Government failed to make public the Morgan Report, the JAC decided to stage a demonstration and a strike by 1 June 1964 against the Government's handling of the Report and its ban on public meetings. Demonstrations were scheduled in Lagos. The decision to demonstrate was significant because the workers knew the probable consequence, but decided to defy the law. The demonstration, which was met with police brutality, left Alhaji Adebola, its leader, with a fractured arm and a battered head in the scuffle with the police. Despite this, the strike continued.

The subsequent release of the Morgan Report on 3 June, in the Government's bid to contain the strike, added 'insult to injury', for the Government refused to pay the wage rates and salary scales recommended. It was not until after the futile attempts to break the strike by threats and victimisation that the Government attempted to negotiate an agreement with the JAC, which was signed on 29 June to JAC's satisfaction. Shortly after this, the JAC split, with each faction joining a different political party for the 1964 general election.

Trade unionism took a completely new direction from 1966 and 1967. Following the secession bid of the Eastern Region from Nigeria on 30 May 1967, the unions in the East renounced their affiliation with Lagos and were drawn into the Biafran (as the Eastern Region was called) Trade Union Federation from June 1967. Certain other developments before the secession bid especially in respect of the 15 January and 29 July coups really affected Nigeria's trade unionism.

With the advent of the military in Nigeria's politics since 1966,

trade unionism in Nigeria became subjugated to statutory controls of a higher order. In general terms, the military attempted unsuccessfully to drive trade unionism underground.

The restrictions which began during the second half of 1967, when the Nigerian Civil War started, seemed initially justified in view of the abnormal political situation, necessitating a state of emergency. In the Government's bid at militarising the system, trade unions were not left out. The Government tried to enforce industrial peace by several decrees.

The other Labour Decrees under the military, namely the Trade Unions Act of 1973, Labour Act of 1974 and Trade Disputes (Essential Services) Act 1976, are equally instructive on the state of trade union rights under the military. Of particular interest is the 1973 Act which, contrary to the Republican Constitution, prohibited certain persons from joining unions. It also empowered the Minister of Labour to specify other persons (mainly armed and security officials) that could not belong to trade unions.

Similarly, the Trade Disputes (Essential Services) Decree No. 23 of 1976, Trade Disputes (Amendment Decree) No. 54 of 1977 and Trade Disputes (Essential Services) (Amendment Decree No. 69) of 1977 made it illegal for any public employee undertaking any of the services in the strategic sector of the economy to join trade unions. This was meant to prevent undue hardship to the health and general well-being of the community and to keep the economy on course. To this end, the decrees restricted the freedom of workers in such sectors to strike, while the President can by proclamation proscribe a recalcitrant trade union.

Earlier, the Banking (Amendment) Decree 1975 empowered the Head of the Federal Military Government to proscribe 'any trade union any of the members of which are employed in a licensed bank' if he was satisfied that the union had engaged in acts calculated to 'disrupt the economy of the country'.

All the above decrees ran counter to the expectation that the end of the Civil War would usher in a relaxation of the restrictive and emergency provisions of the 1968 and 1969 Decrees. The Decrees which were still in force during Nigeria's Second Republic (1 October 1979—31 December 1983) and to date would appear to be a violation of the freedom of association provisions of the 1979 Constitution.

The repressive labour laws under an autocratic military government ought to have been reviewed or amended in conformity with the spirit and standards of the 1979 Constitution before the military

handed over power to civilians. The 1979 Constitution indeed empowered the legislature to modify any existing law 'as may be necessary to bring it into conformity with the provisions' in the Constitution, but nothing was done. But in *Osawe and others v. Registrar* the High Court of Benin City in 1981 declared the Trade Union Act (1973) as of no effect, an affront to the country's experiment in constitutional democracy and a violation of freedom of association—hence unconstitutional and void.

### **Case A—Trade unionism during the Nigerian crisis (1966)<sup>25</sup>**

Since independence in Nigeria, the political situation has been largely unstable; trade unions, like other social institutions, were not firmly integrated within the country's political system. Instead, there was a tendency for labour movements to be loyal to traditional interests. Against this background, the pattern of the killings of the 15 January 1966 military coup and the emergence of General Ironsi, an Ibo from Eastern Nigeria, as the Head of Federal Military Government led to some misinterpretation of the coup, particularly in the Northern part of Nigeria. The North, basing its argument on the pattern of killing which claimed more Northern leaders (including the Prime Minister), saw it as 'an Ibo Machiavellian plot' to install an Ibo hegemony in Nigeria.

When the counter-coup of 29 July 1966 took place, the leaders of the Northern Federation of Labour (NLF) not only celebrated but were said to have demanded the withdrawal of Easterners from Northern Nigeria. An unprovoked massacre of Easterners ensued. During this crisis, the national labour centres did nothing to demonstrate that they were a free and fearless agent of the workers and of fundamental human rights. They also failed to initiate aid programmes for the helpless Easterners.

The apparent levity with which the Nigeria trade union leaders in Lagos treated the pogrom of 1966 and the enormous problems it created was a disappointment to the workers of Eastern origin. As a result, a group of Eastern trade unionists founded the Eastern Nigeria Trade Union Rehabilitation Committee to be 'best suited to rehabilitate . . . helpless refugees arriving from the troubled areas of the Republic'. Later, a conference of trade unions in Eastern Nigeria decided that all unions in the Region should be severed from national centres in Lagos. Still later, in June 1967, the Biafran Trade Unions Federation was founded.

On the federal side, the trade unions also pledged their loyalty and support to the Federal Military Government, with the unions anxious to disassociate themselves from the action of their affiliates in the East.

In the face of national crisis, the unions were impotent in finding solutions and in assisting their members generally. They did not speak with one voice and pursue a common goal, mainly because they were polarised along ethnic divisions in Nigerian society. Trade union leaders abdicated their responsibilities in a way that inhibited trade union rights and human rights more generally.

### **Case B—The Nigerian Union of Journalists and press restrictions**

On 7 August 1983, in the midst of elections, the Federal Government alleged that some media houses other than those controlled by the party at the Federal level were announcing and publishing unauthorised and unauthenticated election results. The then Inspector General of Police, Mr Sunday Asewusi, made a broadcast on radio and television banning media organisations from publishing what he called the ‘unverified and unauthorised’ election results.<sup>26</sup> He threatened stern measures against media houses which failed to heed his warning.

His statement described the media houses involved as ‘mischievous’, picturing their action as a calculated attempt to confuse the public with the intention of creating uncertainties and disturbing public peace. He argued that both the 1979 Constitution and the Electoral Act vested such responsibility on the Federal Electoral Commission only.

The Nigerian Union of Journalists (NUJ) went to Court to seek an injunction against the Inspector General, whose orders were regarded as intended to jeopardise the constitutional rights and freedom of the media to receive and impart ideas and information, as well as the right of the citizens to be informed.

In an *ex-parte* motion, the Lagos High Court granted the NUJ an order of injunction pending the determination of the substantive suit; thus the press was able to publish the election results as stipulated by law and not as explained by the Inspector General of Police.

In the 1983 substantive suit (*NUJ & Ords v. Adewusi & Ords*)<sup>27</sup> Counsel to the NUJ, Chief 'Fola Akinrinsola, contended that the Inspector General's statement was geared at preventing the mass media from performing their legitimate duties, a right which is

recognised by the 1979 Constitution. The defence counsel, however, submitted that the statement in no way threatened the mass media; rather, it was a warning directed at the confusion the announcement of unverified results might generate, adding that the NUJ had no *locus standi* to bring the matter before the Court.

In his ruling Mr Justice Johnson held that the NUJ had sufficient interest to protect, and that it had a *locus standi* in the action. He declared the 7 August 1983 directive unconstitutional.

The Court thus upheld the 1983 Electoral Act which gave members of the NUJ constitutional guarantees to freedom of expression, including expressing ideas and information without interference.

The action of the journalists' union certainly protected the rights of journalists to seek and impart information. A situation where a police official, under the guise of public security, makes statements bordering on judicial pronouncements is nothing but 'a flagrant breach of the rule of law and an affront on the principle of separation of powers'. This negatively affects the fundamental rights of journalists, and of members of the public at large.

### **Case C—The Nigerian Medical Association (NMA) crisis**

The Nigerian Medical Association (NMA) represents all medical and dental practitioners in Nigeria including students in medical schools. Although it was formally registered as a professional union in 1978, it had long before then engaged in negotiations with governments on many occasions.

The NMA, which probably typifies the new trend towards professional militant trade unionism in Nigeria, has a long history of strikes and struggles with successive governments since its establishment some 27 years ago. On each occasion its grievances and demands were not exclusively in the narrow interests of the association's members, but had many implications for the public especially as far as their fundamental human rights are concerned. An outline of the facts of two such cases in the 1980s demonstrates how trade unionism can protect human rights in Nigeria.

The central issues were, among others:<sup>28</sup>

- (1) the appalling condition in the country's medical and health institutions—drugs were not available, there was lack of adequate equipment and existing equipment was not properly maintained. So they wanted a better health care system;

(2) the Ministry of Health Circular directing that all cadres of health workers in public institutions of which doctors were the most prominent should pay hospital charges for treatment by them in government hospitals like anyone else—a directive ‘unheard of in medical history’. The NMA then called on the Government to withdraw the Circular, which to them would adversely affect the morale and take-home pay of doctors and health workers generally;

(3) the very meagre percentage of the nation’s resources, as evident in the annual budgets, that went to the health sector. At no time in recent years had the allocation to the health sector reached 2 per cent of the annual budget, while the United Nations recommends a minimum of 5 per cent;

and lastly, among others:

(4) lack of a bold National Health Policy despite the fact that the NMA since 1966 had taken the initiative to consider and recommend a programme for health care delivery for the nation’s welfare and prepared a 154-page Monograph titled *A Health Programme of the Nation*, a document which has no place in the Government scheme of things. The Government had not deemed it fit to produce one either.

The NMA’s demands undoubtedly had a populist appeal. They indeed generated support among some members of the public, especially the ‘wretched of the earth’, and some labour unions including the NLC. One should not, however, forget that expediential issue (2) was the immediate cause of the strike and was responsible for the escalation of the crisis.

The Federal Government of Nigeria, according to the partly-suspended 1979 Constitution, has the duty and responsibility to ‘secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice, equality and opportunity’ (S. 16 (1)(a)). The Constitution also recognises ‘the sanctity of the human person’ and that ‘government actions shall be humane’.

Specifically, the Constitution enjoins the government to direct its policy toward ensuring that:

- (1) the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused, and that
- (2) there are adequate medical and health facilities for all persons (S. 16 (2)).



Furthermore, the Constitution expressly provides for the 'right to life' and 'right to dignity of the human person' (S. 30 and 31 respectively). These rights, it must be noted, permit no derogation and are not realisable in any meaningful way if the citizen's right to adequate health, which the NMA was fighting for, was not upheld. The crisis also raised the question of the citizen's 'right to peaceful assembly and association' and other trade union rights such as the right to protection at work, all recognised in the Constitution (S. 39). The 1984 singling out of medical and health workers from among the country's public servants for medical payments is an apparent violation of the Constitution which relates to freedom from discrimination (S. 39). The implication of the payment policy was that while other public servants would continue to enjoy free medical treatment as part of their conditions of service, medical personnel—who are more exposed to the risk of contacting communicable diseases—would have to settle their bills even for illnesses contacted in the course of discharging their duties.

Largely because of the new governmental policy relating to payment, but also because of shortages of legal drugs, in 1984 doctors undertook a short strike. When the government attempted to break the strike, there was a more general walk-out.

It should be noted that at the initial stages of the NMA crisis the Government was rather passive, leaving those citizens needing medical care helpless. Then the Minister of Employment, Labour and Productivity gave the verdict that the NMA's behavioural pattern had been too disruptive. He described it as the most turbulent professional association and called on senior NMA members to show more interest in the union's activities.<sup>29</sup>

The Government did not give room for any negotiations as such. The Ministry of Health withdrew the controversial circular only in order to abort the doctor's strike; this, however, failed to prevent the strike, as doctors claimed that there were other substantive issues to be resolved. The NMA's insistence that their 'action' would only be called off if the government initiated talks with their representatives failed to yield any positive response from the Government. An explanation for the Government's unpreparedness for negotiation has been attributed to the NMA's ultimatum—a strategy which governments, especially military, do not like, as it amounted to accepting dictation from the NMA.

Despite an NMA warning of a general strike, the Federal Government lost its patience and proscribed the NMA and its affiliate

associations. The Government ordered its members to go back to work within 24 hours or be fired. This was followed by the arrest of seven key officials of the NMA. Some of these were accused of wanting to destabilise the government—a governmental manoeuvre typical of governments in developing countries who desire to direct the attention of the citizens away from the real issues and thereby justify human rights violations. Many other doctors, even non-officials of NMA, lost their jobs. For example, 80 medical doctors were sacked at the Ahmadu Bello University. When some doctors opted out of Government service, State Governments refused to register their clinics as required by law. Also, existing private clinics were barred from absorbing such categories of doctors. These were calculated attempts at frustrating NMA members and coercing them to comply with the Government's position.

From this brief review, it is evident that the demands of the NMA were partly geared to the enjoyment of trade union rights and also to the human rights of the citizens in general. The fact that some of their demands appeared selfish does not erode the general human rights implications.

The NMA demands were geared toward ensuring:

- (1) favourable conditions of work;
- (2) collective bargaining;
- (3) freedom of association, which includes the right to strike; and
- (4) freedom from discrimination.

If avenues were made available for negotiation, the rights above could have been implemented and might have had positive consequences on the developmental processes. But the Government's attitude prevented the NMA from achieving its objectives, which could have been beneficial to other citizens.

The negative consequences of the strike are shown by the high number of deaths and the many ordeals suffered by many Nigerians. The average citizens whose rights the disputants were purportedly protecting had unpalatable consequences unleashed on them. For example, official record has it that, within the first 48 hours of the dispute, Ogun State (one of the smallest of Nigeria's 19 states) recorded about 120 'avoidable' deaths as a result of the dispute.<sup>30</sup>

In the final analysis, the war of attrition between the Government

and the doctors produced neither a victor nor vanquished but left the common people suffering probably more than before. The health care system continues to deteriorate, and medical workers are leaving the profession in large numbers.

## CONCLUSION

This study has shown that, despite the potential centrality of trade unionism to the promotion of human rights in Africa, governmental policies have usually negated the promotion of trade union rights and human rights in general. The reason for this trend largely relates to the nature of post-colonial African states, which is seen by the governments as necessitating considerable control of trade unions. Consequently, trade unionism often fails, except on rare occasions, to promote human rights. Governments' hostility and insensitivity to these rights, especially under military rule, is complicated by sometimes debatable strategy by unions, as well as by a shortage of economic resources.

While trade unionism could have successfully promoted trade union rights in all cases, it was only in one case, that of the journalists and the NUJ, that this was possible. This perhaps was due to the nature of the issue, namely, that it could be resolved judicially instead of administratively. The economic cost was also low. The political climate should also not be ignored: there was democratic rule; the result might not have been the same under the military.

The two other cases could be said to have marginally promoted aspects of trade union rights, but not human rights generally. The problem in the first case, dealing with the inaction of national labour centres during the Nigerian civil war, was obviously a derivative of ethnic conflict in the larger society. National trade unionism gave way to ethnic trade unionism.

The case of the NMA shows that in some cases union disputes are concerned both with the question of wages and conditions of work and also with the well-being of the whole society. There is no doubt but that the doctors' demands were both patriotic and expediential; while seeking particular advantage (compared to the general population), the doctors did not ignore the nation's medical system. The Government's over-reaction, and in particular its proscription order, was unreasonable in context. Proscription of trade union organisations

has not been known to solve fundamental issues; it merely pushes the group underground, which is a greater danger.

The situation could be different if African governments would adopt a more conciliatory approach to industrial relations by taking organised labour members into confidence. This might foster negotiation and co-operation between the government—the major employer of labour—and trade unions. This has the advantage of deterring trade unions from resorting to disruptive means.

The above will engender constructive trade unionism along the Japanese model, which is known for few really disruptive strikes. Employers and employees become partners in progress. This trend is particularly desirable in contemporary Africa, especially Nigeria, which is undergoing a hard time economically. Strikes and disruptive trade unionism in the circumstances of these countries might not serve any useful purpose. Thus trade unions militancy should be replaced with genuine partnership.

For this to happen, trade union leaders have to give trade unions a new image and strategy. Union leaders' preference for a hard-line stance against 'management' might no longer be advisable. Also, some changes are desirable in the union leadership rivalry which reduces the unity and effectiveness of trade unions. Ethnic and personal differences must be overcome. Trade union education may help solve some of these difficulties.

Similarly, the conception of trade union held by African leaders has to change. The independence of trade unions as a distinct social institution must be recognised and strong trade unions accepted. The tendency to over-emphasise the disruptive as against the constructive aspect has to change. Strong and independent trade unions cannot exist if the laws (as they presently are) are weighted against the workers. The persistence of strikes, despite the detention of union leaders, indicates the futility of such anti-labour legislation.

Despite most international attempts at enhancing workers' rights as found in ILO and OAU documents, African societies must restructure some of their political and social values for real progress to be made.

## NOTES

1. Wogo Ananaba, *The Trade Union Movement in Africa* (London: C. Hurst in association with Mwamife, Enugu, 1979) p. 236.
2. See O. Oyediran (ed.), *Survey of Nigerian Affairs 1975* (London: University Press in association with Oxford University Press, 1978) pp.204–8.
3. Ibid.
4. Ibid.
5. Ukandi Godwin Damachi, *The Role of Trade Unions in the Development Process—With A Case Study of Ghana* (New York, Washington and London: Praeger, 1974) p. 122.
6. This is evident in the opening statement by Theo Van Boven, Director, Division of Human Rights and Representative of the Secretary General of the United Nations at the Seminar on the International Economic Order and Human Rights, Geneva, June 30–July 11, 1980 (*Bulletin of Human Rights* (English ed.) 29, 1980).
7. Damachi, op. cit., at note 5, p. 5.
8. Allan Flanders, *Management and Unions* (London: Faber & Faber, 1970) p. 41.
9. Akintunde Emiola, *Nigerian Labour Law* (Ibadan: Ibadan University Press, 1982) p. 191.
10. Willard A. Beling (ed.), *The Role of Labour in African Nation Building* (New York, Washington and London: Praeger, 1968) p. 3.
11. Brun-Otto Bryde, *The Political Sociology of African Legal Development* (Frankfurt: Alfred Metzger, 1976) p. 36
12. Charles Humana, *World Human Rights Guide: The Facts on Freedom, Repression and State Power* (London: Hutchinson Press, 1983) 30–75. One should note however that Humana's survey was restricted to civil and political rights. This does not undermine the utility of the study as discussed in this chapter.
13. Beling, op. cit., at note 10.
14. Ibid., p. 18.
15. Ibid., p. 9.
16. Oyediran, op. cit., at note 2.
17. International Institute of Human Rights, *Collection of Lectures: Texts and Summaries* (Strasbourg: International Institute of Human Rights) 1984, p. 8.
18. Ananaba, op. cit., at note 1, xiii.
19. See note 6.
20. Humana, op. cit., at note 12, p. 8.
21. E. E. Uvieghara, *Trade Union Law in Nigeria* (Benin City: Ethiope, 1976) ix.
22. *Nigerian Herald*, Ilorin, 3 October 1985, p. 10.
23. These are the Trade Disputes (Emergency Provisions) Decree, Decree 21 of 1968 and the Trade Disputes (Emergency Provisions) (Amendment No. 2) Decree No. 53 of 1969.
24. See B. O. Nwabueze, *Nigeria's Presidential Constitution 1979–83: The Second Experiment in Constitutional Democracy* (New York: Longmans, 1985) p. 225.

25. Wogu Ananaba, *The Trade Union Movement in Nigeria* (Benin City: Ethiope, 1969) 98–119, note 22.
26. Reported in all Nigerian newspapers of 8 August 1983.
27. Suit No. M191/83.
28. Summary of the issues compiled from *Sunday Concord*, Lagos, 3 March 1985, pp. 5 and 12; *The Punch*, Lagos, 11 March 1985, pp. 6–7; *Guardian*, Lagos, 20 March 1985; *The Sunday Times*, Lagos, 14 April 1985, 5; and *Democrat Weekly*, Lagos, 24 February 1985.
29. See *Democrat Weekly*, op. cit., at note 28.
30. *Sunday Concord*, op. cit., at note 28.

# 5 Education and Human Rights

KENNETH W. THOMPSON

The comparison that is often made between Soviet and American views of human rights merits re-examination with respect to education and Third World countries. Conventional wisdom places the American philosophy of human rights wholly on the side of political and civil rights. By contrast, the Soviet emphasis is on social and economic rights. What are we to make of Article 26 of the Universal Declaration of Human Rights: 'Everyone has the right to education'?<sup>1</sup> Article 26 goes on to specify that education shall be provided free in signatory states at least for young people through what is described as the elementary and fundamental levels of education. It urges that technical and professional education be made generally available and that 'higher education shall be equally accessible to all on the basis of merit'.<sup>2</sup> Not surprisingly, Third World countries have given special attention to this article especially in their early history as new nation states. In this paper, I have chosen Nigeria to illustrate trends in educational policy, but its experience has been repeated in varying degree in other new nations.

Emphasis on education has been a cornerstone of Third World development in at least three distinct periods: the colonial period, the immediate post-colonial period of institution building, and the period some describe as education for development. In each period, the emphasis changed but the primacy of education was maintained. Spokesmen for new approaches understandably stressed change above continuity. Close examination of institutional development in the three eras, however, reveals persistent patterns and commitments at work.

## THE COLONIAL ERA

Education in the colonial era mirrored the different national traditions and their unique and distinct approaches and emphasis. The British tradition, shaped by the values of Oxbridge, saw the educational

mission as the training of leaders. It would be a travesty of justice, a British friend was wont to say, to seek to make the unequal equal. After all, Article 26 had been specific in connecting access to higher education with merit. The institutionalisation of this tradition both preceded and followed higher education. High-quality private preparatory schools were feeders for universities. For those unschooled in such traditions, it was remarkable how many graduates of a single preparatory school inspired by a single legendary headmaster found their way into positions of leadership. Alex Kwapong, when he was vice-chancellor of the University of Ghana at Legon, before going on to become rector of the United Nations University in Tokyo, used to recite the names of prominent Ghanaian leaders who were graduates of such a school and then of Legon.

The British tradition encouraged co-operation and assistance from outside because the focus of co-operation was clear-cut and definable. In building a cadre of personnel for the foreign service, the task seemed manageable by comparison with other national traditions. Several years before independence, a British Foreign Office official, Reginald Barrett, was seconded to the Nigerians. Almost immediately, he set about the task of identifying and recommending for training qualified young Nigerians who had shown promise and ability initially within the framework of the British Foreign Service and British higher education. Further opportunities soon emerged for training abroad and elsewhere. At a certain point co-operation with American institutions became possible through the initiative of American foundations. After Nigeria had achieved its independence, Barrett undertook to internationalise the programme with a travelling brief from private foundations to visit newly independent countries, or those soon to be independent. The Carnegie Endowment for International Peace, with funding from the Rockefeller Foundation, provided a home for his activities. Columbia University and the Institut Universitaire des Hautes Etudes Internationales in Geneva organised special programmes for young diplomats. What was striking was that Barrett continued to find the greatest response to his proposals for the training of young diplomats in Anglophone countries. The reason was not hard to discover. It stemmed from the historic British practice of emphasising the identification and nurturing of leaders. Higher education for the British remained 'a school for statesmen'.

The French tradition by contrast placed emphasis on French culture. The '*mission civilisatrice*' had as its core the spreading of



French culture to the four corners of the earth. Thus the goal of education for the French in the colonial period was to draw colonial peoples in Francophone countries into the web of French culture in the broadest sense. For them education involved exposure to, and absorption of, everything French including not only formal education but government and politics as well. It became in effect the process of becoming French with all that entailed in social and cultural terms. Thus leaders of emerging Francophone countries gained seats in the French National Assembly with some of the same rights and duties as elected delegates from Paris or Grenoble. For nationals of Francophone countries, the right to education included the right to be a Frenchman. Education was less preparation for leadership and more participation in what was seen as a universal culture.

In other colonial traditions, the accent was less on education and more on jobs and employment. The Belgian Congo reached statehood having no more than seven university graduates in a new country whose expatriate Belgian masters were sufficiently advanced to be entitled to receive a nuclear reactor. The emphasis here, and more notoriously in the Portuguese territories, was on certain extremely modest economic advances and not on the early creation of a body of indigenous leaders.

Thus education, and especially higher education, in the colonial era was a product of different traditions. It meant one thing in the British colonies, another in the French colonies and quite another in territories under Portuguese suzerainty. The content of education was determined by a set of values enshrined in the purposes of colonisation as conceived by individual colonial powers. Thus the foundations for education as a right were variously formed. The traditions that colonisers brought with them penetrated not only the economic and material infrastructure established, but also an approach that was to carry over into national education policies. The source of continuity, therefore, was in part the colonial tradition.

## INSTITUTION-BUILDING

The educational foundations having been laid with independence, the new countries pursued educational policies that were at first predictable. But the 'winds of change' sweeping over the former colonial world brought not only national independence for societies in Africa and Asia but participation in their future for nations around the

globe. Aircraft bearing technical assistance personnel arrived not only from European capitals but from centres in Asia, Latin America and the Western Hemisphere. Flying into Tanzania and Nigeria, I as an official of a private American foundation was at first surprised but thereafter took for granted that my seat mate might be Chinese. No less surprising at first but later accepted as a given were conversations at the new University in Dar-es-Salaam with German, Swedish, Polish, Norwegian and Danish educators, all joined in a common effort. Indeed, to illustrate the full range of co-operation, American foundation officers found themselves weighing proposals from the Government of Tanzania to supplement salaries and research budgets for programmes directed by a Polish economist. It was the boast of the Tanzanian head of government, Julius Nyerere, that his country's higher education programme represented the ultimate melting-pot for nationalities east and west. No longer was it possible to speak exclusively of a British pattern of education in country x or a French influence in country y. A worldwide interest in assisting the new nations changed the equation.

Significantly, however, it was a study headed by a British educator that spearheaded the movement for change. On the one hand, British higher education in East and West Africa had introduced a credible educational plan. The British had supplied groups of expatriate scientists and educators who introduced educational ideas that helped bring colonial peoples into the twentieth century. The British also set standards of excellence that their Nigerian or Kenyan successors pledged themselves to maintain. American scientists and educators, coming to Nigeria and Kenya convinced that only their educational system was relevant, found themselves moving toward a position of grudging respect for their British colleagues.

Yet the British themselves came to see that some aspects of British education were far removed from the needs of tribal Africa and for the numbers of leaders required in a large and diverse country such as Nigeria. As early as 1958, when the 1960 date for independence was fixed, a series of commissions began work investigating the needs of the country for higher education, projected over the first 20 years of independence. In 1959 the most important commission was created, chaired by Sir Eric Ashby (later Lord Ashby of Brandon) of Clare College, Cambridge. The Ashby Commission report became the bible of Nigerian higher education even when honoured in the breach. Published not long after independence, it recommended the establishment of more universities so that Nigeria's university student

population could reach a target of 7500 students by 1970 and over 10000 students some time in the period 1970–80. One recurring theme throughout the Report was the charge that the British academic system was, in many ways, too inflexible to meet the needs of an African country. Ashby asserted that American universities were more flexible, but still managed to maintain high academic standards.

The Ashby Report coincided not only with national independence for countries such as Nigeria but also the beginnings of a phase of educational co-operation between the United States and these countries. From the standpoint of the United States, the emphasis was on institution-building. Viewed from the American scene, what had been lacking in the new nations were lasting and viable indigenous institutions capable of granting degrees and accrediting those whom they educated. The complaint of American educators was that insistence on a University of London degree as the sole means of maintaining standards condemned the new nations to a position of servitude from which there was no escape.

Americans further argued that not only the British and the Europeans but American agencies as well had been guilty of a piecemeal approach to educational co-operation. The first half-century of American educational assistance in the developing world had been concentrated on vital areas of health and agriculture. The assumption was that in the absence of health and nutrition, human progress in all other areas would be denied. This creed of American technical assistance proved faulty when well-trained scientists and educators who constituted the nucleus of the less developed areas' scientific resources remained in the United States. They constituted a brain drain that left their own countries without the scientific competence that was needed. It was the absence of the necessary institutions and of a critical mass of scientific peers that was the problem, not training opportunities provided by foundations and governments at home and abroad. What was true of natural scientists was later true of humanists and social scientists. Evidence multiplied that writers and economists trained abroad found no indigenous setting in which they could work; those who remained at home ended by seeking employment as bank tellers and grocery clerks.

In response to this problem, American educators in the 1960s set out to integrate the favoured American tradition of institution-building with the process of nation-building in the Third World. As noted, one aim was to assure an environment in which well-trained nationals could work. Another was to make possible the benefits that

result from scientists and educators working side by side within an integrated and interdisciplinary setting. Too often Western policies which took institution-building for granted within their own countries had ignored the need for it in colonies in the Third World. Help abroad went to individuals, not institutions, and scores became isolated if not alienated individuals.

That changed in the 1960s as Americans in particular recognised that help for individuals was not enough. The Ashby Report inspired Americans not only to strengthen existing institutions but to build new ones. In Nigeria, three new universities emerged in 1962, each with its own charter to award its own degrees. They were Ahmadu Bello, designed to serve the needs of the northern two-thirds of Nigeria, Lagos, which served a huge sprawling metropolitan area, and Ife, which became in effect an agriculture and forestry university. Many more were to follow, some with rather precarious and inadequate foundations.

The most direct response to the Ashby Report, however, was the founding of the University of Nigeria in Nsukka, modeled quite deliberately after the American land grant university. Nsukka is unique among African universities south of the Sahara. It was the first university in modern times to be started wholly as a result of African initiatives. The premier African university had been and remains University College, Ibadan, in Nigeria. Nsukka was founded in part in response to critics who pointed to Ibadan's limited student enrolment and courses that were too narrowly academic. Greek and Latin were taught from the beginning at the College; only with time were courses in economics, politics and African studies introduced with content more relevant to the cultural and political circumstances of the country. In planning such a university, whose mission was to link higher education to the more urgent needs and day-to-day life of the Nigerian people, the eastern regional government headed by Dr Azikwe sent an education mission to North America. As Ashby had proposed, the Nigerians looked to the United States for a pattern of institutional development that would serve the Nigerian people. The costs of the new University were substantial, but national and international agencies joined in providing both capital and operating budgets. Thus the Agency for International Development (AID) in the United States government was in the forefront of those who assisted. Nsukka was institution-building virtually from the ground up, and not surprisingly it was the Americans, with the tradition of land grant colleges, who believed they had the most to offer.

## EDUCATION FOR DEVELOPMENT

The third era began in the 1970s, with the call for education for development. Whereas the colonial era had seen major infusions of educational ideas from abroad, whether made accessible in London, Cambridge or Ibadan, and the era of institution-building had as its aim building indigenous educational institutions, the third period was one in which societies undertook to identify their most urgent problems and then ask: 'Who is doing something about them?' Throughout the colonial and institution building periods, the emphasis had in a sense been on the educational process. The shift in the 1970s and thereafter was to a society's problems. A 12-donor agency study which I directed<sup>3</sup> was organised on the basis of three regional study teams for Africa, Asia and Latin America. Each team was chaired by one or two distinguished regional educators. Their participation represented a new phase in international education. The motto of the combined study was: 'It's time to listen'. By the mid-1970s, after almost three decades of partnership (between educators and donor agencies in the United States and Europe, and the leaders responsible for educational advances in the developing countries), it seemed appropriate that responsibility for local studies should shift to national educators. Those permanently a part of the educational landscape in the developing countries, having the greatest stake in their own future, were now unmistakably in charge.

The three regional teams undertook to launch some 23 case studies representing a broad cross-section of higher education's approach to problems of development. The case studies included studies of higher education's response to problems of rural development, especially as it affected the small farmer; of the University's role in designing and implementing health care delivery systems; of the efforts of higher education to improve learning in the primary and secondary schools; of manpower training; of the special problems (staffing, bilingualism, regionalism) of establishing a university in a developing country; of higher education systems as a whole; and of research and extension of industrial development. Whatever the obstacles and complexities, the case studies demonstrated that the post-secondary institutions studied were taking significant steps to cope with urgent community needs through impressive institutional innovations.

In sketching in the three periods of the development of higher education, I have been seeking to lay a foundation for considering some Third World views of education as a human right. It should be

remembered that some Third World countries are a blending of east and west, or socialism and capitalism. Thus not surprisingly both eastern bloc and western concepts of human rights are identifiable. Since the concept of education as a human right bridges east and west, elements of Soviet and American thought are apparent.

## EDUCATION AND RIGHTS

Viewing the three periods of educational cooperation, I would suggest that the following propositions reflect a consensus in many Third World countries concerning education as a human right:

First, in most of the Third World countries, post-independence commitments to education ranged from 20 to 30 per cent of the national budget. It seems clear that African and Asian leaders gave highest priority to national educational development. When one-third of the national budget is devoted to an area, is it claiming too much to say that education is recognised as a human right?

Some would argue that less developed countries view education not as a right, but as something that contributes to development or to the privileges and prosperity of the elites. Education from this standpoint might be treated as a benefit, not a right. It is structured by the elites for the benefit of the nation as a whole, rather than as a human right of individuals which must be met by the government.

In practice, this description may more nearly correspond to reality than the human rights point of view. My argument would be that independence leaders in several new nations treated education *as if* (*als ob* in Kantian terms) it were a human right. They did so in the proportion of national income allocated to education, in the character of their rhetoric and in the views of leaders such as Nyerere that education of the young was essential, yes, to nation-building but also to any prospect for ultimately establishing a parliamentary regime. One might say that the approach was one of seeming to view education as a *de facto* human right within certain limits.

It may clarify the argument to suggest that in countries such as Nigeria, lower education was treated more explicitly as a right, with higher education being subject to various forms of qualification running through the overall educational system. At a certain point, higher education policy comes to be shaped by the government for

reasons of development. However, in the early post-independence period, higher education continued to reflect the British philosophy of a classical education. In the newer universities such as Ife, Nssuka and Lagos, by contrast with Ibadan, greater emphasis was placed on education for development.

Secondly, the shift in emphasis from the colonial period to the era of education for development also reflects the high priority given to education in national development. Part of the impetus for the search for practical and visible achievements through education came with the growth of a sense in some developing countries that vital and urgent needs were not being served. Education in the developing countries was considered a human right because its pursuit was central to human development and national destiny. Beginning in the 1970s, some national governments questioned whether education was serving these aims. The United States Agency for International Development, which had by the mid-1970s contributed more than \$1 billion to educational assistance, questioned whether it had served fundamental human needs. The World Bank, which projected expenditures for higher education of up to \$300 million until the late 1970s, questioned whether it was achieving its intended aims. 'In the words of a respected official of the International Bank for Reconstruction and Development (IBRD), the two central questions to be answered were: Is the contribution to development by higher education less than it might be? Is something being done about it...?'<sup>4</sup> The sense of urgency that surrounded the education for the development movement reflects the vital importance education plays and is expected to play in the developing country.

Development is one course subject to various interpretations and definitions. The UNESCO conference on 'The Role of Higher Education in the Development of Africa' held in Tananarive (1963) concluded that universities, in addition to traditional functions and obligations to teach and advance knowledge through research, had responsibility for the social, cultural and economic development of Africa. In other words, development as defined at Tananarive was more than economic development. Higher education in this sense must strive:

- (1) To maintain adherence and loyalty to world academic standards;
- (2) To ensure the unification of Africa;
- (3) To encourage education of an appreciation for African culture

and heritage and to dispel misconceptions of Africa, through research and teaching of African studies;

(4) To develop completely the human resources for meeting manpower needs;

(5) To train the whole person for nation-building;

(6) To evolve over the years a truly African pattern of higher learning dedicated to Africa and its people yet promoting a bond kinship to the larger human society. (Report of the Tananarive UNESCO Conference, 1963).

Third, we found no debate on the status of primary and secondary education as a basic right. When I asked Julius Nyerere whether an American foundation could assist in primary and secondary education soon after independence, he responded emphatically no. 'If I cannot provide basic education for my people, they will turn me out', he said. For higher education, the equation changes somewhat, as we wrote in 1976:

For countries in Africa the imperatives of national development determine the place of educational institutions. For one thing, the number of institutions of all kinds with capacity to serve is severely limited; higher educational institutions often have the largest concentration of trained manpower. The concept of the umbrella university emerged in Africa because the university provides a workable framework within which both higher education and applied and development-oriented activities are possible. Universities are too important to governments to be left entirely to educators. Both costs and necessity dictate that they serve the state within certain fundamental and well defined sectors. There are too few trained people and too many urgent problems for universities to remain aloof. Moreover, the risk of government interference for some African countries, such as Tanzania, is mitigated because they have had the good fortune of having leaders, such as President Julius Nyerere, with a clear educational philosophy and the ability to formulate social purposes that education can serve. Africa may reach the point where fear of interference reaches the proportions of the Latin American countries that were studied, but, for the present, the problem seems to be less urgent.<sup>5</sup>

In Africa, education and development have become linked and both are seen as essential rights.



History teaches, of course, that the road to the achievement of national development may also be marked by infringements of human rights. Americans need look no further than the fate of native Americans as the frontiersmen pushed westward. The Soviet Union's development was purchased at the price of the lives of five million *kulaks*. It is true that there was forced relocation of peoples into agricultural co-operatives in Tanzania in the name of national economic development. It is fair to ask, 'Did not this brutal policy violate internationally recognised human rights? Could not the same happen in the educational field, namely, a violation of human rights in the name of economic development?' The answer is obviously yes, but in this respect less developed countries are not unique. The point can be made in response that the existence of certain human rights principles at least provides a standard against which such violations can be judged. Nyerere would maintain that Tanzania has been forced by its status as a very poor country to make certain concessions to freedom. Overall, he has justified socialism in Africa on this basis. Specifically, he would argue that the democratic philosophy he expressed in his Inaugural Address as Vice-Chancellor of the University of Dar-es-Salaam provides standards to which the peoples of hard-pressed emerging nations can ultimately repair.

The role of universities in promoting such rights may be jeopardised at later stages of development. H. J. Habakkuk, Vice-Chancellor of Oxford University, warned delegates to the sixth quinquennial conference of the International Association of Universities that the role of universities as centres for the 'unfettered exchange of ideas' was being threatened increasingly by national governments. He said that he was opposed to the principle that universities should be responsive to the needs of societies.<sup>6</sup>

## LOOKING TO THE FUTURE

However well-placed the vice-chancellor's warning, the dilemma facing the new nations is that programmes of education for development must be placed in the context of a society's needs. New educational institutions, much as governments, must strike a balance between what is essential and possible and what is desirable and possible but not essential. In the discussion of basic rights for education, there must be a free and open dialogue between educational and governmental planners. Governments and societies are

among the main consumers of the products of higher education. Their efforts must be linked. Education as a right must be considered within a context of the public good.

Thus education as a human right must be related to other rights, illustrating the classic pattern for realising human rights in national and international societies. Rights must be balanced against rights, much as moral values must be interpreted from the standpoint of other values. The determination of the place of education as a right comes down in the end to weighing it in relation to other rights. Thus a discussion of education finds its place in the realm of moral reasoning in which ethical discourse looks for connections and inter-relationships. It is in this context that education as a right, particularly in the Third World, becomes a proper subject for study and analysis.

Foundations and governments that would assist developing societies must adapt their programmes to the educational policies of the less developed countries. Understanding such policies requires more than a brief visit between landings and takeoffs at the host country's airports. It involves a commitment to long-term co-operation and, in the words of a former colleague, 'coming to stay'. If outsiders are to help they must be prepared to construct co-operative programmes with others, including both private and public agencies. No one can predict in a given developing country who will take the lead. In the Cameroons, medical education was reshaped and modernised by the World Health Organization and UNESCO, who were first in the field but joined thereafter by a private foundation. The driving force, however, was a remarkable indigenous medical educator, Dr G. L. Monekosso, who was a Nigerian who came to the Cameroons from the University of Lagos. In some countries, the first initiative came from the British, in others the French and, for some newly independent countries, the Americans.

The truth is that meaningful assistance programmes require a blend of public and private, and the first task of both is to understand the educational policies of their host. The late president of the Rockefeller Foundation was asked what his most important responsibility was. He replied 'to study the Minister of Agriculture'. For 'Agriculture' we might substitute 'Education' and other key ministers and national leaders. None who would help can escape 'learning to listen'.

NOTES

1. Universal Declaration of Human Rights, Part A of Resolution 217 (III), approved by the General Assembly on December 10, 1948. Text as given in UN General Assembly, Third Session, First Part, *Official Records*, 'Resolutions', pp. 71-7.
2. Ibid.
3. See Kenneth W. Thompson and Barbara R. Fogel, *Higher Education and Social Change*, vols. 1 and 2 (New York: Praeger, 1977).
4. Kenneth W. Thompson and Barbara R. Fogel, *op. cit.*, vol. 1, p. 3.
5. Ibid., p. 9.
6. Ibid., p. 6.

# 6 The Human Rights Movement in India: Crisis and Challenges

SMITU KOTHARI

## INTRODUCTION

The almost 19 months of National Emergency imposed by Indira Gandhi between 1975 and 1977 have been seen by many analysts as the turning-point in the post-colonial history of India. It has also been identified as the period in which the civil rights movements developed a wider base and became more organised and consequently more visible.

While both these contentions are true, two points need to be asserted: first, that there is an urgent need to understand the historical evolution of both these phenomena, and secondly, that it is necessary to assess more honestly the limitations of the work of human rights groups and identify the new challenges.

The Emergency dramatically exposed not only the inadequacies of the post-Independence developmental strategies adopted by successive governments but the continuing impoverishment and marginalisation of millions of people—a process which is increasingly being seen as *inherent* in the very model of development. Forty years of ‘democracy’, of ‘popularly elected governments’ have brought little benefit to the bottom 40 per cent of India’s population. Distributive justice, popular participation, ‘wars’ on poverty—all still remain, by and large, pious intentions.

Today, a critical examination of the Indian reality shows chronic signs of a multiplicity of crises, the collective gravity of which has grave implications of harder and more violent struggles for survival by and among those who need democratic rights the most. This situation is also a serious threat to the continued survival of India’s social, cultural and ecological diversity. Simultaneously, there is a serious development among independent democratic forces—greater fragmentation and a sense of loss of confidence in comprehending the multiplicity of ‘explosive’ situations and in acting collectively and

decisively to confront this. Stated differently, there is a relative inability among human rights groups to grow and often survive against the combined forces of the state, the vested interests, and the market. Many feel a sense of exhaustion and cynicism, thus weakening the possibility of building a broad-based movement. Effective, confident intervention is becoming scarcer. There is a need therefore to go beyond a mere recounting of the violations and the instances of successfully highlighting them.

## A SHORT HISTORY

The first human rights group—the Civil Liberties Union—was formed by Jawaharlal Nehru and some of his colleagues in the early 1940s with the specific objective of providing legal aid to nationalists accused of sedition against the colonial authorities. However, this effort was shortlived. The excitement and hopes generated by the national liberation subsumed the political spirit of an independent watchdog initiative. It was not until the late 1960s that the real emergence of human rights groups took place. This was triggered when both the privileged social classes and the government systematically cracked down on groups fighting for the rights of the traditionally oppressed people—landless labour, small peasantry, the unorganised working class (though, to an extent only, something that is now picking up) and their mobilisers and supporters among the articulate and conscientious sections of the middle classes. Several organisations were formed during this period. Notable among these were the Association of the Protection of Democratic Rights (APDR) in West Bengal, the Andhra Pradesh Civil Liberties Committee (APCLC) and, a little later, the Association for Democratic Rights (AFDR) in Punjab.

While these groups highlighted the growing repression and exploitation in the countryside and played a crucial role in confronting the violent role of the State and quite often stopping it by highlighting it through sustained struggle and exposure, their reach and capacity to stir the imagination, involving concerned liberal and progressive forces, was limited. It is not necessary here to go into the means used by some of the groups. This is because this was not a primary issue at the time. Rather, the primary issue was the fact that the State was itself violating the rule of law and the constitutional rights of marginalised groups and political activists. The limited impact had

more to do with the fragmented and sectarian nature of these organisations, coupled with a high degree of insensitivity (and therefore lack of support) by public opinion and the media to the sufferings of the lower classes and the marginalised sections of society. There was also a failure to join issues—especially the political with the socio-economic.

It was only after Jayaprakash Narayan launched a major agitation against the growing authoritarianism of Mrs Gandhi that a large number of prominent liberals and humanists came together with radicals to form the first (and only) national human rights initiative—the formation of the People's Union for Civil Liberties and Democratic Rights (PUCLDR) in 1975. Within a few months of this, a series of political developments helped consolidate the scattered concerns for the rights of the poor and oppressed on the one hand and for the issues agitating middle-class dissidents on the other. The announcement of the Emergency on 26 June 1975 proved to be a supremely catalytic event. While political activists and intellectuals were ostracised and imprisoned, a major turning-point had been reached in the consciousness of what constituted 'democracy'. In an effort to stifle dissent, thousands were imprisoned—some for the entire 19 months that the Emergency lasted. The press was gagged, and a host of new legislations severely restricted both traditional and new and independent challenges to the centralisation of power—from *habeas corpus* to the rise of a vigorous literature of dissent through politicisation of influential journals, and so on. At the same time a systematic and brutal gagging of all these, as the Emergency moved nervously into its second year, meant a serious setback to the activities of human rights organisations.

Even after the defeat of Mrs Gandhi at the polls in 1977 (and the coming to power of a broad coalition), for almost two years there was a relatively low profile of the range and extent of civil rights activities. This was primarily due to a perception among lawyers and academics that the new government would be more amenable to dialogue and corrective action. This belief was, in part, supported by the fact that many of the repressive measures of the Emergency period were lifted, a number of investigative commissions were set up (including the cases of repression of the Naxalites) and both investigative journalism and public interest litigation took strong root during this time. Nevertheless, some significant work did take place during the period, especially by the more radical groups working among the landless and the tribals. For while politically the Janata government

was more liberal than the Congress, socially its base was more conservative and prejudicial to the lower classes.

It was in October 1980, after the fall of the Janata government and the return of Mrs Gandhi to power, that a major National Convention took place in Delhi which led to the formation of two organisations out of the earlier PUCLDR—a Delhi-based People's Union for Democratic Rights (PUDR) and a national (the only one so far) People's Union for Civil Liberties (PUCL).

Today, there is a wide range of organisations actively concerned with issues of civil liberties and democratic rights. While a couple of new initiatives have crystallised and some efforts towards a more federal all-India organisation made, most of the organisations are those which were formed between 1968–70 and 1975. There have been five major activities which these organisations have taken up: fact-finding missions and investigations, public interest litigation, citizen awareness programmes (including the publication of perceptive statements on specific issues), campaigns, and the production of supportive literature for independent movements and organisations. In periods of major crises they have also thrown their weight behind independent action groups and mass movements in providing relief and rehabilitation and also widespread lobbying on behalf of the oppressed and the victimised. This happened most markedly in the carnage of the Sikhs in November 1984 and the Bhopal disaster a month later. A substantial body of literature highlighting the complex causes of social, political, economic and cultural oppression has been a significant achievement of these groups. Some publications brought out after the massacre of Sikhs, have gone into several editions, with tens of thousands of copies being sold.

The main issues raised by these groups have been primarily of three kinds; first, direct or indirect violations by the State (police lawlessness, including torture and murders of opponents through fake 'encounters', repressive legislation, political manipulation and terror by mafia groups, and so on); secondly, denial in practice of legally stipulated rights as well as the inability of government institutions to perform their functions; and thirdly, structural constraints which restrict the realisation of rights (such as violence in the family, landlord's private armies, the continuing colonisation of tribals).

There have been significant achievements in mitigating some of the complex sources of oppression. Bonded labour has been 'freed' and rehabilitated, major judgments have been drawn from the more

sensitive individuals in the judiciary, public officials and policemen have been prosecuted. But above all, the groups have kept the democratic movement alive among a section of the urban middle class as well as helped protect and to an extent expand the spaces for independent political action. There has thus been a definite contribution in widening (however marginally) the base of democratic consciousness in the country.

Understandably, the growing legitimacy and impact has drawn regular attacks from vested interests, both within governments and outside. Human rights activists have been tortured and killed, publications have been banned and their authors charged with sedition and imprisoned, the ruling party has launched a vilification campaign against some groups (particularly PUCL, PUDR and APCLC) and efforts made to paint these groups as 'anti-national' or as extremists.

Through all this, each individual organisation has retained a distinct identity; despite some organisational and methodological differences, there has been close collaboration among most of them. Several weaknesses, however, remain.

Principal among these is the problem of voluntarism resulting in a lack of sustained effort by a committed and recognised cadre of activists. This has restricted both a consistent response to violations and also the growth of each organisation. The latter could occur through education, action, and sustained collaboration among them. All this does take place, but only at time of acute crisis or some dramatic event.

Additionally, the wide range and frequency of violations has kept the groups so occupied (often through deliberate attempts at keeping them pinned by false legal charges and economic vendetta) that the activity has, so far, been primarily defensive. While there has been a very weak 'early warning system', there is also a pathetic lack of understanding of international human rights instrumentalities, of the role and importance of various organisational initiatives that need to be undertaken, and of solidarity with relevant developments elsewhere in the world. The last point has tremendous significance in the years to come. Horizontal linkages both within countries and globally are essential if we have simultaneously to counter the international underpinnings of authoritarian structures and actively assist in positive movements for social and political change—global, regional, national and local.



## SOME NEW ISSUES

Significant new issues have become part of the agenda of human rights groups—issues which will be crucial in the coming decades. The conflict over natural resources, the issue of gender and the increasingly violent conflicts among communities are three such instances. To understand the crucial new challenges, it will be necessary to look at them in some detail.

### **Natural resource conflicts**

The entire policy of natural resource use—of chemical input-based agriculture, of modern forestry, of mining and industry, of urbanisation patterns—is creating serious problems of livelihood, lifestyles and life, not only of those directly affected, but of all peoples—including future generations. The gas leak in Bhopal, the hundreds of thousands of people forcibly uprooted by large development projects, encroaching desertification caused by rampant deforestation, the mechanisation of traditional occupations such as fishing and weaving—all these demonstrate the increasingly precarious situation of those in the rural areas. The crucial difference in the understanding of these issues in comparison to the West is that while for the latter the problem is either of pollution of renewable resources (air, water, and so on) or of the non-availability of non-renewable resources at low economic prices, for people in India it is the destruction of renewable resources—forests, soil and water—on which a large proportion of them have so far survived and on which our cultures are based.

The different ecological movements in India reject the Western characterisation of nature and the techno-managerial and socio-political options posited therefrom. This dominant view is premised on the intrinsic superiority of industrialisation and urbanisation over the more indigenous modes of organising livelihoods and production—the assumption being that nature is an inanimate entity, to be appropriated, controlled and acted upon by humans via technology (the fruit of their labour). It is further assumed that it is through the application of superior technology that man generates the surplus necessary for moving from the realm of scarcity to the realm of freedom.

The movements in India are confronting this vision of ‘managing’

society. Through practice, they continue to demonstrate that nature is animate/living, a provider of resources and surplus, and that lifestyles and livelihoods can be sustainably protected if the regenerative capacities of renewable natural resources are respected. The Chipko ('hug the trees') movement in the low Himalayan zone thus argues for the superiority of natural forests over man-made, mixed-species forests.

What is also being highlighted is the problem of the *commons*, the increasing privatisation of which has not only threatened the maintenance and survival of these resource bases but the entire livelihoods of millions of people dependent on them. Equitable and inalienable rights to the commons, as also to resources like land, forests and water are seen as *essential* to survival without which most talk of human rights lacks authenticity.

### **Community identity and social conflicts**

A wide range of conflicts—some new, most having deeper historical roots in both the socio-cultural and the political—have threatened the rights of very large numbers of people. The scale and intensity is staggering—the inter-religious and inter-ethnic conflicts, Hindu–Sikh, Hindu–Muslim, Hindu–Christian, sub-nationalist assertions for greater autonomy such as the Gorkha National Liberation Front (for a separate state of Gorkhas) or the Jharkand Movement (for a new tribal state in central India), are today sharper than ever before.

The communalisation and ethnicisation of the polity now not only threatens the rights of entire communities and of millions of people but the very fabric of Indian society. While loaded against minorities, the atmosphere of intimidation and widespread social violence has simultaneously led to greater insecurity among the so-called majority. (These developments can be characterised by an ever widening cycle of mutual tensions and violence.)

This is not to argue that such conflicts were not present earlier. However, till recently, the history of the region was relatively peaceful where different communities co-existed with little tension. It would be necessary to admit that as far as the question of the Adivasis (tribals) and the Dalits and women is concerned, the issue remains somewhat unresolved. There was historically a great deal of ugliness and violence, but what cannot be denied is the sheer empirical reality and multiplicity of diverse living traditions which point to the previous importance of an assimilative but non-homogenising sensibility.

It is with the coming of the modern nation-state that things dramatically changed.

The making of the modern nation-state permits only two legitimate categories—the State and the citizen. All other modes of social cohesion and organising are thus converted into transitional modes, which have either to be abolished (through a process of the market or the State) or be cynically manipulated to ensure easy governance. The developments in Punjab (as well as most of the other issues identified earlier) bring into sharp question this assumption. Common ritual, personal law and religion are symbols that cannot be wished away by processes of modern nation-state making.

This is not the place to elaborate this further, except to say that the assumption (shared by both Marxists and liberals) that the forces of modernisation should wipe out these archaic primordial sensibilities is being seriously brought into question by the exploding violence. The butchering of over 3000 Sikhs in the capital city of Delhi following Mrs Gandhi's assassination, or the period of more than three decades of brutal army rule in the North-East, cannot be wished away as necessary evils. On the other hand, superficially responding to them is also not enough. This argument might imply that what is being suggested is to re-invoke the traditional. However, what is being argued is not that the 'primordial' or the 'traditional' must be frozen (for all evolution is a dynamic process) but that the secular, homogenising principles of the modern state need to be confronted if social violence is to be reduced. Autonomous and distinct cohesions, processes which allow communities 'to come into their own' without external manipulation and aggression, must be sought.

Human rights groups and other formations concerned about these issues are asserting these debates and demanding the creative use of social spaces and institutions towards a more harmonious state-civil society interaction. The greatest challenge is however to marry the respect for multiple identities with the urge for justice—particularly because while traditional sensibilities *may* ensure peace, they did not necessarily ensure justice.

### **Gender conflicts**

Women in India—traditionally and in the post-colonial period—have continued to be the target of multiple oppression. They get lower access to food, health and education in addition to carrying the

double burden of work. They are increasingly also the first targets of retrenchment. Where they work, they invariably get lower wages.

Alongside oppression and invisibility in the public sphere, women face an atmosphere of debilitating violence—bride-burning, rape, battering and sustained psychological oppression both within and outside the family. The growth of women's struggles in India has, as in the grassroots critiques on the question of ecology and community identity, challenged contemporary development processes—particularly the patriarchy encoded in modern development. Women, critically affected by growing shortages of fuel, fodder and water, have spearheaded the current ecological movements. They have also been in the forefront of efforts to contain the communal issues, for it is they who have felt the severity of codified and rigid male-dominated religions.

Obviously, the responses to the continuing isolation of women's rights are still at a very early stage. The strategies to overcome the structural biases are still groping for a more coherent focus. Does, for instance, a focus on the capitalist and patriarchal oppression imply a stratification among the oppressed? Or, is the staggering implications of balancing out the deeply internalised oppression (among both women and men) clearly perceived? An example could be the struggle against the domination of fundamentalists among Muslims. Does this struggle also imply a criticism of religion itself? How then will traditional institutions be reworked?

In addition to the struggles on issues of work, including wages and conditions of work, access to services, and property, newer complexities have been raised, for instance in the health sphere. The proliferation of amniocentesis clinics and the rise in female foeticide, the fact that most current 'fertility control mechanisms' are women-centric and intrusive technologies, are significant issues being raised by women.

What is also being slowly asserted, in this wider struggle for rights, is the demand for easier access to inputs and a greater control on output markets, even in 'informal' sector activities. This is gradually not only improving income and working conditions but also a redefinition of the meaning and value we impute to work in specific socio-cultural contexts.

Fundamentally, these struggles, though as yet weak, are attempting to push at newer inter-connections between women and ecology, with culture and religion, with work and with democracy and politics.

## SOME PROBLEMS AND THE NEW CHALLENGES

What has been discussed above are three central areas, which are keys to understanding both the evolving concerns and the emerging challenges that human rights groups face today. Each of these clusters represents cutting edges of conflicts that can neither be well appreciated within the 'conventional' categories and frames of analysis, nor be amenable to 'conventional' modes of organising and intervening. These conflicts and struggles for survival and justice need urgently to be seen within a wider framework of human rights. What is also needed is a clearer understanding of the processes within which these rights can be realised.

At a primary level, a shared notion of rights reflects the mediation/interplay between the quest for freedom and the constraints of responsibility as demanded by the norms of the collectivity—village, caste, religion, state or humanity—that the individual or the group is part of.

In India, given the nature of the political regime which defines the current limits within which citizens attempt to exercise their rights, this becomes defined as the struggle for enlarging the spaces defining the shared norms of behaviour between State and the citizen.

The term human rights is not in common parlance in India. Rights in India have been defined as civil liberties (CL) and democratic rights (DR). CL are rights which are guaranteed by the Constitution, defended in courts via law. DR are reflected in the Directive Principles of State Policy which provide indications of the directions in which the expansion of fundamental rights ought to take place. There is, of course, an obvious continuum between CL and DR. A majority of rights outlined in the three clusters above fall within the DR category. DR therefore encompasses and gives direction to a much wider and more comprehensive realisation of individual *and* collective rights.

Within this rather broad notion of rights, we have to take stock of both violations and resistance. To state it politically, the struggle for rights is a struggle for the quest for justice which can attain a dynamic equilibrium only via the implementation of shared norms.

India has a record of flagrant violation of rights at every level. From a consistent situation of lawlessness created by the State—through undemocratic (though not always illegal) legislation, to arbitrary acts of both policy and intervention, successive governments have attempted to maintain politics that deny to a majority of

citizens the right to a civilised human existence. Illegal detention, torture, killing by encounter, declaring individuals, organisations and communities illegal by a mere shift of words, these are situations which find regular mention in Amnesty International Reports. These violations, however, raise relatively simple questions. Issues of successful tactics and strategies apart, what is critical to understand is the process through which the consent for the abrogation/limitation of rights is created.

To understand this, it is critical to focus not only on the regime and its acts, but on the nature of state institutions—legal, political, ideological and others—that provide the contradictory impulse of both restricting and enlarging the space for playing out the struggle for the assertion of the human spirit.

As mentioned at the onset, for most of us, in most of the situations, the struggle for CL and DR has become reduced to simple freedoms reflected often through the struggle for bread, shelter and work. This situation of deprivation may arise through acts of direct violation of individual and collective identities and sensibilities; through shifts in official policy and domination by powerful economic groups; through strategies like militarisation which affect both resource use and create an autonomous reason of State (war hysteria); or through incorporation into the global production system—that is, via World Bank and IMF conditionalities.

While the violation of rights is near-universal, the focus on the acts of resistance to the violations has somehow become concentrated on the ‘specialist organisations’ which have attempted (as mentioned earlier) to investigate, expose, and sometimes extend the debate on rights in each one of our countries. In India, as outlined, civil and democratic rights groups have over the years developed an alliance—partly because of the decay of political parties and partly due to the emergence of groups fighting for democracy outside the party spectrum.

If one focuses on groups like these, then the questions which need to be explored relate to the relative (in)efficacy of these groups in maintaining and extending their aura of legitimacy, for example, in attracting more people to their fold, and linking up with other political groupings and movements. The extension of the moral weight of these organisations and the issues they raise is, however, directly affected by an atmosphere of generalised conflict and violence. For instance, CL groups become less effective in a situation like that of Punjab, because of their inability to convey a non-partisan

image. Similar questions arise in the context of struggles by nationalities demanding the right of self-determination. In all such situations, it is only the senselessness of the brutality and the unwillingness of ordinary people to be subverted to the plans of rulers that may save the situation.

Another dimension of the struggle over rights, going well beyond the usual domain of law, relates to how the structure of entitlements (natural resources) is altered as a result of developmental interventions. What are the rights of displaced people and communities—a phenomenon now assuming alarming proportions? Is it only to 'fair compensations'? How does one resolve, without resorting to totalising force, the conflict between rights of the displaced to their relationship to an environment with the claims of 'legitimate' use of resources by the State.

Essentially the point being made is that the notions of rights and the instrumentalities to struggle for them (people's organisations, media, courts, linkages, and so on), while operating at a current minimum, needs to be continuously expanded. The greater the extent of self-organisation by the people (whether on modern political lines, or on community lines), and the greater the conceptual distance between the regime and the State, the greater is the degree of play possible in the struggle for enlarging rights.

The difficult questions that the people of India (as well, in fact, as other countries in the region) face come up when a conflict emerges between different legitimate categories of social cohesion. The examples relating to the rights of Muslim women, or women within a family, of reformers within the Bohra community (a large, rigid Muslim sect), raise questions that cannot be easily sorted out within the domain of the state-citizen discourse. Issues relating to the intrinsic limits posed by a bourgeois state (such as conflicts between the right of a factory owner to close the factory and the rights of the worker to work) are, however, somewhat easier to resolve through mechanisms of fair compensation.

In all this there is a need to move from an empirical discussion on the violation of civil and democratic rights, and the relative efficacy of different instrumentalities to deal with them, to the more difficult terrain of recognising the legitimacy of categories other than the state and the citizen. However, the moment we recognise the legitimacy of other categories of cohesion, we need to work out their areas of relative autonomy from the State. In a context where the State does enjoy, and possibly rightly so, a legitimate existence, and is seen as an

arbiter of final appeal (say by the oppressed within a community), then recourse is possible only to norms of shared social sensibility.

It is being increasingly realised that CL and DR, as an exercisable domain within civil society, need to be rooted in the life and existence of those groups and communities whose rights to life are being most violated. It may be noted that the referrant is to a group and not an individual. For similar reasons a philosophical reliance on Anglo-Saxon law as the indicator of shared sensibility is somewhat misplaced, because this philosophy of law does not even recognise the existence of communities. *What seems necessary is to initiate a process of shared visions which may prove the foundation for institutional formats and organisational imperatives to realise them.*

The struggle for human rights, while primarily focused around the resistance to structural injustice, must simultaneously address itself to enlarging social spaces of shared sensibility. In such 'spaces' rights—as a tension between the quest for freedom and the necessity of responsibility—can unfold.

Locating the struggle for human rights in consolidating and expanding arenas of community control and shared social sensibility, while fine as a guiding principle, still does not provide clues on how to act in the increasingly complex and grim situation of which we are all a part. At one level the struggle for survival and human rights has necessarily to be directed against both the regime and the State, since they are the principal instrumentalities through which systematic violations are caused. But does this imply opting out of the state structures and processes completely? Can the human rights movement in India, weak as it is, even afford to drive itself into a purist corner?

The desire not to engage oneself politically is often only an abrogation of responsibility—of not wanting to dirty one's hands. Theoretically, it implies falling prey to a dualistic neatness, as if segments of society can be clearly segregated, with the State structures being painted villainous and the society pure. In not realising that all politics operates in the arena of 'compromises and deals' and addresses itself to what is potentially realisable, revolutionary purism ends up painting state structures and processes in 'fortress'-like terms, amenable only to assault and smashing. It assumes that the State is completely illegitimate, and since this perception is not shared by a majority of the citizens, the human rights struggle finds itself increasingly isolated.

There are serious limitations being perceived in human rights



activists and the movement confining itself to liberal constitutionalist activity—issuing reports and press statements, appealing to the Courts, etc. Four decades of such efforts have yielded sparse results. It is not desirable either to become another wing of a political party—bourgeois or radical—particularly in a situation when party politics, though necessary, hardly enjoys much credibility.

The dilemmas about defining a political role that avoids the above two extremes comes through most sharply in situations of extreme ethnic tension and violence. Should the conflicts between two segments of society—castes, classes or communities—be the legitimate concern of human rights groups? *Can the movement afford to remain a silent spectator to the social processes of which it is a part?*

Another question that has been raised repeatedly is how the movement should react to the violence, initiated by or retaliatory, by oppressed groups? For instance, consider the armed revolutionaries in different parts of India, even where their aspirations and struggles are totally legitimate, and even when the violence is essentially a reflection of systematic denial of the minimal conditions for civilised existence by the State. Can the human rights movement afford either to remain silent or to take only an anti-State stance? The dilemma becomes starker when the socio-political movements—whether of economically oppressed classes, or of oppressed minorities and nationalities—seem to be losing their elan. And it is not just the movements that seem on a declining curve, but the bourgeois states themselves. The ‘fear’ about an anarchic breakdown, definitely among the middle classes, but often enough in wider sections of the society, does not leave space either for silence or partisanship.

Even if one argues that the ‘original sin’ was committed by the state structures, what about the rights of the ‘uninvolved innocents’ who too get ‘hurt’ in such situations? What about the dissenters within the militant social movements? What when different organisations fighting for the same cause fight among themselves? Do they have rights? Are these to be sacrificed as the necessary costs of just struggles?

Similarly, situations of inter-community tension and clashes pose difficult problems. Should human rights organisations intervene (and how?) only when the clash has become violent and the State steps in for ‘law and order’ purposes? In which case, can the movement issue its usual denunciation of the State? Or should it evolve for itself a non-partisan political role? Is not intervening to avert violence more important than ex-post facto laying of blame?

It is self-evident that being political and non-partisan is hardly an easy task, particularly when conflicts and violence in civil society are at fever pitch and the poor have often no option but to struggle violently. It was much easier for liberal theorists in the early years of this century to argue for the non-negotiable human rights of those wanting to overthrow and transform the existing states by violence. Such events were in any case rarer. Not so now.

Another critical dilemma that the human rights movement faces is intrinsic to its self-definition. The UN Declaration of Human Rights is in its philosophical premises universalist and individual-centred. South Asian societies such as India rarely recognise the individual except as part of a community ordering. And these community orderings are fluid and often at variance with each other. Should not then the human rights movement base itself on social cohesions, working out the areas of autonomy both of community orderings from the State and dissenting individuals within the community? This thus would have serious implications for working out not only the legitimate space for community access and control over natural resources, but may also help redefine the notion of the western nation-state that our constitutional fathers adopted. If the human rights movement has to address itself to the problems of survival, then it needs to explore creatively the possibility of state, market, and *communitas* interactions. Without this, the movement, as an expression of the assertions of the oppressed, is likely to bind itself into a cognitive jam—continuing on its current heroic but ineffectual path to obsolescence.

All these issues become even more critical than was the case in the years gone by, as we realise that the traditional problems of justice and rights for the oppressed are going to be either subsumed under, or overwhelmed by, problems of ethnicity, regional identity and cultural (including religious) assertions and demands of specific communities. The failure of the State to meet minimum norms of dignity and decency, minimum needs of a socio-economic kind (known in the literature as 'basic needs'), has produced a situation in which the highly plural society is disintegrating, and ethnic identities are becoming purveyors of basic strivings for dignity, autonomy and freedom. It is just not possible to handle the issues of community identity and 'rights of the people', as found in this setting, within the conventional framework of civil liberties and human rights. Add to this the fact that the response of the State to these new strivings is by engaging in repression aimed against minority communities which are

felt to stand against both 'natural unity' and 'national interest'. Add also the fact that the new techno-managerial elites in charge of the new state apparatus are increasingly incapable of handling the crucial political tasks of mediating and coalition-building within plural spaces, and are instead found to be committed to homogeneous technocratic solutions to political problems arising still from civil spaces, but civil spaces that speak increasingly cultural dialects. And add finally the fact that radical groups of both human rights and revolutionary types that used to engage themselves around socio-economic issues are finding it both compelling and expedient to join forces with those struggling for nationality, regional and ethnic rights. This reflects part of the full panorama of the emerging reality that calls for a considerably new way of looking at the agenda of human rights. It remains to be seen whether the human rights movement in India and elsewhere can shape itself for the tasks ahead.

# 7 Human Rights and Development: Reflections on Social Movements in India

BARNETT R. RUBIN

The relationship between 'human rights' and 'development' is actually a number of different relationships. There are at least three distinct clusters of concepts among which there may be trade-offs or complementarities—namely, civil and political rights, basic economic and social rights (rights to subsistence and security), and aggregate economic growth. Various studies have focused on two of these three, or on different subsets of their total relationship.

Studies such as S. M. Lipset's claimed to find that a certain level of economic growth was a precondition for civil and political rights. Samuel Huntington pointed out the distinct impact of the *rate* of growth and change as opposed to the level of various indices of 'development'. G. A. O'Donnell's study of bureaucratic authoritarian regimes drew on the dependency literature to argue that since economic growth is not a uniform process but one that goes through distinct stages connected to the development of the international economy, growth will have different effects on political rights at different times. He argues that aggregate economic growth under associated dependent development was inconsistent with economic and social rights—and therefore with the political and civil rights that enabled suppressed classes to lay claim to such rights. Technocratic justifications for developmental authoritarianism agree that political and civil rights enable groups to make claims that sabotage economic growth, but argue that such claims will not lead to real satisfaction of basic economic and social needs unless there is first aggregate economic growth.<sup>1</sup>

The arguments, especially in Africa, in favour of communitarian political systems, claimed that political and civil rights create divisions inimical to both economic and social rights and aggregate economic growth. The Leninist justification for revolutionary author-

itarianism is similar in structure. The officially stated position of the current administration in the United States is that respect for civil and political liberties is necessary for economic growth, which lays the foundation for economic and social rights at a later time.<sup>2</sup>

One way of examining such claims is to engage in cross-national comparisons of the states of several whole political systems. Another method is to examine the claims made by political actors together with their political practice together with the impact of their practice in a particular system. Such a method is better suited for refining propositions and developing their complexity. In this chapter we examine claims about civil and political rights, economic and social rights, and economic growth in the practice of states, human rights groups, and social movements in India.

## FROM INDEPENDENCE TO THE EMERGENCY

From the framing of the Republican Constitution of India to the Emergency between June 1975 and March 1977, the major conflict between 'human rights' and 'development', in both theory and practice, was in fact a conflict between civil rights (in particular the right to due process) and economic rights (as represented by policies such as land reform). There may also have been a conflict between political rights and economic growth, at least in the form of accelerated industrialisation. In India the political power of the rural voters effectively prevented the government from formulating policies to finance industrialisation through rapid extraction of resources from agriculture, as in the Soviet Union and China.

The Indian constitution provides for civil and political rights in the Fundamental Rights, and for some economic and social rights in the Directive Principles of State Policy. The members of the Constituent Assembly granted the government powers to limit Fundamental Rights in the interest of national unity and security, but these provisions did not become central to politics for several decades. Of more immediate concern was the belief of some members of the Constituent Assembly that powerful citizens might use the rights to due process and compensation for property to resist social reforms. This is what actually occurred during the 1950s when landlords mounted court challenges to laws abolishing *zamindari* (forms of feudal landholding) on precisely such grounds. Parliament eventually validated *zamindari* abolition through a constitutional amendment.

In the *Golak Nath* case, however, the Supreme Court ruled that thereafter parliament could not further amend the 'basic structure' of the constitution, including the fundamental rights, without convening a constituent assembly.<sup>3</sup>

At the same time, the development strategy elaborated by the Indian Planning Commission was based on a different model, in which political rights (especially mass participation) provided the basis for a strategy of both economic growth and protection of economic rights. The key to the strategy was the introduction of village councils or *panchayats*, which the planners imagined would mobilise the poor in support of redistributive land reform. The introduction of co-operative farming would both give the landless access to basic subsistence and security and provide an easier mechanism for extracting surplus from agriculture into a state-dominated industrial sector. As it turned out, however, democratic political rights hindered the state's ability to extract surplus from agriculture, as the poor showed little interest in radical redistribution of land, and rural elites succeeded in dominating much of rural politics. Political rights did seem to hinder state-led forced industrialisation on the Stalinist model.

The government soon gave up the attempt to extract resources directly from agriculture, but the conflict between the protection of civil rights and policies whose sponsors claimed they would enhance economic and social rights intensified under Indira Gandhi's first term as Prime Minister (1967–77). In a series of contests between her government and the courts, the courts overturned policies basic to the populist political position she was staking out for herself, such as nationalisation of banks and ending the 'privy purses', or private incomes, the government had agreed to pay Indian princes, on the grounds that they violated certain portions of the Fundamental Rights.<sup>4</sup>

After winning more than two-thirds of the parliamentary seats in the 1971 elections, Prime Minister Gandhi could respond to court decisions overturning her policies by amending the constitution. She and her followers passed constitutional amendments that forbade the courts from ruling unconstitutional on the grounds of violation of the Fundamental Rights any legislation declaring as its aim the fulfilment of the Directive Principles. In a case challenging these amendments, the Supreme Court held that Parliament could amend any provision of the constitution, including the fundamental rights, but could not 'abrogate' the constitution or alter its 'basic structure or framework'

by, for instance, abolishing federalism or elections. Prime Minister Gandhi responded to this partial defeat by appointing a new chief justice who agreed with her legal doctrines, over the heads of three senior justices, contrary to established practice. All three superseded justices resigned.

## EMERGENCY

From June 1975 to March 1977 Prime Minister Gandhi suspended the Fundamental Rights by declaring a State of Emergency. While the Prime Minister justified the Emergency in language similar to that which had been used in earlier conflicts over rights (she claimed that powerful citizens were using these rights to prevent her from carrying out programmes in the interest of the 'majority'), she in fact greatly broadened the previous claim that certain civil rights conflicted with the economic and social rights of the poor. Not only did she attempt to assert Parliament's complete power to make laws to fulfil the Directive Principles without regard for any of the Fundamental Rights,<sup>5</sup> but she also limited security rights, such as rights against arbitrary arrest, and rights to free expression, through the imposition of rigid censorship and the arrest of opposition members of parliament. She even postponed elections for as long as was legally possible, but stopped short of tampering with the basic principle of electoral legitimacy.

While there was significant support for the restriction of a few of the legal-procedural rights of a small and relatively privileged group of people for the sake of carrying out certain specific beneficial policies, there was much less support for the restriction of broad rights enjoyed by everyone for the sake of vaguely formulated general goals. While the passage of previous amendments had in fact enabled the government to abolish *zamindari*, nationalise banks, and abolish privy purses, Prime Minister Gandhi could point to no such concrete accomplishments in the protection of economic rights or the promotion of economic growth under the Emergency, despite the more severe restriction of a wider set of civil and political rights.<sup>6</sup>

The experience of the Emergency thus called into question the belief that protection of civil and political liberties was an obstacle, let alone the main obstacle, preventing the state from protecting the economic rights of the poor. More than that, certain events seemed to show that without the protections against arbitrary power provided

by civil and political liberties, those with the least resources were most likely to be the victims of abuse. The most famous examples of such abuse were the 'untouchables' and Muslims pressured or forced to undergo vasectomies, and the largely Muslim squatters forcibly evicted, with some loss of life, from Turkmen Gate in Delhi in the course of a 'beautification' campaign.<sup>7</sup>

These experiences marked the birth of the human rights movement in India, exemplified in organisations such as the People's Union for Civil Liberties (PUCL) and the People's Union for Democratic Rights (PUDR). This movement was also part of a larger efflorescence of voluntary social movements outside the formal structure of state and party institutions. As one recent commentator put it, 'The context in which the voluntary sector emerged as a substantial reality also signifies a particular kind of deep internalisation of the Emergency experience. The established institutions of the constituted political process—parties, bureaucracy, judiciary, legislatures and the press—crumbled in the face of a brutal assault by Mrs Gandhi's regime.'<sup>8</sup>

#### POST-EMERGENCY

Since the Emergency, the claims that certain civil rights conflict with the economic rights of the poor have virtually vanished from Indian political discourse. This does not only result from the discrediting of authoritarianism as a result of the Emergency; it also results from the central state's virtual abandonment of redistributive politics. The economic strategy increasingly concentrates on promotion of aggregate growth at the national level while state governments, whose capacities and commitments differ widely, are left with responsibility for programmes targeted at aiding the poorest sectors of society. These programmes, such as income generation schemes, food for work, and so on, are not integrated into the growth strategy, which in fact marginalises or at best fails to address the marginality of large sectors of the population. The government's economic strategy implicitly accepts the technocratic argument cited above that there is a conflict between economic growth and economic and social rights, which must be resolved in the short run in favour of growth. In 1985 Finance Minister V. P. Singh expressed this view succinctly when asked how the government of Rajiv Gandhi planned to 'remove poverty'. He replied, 'I don't have any such pill. It is by general growth and redistribution of incomes that you can remove poverty'.<sup>9</sup>

If the government has not gone on to revive the argument, popular



during the Emergency, that democracy impeded the 'discipline' needed for growth, it may be because democratic politics has not, by and large, mobilised the poor and marginal groups around redistributive economic demands. The middle class poverty of most of the Indian countryside militates against such mobilisation.<sup>10</sup>

Instead, during this period direct violations of civil and political liberties by the central government have generally not been justified by economic reasons but by national security, especially against separatist and ethnic agitations. These have increased as electoral politics have increasingly taken the form of competitive communal mobilisation. This illustrates that state building and the accumulation of power is another aspect of development, perhaps the key one, that may conflict with rights.

The continuing or worsening marginality of large sectors of the Indian population, which may be attributed to the type of growth strategy, continues to create political arenas in which a variety of actors, not all of them part of the state, violate the civil, political, economic and social rights of members of marginal groups. These violations have constituted the main cause for action of the human rights groups and have shaped their views on development and human rights.<sup>11</sup>

Given the experience that the state has directed repression both during and since the Emergency mainly against the most marginalised groups, the human rights movement in India has rejected the model of social transformation in which the state is the motive force acting on a passive society. Within such a model, civil and political rights that limit state action can conflict with economic rights and economic growth, which derive from state policy initiatives. Much of the human rights movement in India, however, sees social change as evolving outside of, if not against, the state and other established institutions, including left parties, through the actions of the voluntary sector. What the voluntary groups and grassroots social movements most need is protected space in civil society within which to pursue their projects of protecting the economic and social rights of the dispossessed. Civil and political rights protect these movements from repression and are thus *complementary* to struggles to protect economic and social rights through the empowerment of resourceless groups.

Increasingly these groups have found themselves opposing aspects of the government's strategy for economic growth which conflict with the rights of marginal groups, as when, for example, tribal peoples are displaced for the sake of a dam or a mine. Their involvement with

such groups, as well as the experience of the industrial accident in Bhopal, has led to an increasing interest in ecological issues and a stance that verges on being opposed to industrialisation and economic growth in favour of a more egalitarian, inclusive, self-sufficient communitarian society.

The human rights movement in India is thus moving toward a position which sees political and civil rights as complementary to each other and to economic and social rights, but sees all of these rights as in conflict with economic growth, at least in the known forms of industrialisation and destruction of natural habitats of human beings as well as animals and plants. There is also a peculiarly Hindu strain which criticises Western conceptions of rights as too human-centred and failing to give adequate attention to the totality of living creatures who are part of a 'society' of nature.

This political practice has the virtue of bringing out clearly an inherent tendency in the human rights discourse which Western theorists have rarely carried to its conclusion. Massive increases in standards of living require large-scale aggregate economic growth. Large-scale aggregate economic growth appears to require industrialisation. There does not appear to be any case of industrialisation, however, without violations of at least economic rights at least in its early stages. In human rights discourse, however, rights are trumps; they cannot be traded off intertemporally for future benefits. Doing so is especially repugnant when those who lose their rights now are not the people or even, most likely, the ancestors of the people, who will benefit from industrialisation. An approach to politics based on human rights in an underdeveloped country would thus seem to lead to a rejection of both industrialisation and an attempt to adopt the Western style of consumption.

Such positions, however, risk being politically irrelevant. All states are compelled to modernise technologically to the extent they can by the military compulsions of the state system. The developed, industrial way of life has become a model that billions of people strive for. Thus far the Indian human rights movement has refrained from offering an alternative development model and admitted that they do not have one. If they can begin to develop one, it will be a major contribution. More likely, however, is that the relation of human rights of all types to economic growth and development will come to resemble the relation of human rights to security concerns and economic interest in foreign policy. It may curb some abuses, but it will remain a form of resistance, not an alternative.

## NOTES

1. Seymour Martin Lipset, *Political Man: The Social Bases of Politics* (New York: Harper & Row, 1960); Samuel P. Huntington, *Political Order in Changing Societies* (New Haven: Yale University Press, 1968); Guillermo A. O'Donnell, *Modernization and Bureaucratic-Authoritarianism: Studies in South American Politics* (Berkeley: Institute of International Studies, University of California, 1979: 1st edn. 1973).
2. Jack Donnelly, 'Human Rights and Human Dignity: An Analytic Critique of Non-Western Conceptions of Human Rights', *American Political Science Review*, 76 (June 1982), pp.303-16; Claude E. Welch, Jr. and Ronald Meltzer (eds), *Human Rights and Development in Africa* (Albany: State University of New York Press, 1984); Richard Schifter, 'Introduction,' *Country Reports on Human Rights Practices for 1985*, Report Submitted to the Committee on Foreign Affairs, House of Representatives, and the Committee on Foreign Relations, US Senate, by the Department of State, Washington, DC (US Government Printing Office, February 1986) pp. 2-3.
3. On these controversies see Francine Frankel, *India's Political Economy 1947-1977: The Gradual Revolution* (Princeton: Princeton University Press, 1978) and Lloyd I. Rudolph and Susanne Hoeber Rudolph, 'Judicial Review versus Parliamentary Sovereignty: The Struggle over Stateness in India', *Journal of Commonwealth and Comparative Politics*, 19 (November 1981) pp. 231-56, and *In Pursuit of Lakshmi: The Political Economy of the Indian State* (Chicago: University of Chicago Press, 1987).
4. Under the British, some Indian rulers (maharajahs, nizams and so on) continued to rule their realms under British suzerainty. After independence, these rulers ceded their rule to India or Pakistan, but the Indian government compensated them by granting them 'privy purses'.
5. Under the Emergency Prime Minister Gandhi's government passed major constitutional amendments, removing the Prime Minister from the jurisdiction of the courts, strengthening the prohibition against overturning laws intended to fulfil the Directive Principles, and declaring that no court could find an amendment unconstitutional on any grounds whatsoever. The Supreme Court subsequently ruled that both provisions are unconstitutional. The conflict has clearly attained the limits of what formal legality can resolve.
6. The fall in inflation that accompanied the Emergency, it is now generally agreed, resulted from the record harvest, not the repressive measures of the government. The ban on labour agitations did enable the government to impose forced savings on state employees, which contributed in some measure to an increase in public investment. There was clearly no improvement in protection of economic rights of the poor.
7. These abuses were the main theme of the portrayal of the Emergency in Salman Rushdie's novel *Midnight's Children*.

8. Suresh Sharma, 'Voluntary Efforts and Institutional Funding', *Lokayan Bulletin*, 5, 2 (1987) p. 89.
9. *India Today*, 15 April 1985, p. 23.
10. Rudolph and Rudolph, *In Pursuit of Lakshmi*, at note 3.
11. For an extended discussion and classification of the social contexts of human rights violations in India as seen by the indigenous human rights groups, see Barnett R. Rubin, 'The Civil Liberties Movement in India: New Approaches to the State and Social Change', *Asian Survey* 27, 3 (March 1987) pp. 371-92.
12. For a sample of these views see any issue of the *Lokayan Bulletin* (LB). A few typical articles, chosen almost at random, are Rajni Kothari, 'On the Non-Party Political Process: The NGO's, the State, and World Capitalism', *LB* 4, 5, (1987) pp. 6-26; Smitu Kothari, 'Ecology Vs. Development: The Struggle for Survival', *LB* 3, 4/5, (1985) pp. 7-22; Shiv Visvanathan, 'From the Annals of the Laboratory State', *LB* 3, 4/5 (1985) pp. 23-46; and Ashis Nandy, 'Development and Authoritarianism: An Epitaph on Social Engineering', *LB* 5, 1, (1987) pp. 38-50.

# **Part II**

## **The Public Sector**

# 8 Human Rights and Development: The UN Experience

THEO VAN BOVEN

## INTRODUCTION

The 1982 report of the Parliamentary Assembly of the Council of Europe on development and human rights starts off with the following quotation: 'It is the common lot of development policy and human rights to receive more honour in rhetoric than in reality'.<sup>1</sup> Mindful of this sobering observation and having in view a United Nations perspective, we may put to ourselves some questions which deserve reflection. These questions are:

- Where are we now in the human rights and development debate;
- What kind of development do we have in mind;
- Are human rights and development separate or integrated notions;
- What are the responsibilities of peoples and states?

## WHERE ARE WE NOW IN THE HUMAN RIGHTS AND DEVELOPMENT DEBATE?

The question of the relationship between human rights and development has been under discussion in the United Nations for 15 to 20 years. The World Conference on Human Rights, organised by the United Nations in Teheran in 1969 on the occasion of the 20th anniversary of the Universal Declaration of Human Rights, adopted an interesting document, the Proclamation of Teheran, which linked human rights to major global issues. The Proclamation referred to human rights denials as a result of racist policies, to the refusal to recognise the right of peoples to self-determination, to violations of human rights as a result of armed conflicts. It also referred to 700 million illiterates as a human rights issue, and to the inferior status of women prevailing in many parts of the world. For present purposes paragraph 12 of the Proclamation is most relevant:

The widening gap between the economically developed and developing countries impedes the realization of human rights in the international community. The failure of the Development Decade to reach its modest objectives makes it all the more imperative for every nation, according to its capacities, to make the maximum possible efforts to close this gap.<sup>2</sup>

Leaving aside that in present development discussions it is no longer the custom to speak about closing the gap between developed and developing countries, what is particularly retained from the Teheran Proclamation is its general thrust. Different from most human rights documents that existed at that time and that listed rights of the individual person, the Proclamation of Teheran embodied what became known as the *structural approach*.<sup>3</sup> This approach means:

- (1) linking human rights to major worldwide patterns and issues;
- (2) identifying the root causes of human rights violations;
- (3) assessing human rights in the light of concrete contexts and situations;
- (4) recognising the diversity of political and social systems, cultural and religious pluralism, and different levels of development.

The same structural approach is apparent in the United Nations Declaration on Social Progress and Development.<sup>4</sup> But the great landmark of this tendency, strongly advocated by nations of the Third World, was General Assembly resolution 32/130, adopted in 1977, a year before the thirtieth anniversary of the Universal Declaration of Human Rights, under the heading 'alternative approaches and ways and means within the UN system for improving the effective enjoyment of human rights and fundamental freedoms'. This resolution, frequently referred to in later resolutions, was perceived as a suitable tool for an overall analysis of existing problems in the field of human rights. It stressed in particular the indivisibility and interdependence of all human rights. It stated that human rights questions should be examined globally, taking into account the overall context of the various societies in which they present themselves. The resolution accorded priority to combating mass and flagrant violations of human rights of peoples and persons. And it is not surprising that in an era when the new international economic order was written prominently on the agenda of the United Nations, the resolution considered the

realisation of the new international economic order an essential element for the effective promotion of human rights which should therefore be accorded priority.

The structural approach as highlighted in General Assembly resolution 32/130 caused a great deal of uneasiness in the traditional human rights constituency. It was argued that this approach led to an erosion of the legal content and nature of human rights, blurring the whole concept of human rights. Human rights would be abused for extraneous and political ends. The structural approach would also jeopardise the need for consistency and uniformity inasmuch as it introduced social and cultural relativism and the application of double standards depending, *inter alia*, on levels of development. Moreover, rights and aspirations were equated and thereby confused. A fine and dedicated human rights observer, Moses Moskowitz, put his strong criticisms in the following terms:

The resolution is only symptomatic of the intellectual chaos which pervades the international human rights field; there are no valid reasons why in this thirtieth year of the Universal Declaration that document, which was conceived of the ages, should have been shaken to its foundations. The great task before the United Nations is to restore intellectual discipline to its work in human rights, to draw clear distinctions between fashionable fads and critical causes, and to cleanse the human rights programme of all cant and pretense.<sup>5</sup>

While we concede that the misgivings regarding this structural approach have a great deal of validity, we believe at the same time that it is imperative to relate human rights to major political and economic issues. Human rights do not function in isolation but in concrete contexts and situations.<sup>6</sup> Anyway, the later part of the seventies was marked by a combination of factors and developments which elevated human rights to a prominent place on the international agenda. The structural approach propagated by the Third World together with the high profile given to human rights by US President Jimmy Carter as well as the process embarked upon in the East–West context as a result of the Helsinki Accords of 1975, made human rights a suitable topic for diplomats and politicians and by the same token a suitable topic on the research agendas of political and social scientists. Lawyers and moralists lost their monopoly over human rights. It was also symptomatic that as a result the United



Nations Commission on Human Rights increasingly turned into a political platform. Diplomats took over from experts and political alliances counted more than merits.

Close to the 40th anniversary of the Universal Declaration the structural approach was still alive, at least in the sense of rhetoric. The most recent evidence was the adoption on 4 December 1986 by the United Nations General Assembly of the Declaration on the Right to Development.<sup>7</sup> The Declaration is undoubtedly a document oriented to human rights, placing due emphasis on the central position of the human person in the development process. In this respect a key provision reads: 'The human person is the central subject of development and should be the active participant and beneficiary of the right to development'.<sup>8</sup> We consider the Declaration, which is the outcome of many years' arduous work, as an important contribution not only to the debate on human rights and development but also, if taken seriously, to national and international policies in this area. Again, if taken seriously, the Declaration would:

- (1) strengthen the relevance of human rights in the development process,
- (2) serve the recognition of the human person and the human factor as central in development efforts,
- (3) provide a sound political, legal, social and moral basis for development co-operation,
- (4) lend itself to effective use and be a suitable yardstick in the development and human rights dialogue between development and developing nations.

Nevertheless, objections and misgivings were expressed at the time of the adoption of the Declaration.<sup>9</sup> Basically these negative reactions were similar to the objections and misgivings voiced some 10 years earlier in connection with resolution 32/130 (see above): the Declaration would lead to the erosion of individual rights (Federal Republic of Germany); the right to development may be invoked to legitimise violations of the right of citizens (Japan); the Declaration failed to draw a distinction between people's rights and individual rights (Australia); the Declaration tended to dilute and confuse the human rights agenda (United States); the Declaration provided an over-simplified view of the complex relationship between disarmament, security and development (United Kingdom); it also provided

a mistaken link between the promotion of human rights and the establishment of a new international economic order (United Kingdom).

While it is distressing that time and again the industrialised nations—or at least a core group of them—fail to support in the United Nations, and in other forums of multilateral co-operation, effective measures that are required for establishing a more just international economic order, it is interesting to note that international lawyers who met in August 1986 in Seoul (Korea) at the 62nd Conference of the prestigious International Law Association were able to adopt by consensus a far-reaching Declaration on the Progressive Development of Principles of Public International Law Relating to New International Economic Order. It would go beyond the scope of the present paper to discuss that text. Suffice it to say that the ILA declaration deals, *inter alia*, with such issues as: the principles of equity and solidarity and the entitlement to development, the right to development, the principle of common heritage of mankind, and participatory equality of developing countries in international economic relations.

We may conclude at this stage that there is no lack of normative texts and documents that purport to integrate human rights into the development process. Also, some policy statements by inter-governmental and non-governmental organisations hint in that direction. However, when it comes to implementing these normative texts and policy statements, the political will and motivation are lacking and rhetoric appears to prevail. The blueprints for a more just international economic and social order, oriented to human rights, are available and are well conceived. But the gap between standards of aspiration, standards of justice, standards of achievement and standards of performance was there in 1968 as well as in 1978 and remains in 1988.

## WHAT KIND OF DEVELOPMENT?

In a remarkable United Nations study on the international dimensions of the right to development,<sup>10</sup> presented to the Commission on Human Rights at its 35th session (1979), it was recalled that for a long time the terms 'development', 'economic development' and 'growth' were generally considered to be synonymous and were used interchangeably.<sup>11</sup> The 'trickle down' theory may have been abandoned

long ago in the United Nations, but it still has strong supporters, notably in the United States. However, it was already recognised in a review and appraisal report of the first United Nations Development Decade (1961–70) that human rights and human welfare would constitute an integral part of development policy. The report stated:

One of the greatest dangers in development policy lies in the tendency to give the more material aspects of growth an overriding and disproportionate emphasis. The end may be forgotten with the means. Human rights may be submerged and human beings seen only as instruments of production rather than as free entities for whose welfare and cultural advance the increased production is intended.<sup>12</sup>

The recent Declaration on the Right to Development also indicates the type of development we have in mind when we try to conceive a sound development process. According to its second preambular paragraph 'development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom'. Quite correctly development is seen as a process not limited to economic factors, aimed at the well-being of the entire population and of individuals on the basis of participatory relationships. It should also be kept in mind that no uniform and universally applicable model exists as regards the process of development.

This can best be illustrated in connection with the peculiarities and the requirement of indigenous peoples. Asbjorn Eide stated this in a pertinent and lucid manner: 'The discussion of the rights of indigenous people have brought home to the development debate a new dimension. It is not simply a question of avoiding discrimination; it is a requirement to accept their own ethnic identity and culture and thereby, in fact, to accept their conception of development'.<sup>13</sup>

In analysing the kind of development which does justice to the human person as the bearer and the beneficiary of human rights, we cannot be better guided than by the elements which the UN study on the international dimensions on the right to development<sup>14</sup> identified as forming part of the concept of development:

- (1) The realisation of the potentialities of the human person in harmony with the community should be seen as the central purpose of development;

- (2) The human person should be regarded as the subject and not the object of the development process;
- (3) Development requires the satisfaction of both material and non-material basic needs;
- (4) Respect for human rights is fundamental to the development process;
- (5) The human person must be able to participate fully in shaping his own reality;
- (6) Respect for the principles of equality and non-discrimination is essential; and
- (7) The achievement of a degree of individual and collective self-reliance must be an integral part of the process.

#### HUMAN RIGHTS AND DEVELOPMENT; SEPARATE OR INTEGRATED CONCEPTS

It is generally accepted that human rights is an ingredient of the development process and that the human person should be the subject of development. This philosophy belongs explicitly or implicitly to the essence of a series of documents which all base themselves on the structural approach to human rights, notably the Proclamation of Teheran, the UN Declaration on Social Progress and Development, General Assembly resolution 32/130 adopted in 1977, and numerous resolutions on the right to development culminating in the UN Declaration on the Right to Development. A similar philosophy can be found in the African Charter on Human Rights and Peoples' Rights, which was adopted in 1981 in the framework of the Organisation of African Unity and entered into force on 21 October 1986.<sup>15</sup>

It is an undeniable fact that human rights do not function in isolation. They cannot be fully and properly assessed without taking into account the political, economic, social and cultural context of the particular situation. United Nations' rapporteurs and envoys, whose task is to study and investigate certain situations characterised by 'consistent patterns of gross violations of human rights', face this question. By way of example we refer to the view expressed by Mr Gros Espiell, Special Envoy of the Commission on Human Rights to study the human rights situation in Bolivia, in 1981. After establishing that serious violations of the right to life and the integrity of the human person had occurred, and after discussing the responsibility of

public authorities, the Special Envoy deemed it necessary to refer to such contextual factors as: the endemic political instability of the country, the very low per capita income and the unfair and unequal distribution of wealth, the high proportion of indigenous groups who remained outside the political process, and the drug traffic. And the Envoy observed: 'Consideration of this political, economic, social and cultural background is essential to an understanding of the human rights situation in Bolivia'. This background influences the study of the question to some extent and provides an insight into the causes of a situation in which violations and non-observance of human rights are not an atypical phenomenon dating from 17 July 1980 (the date of a military coup), but rather one which, with some differences and varying degrees of intensity, has occurred at many other times in Bolivia's troubled history.<sup>16</sup>

While in theory it is quite clear that human rights should constitute an integral part of development policies, this theory is hardly converted into practice when it comes to the actual operation of development policies. In fact, the UN preaches a theory which it does not practise itself. Some illustrations may serve to substantiate this point. First of all the UN human rights programme, which is being administered by the UN Centre for Human Rights in Geneva, largely functions in separation from the main programmes and agencies of the UN. On the basis of the UN Charter the Economic and Social Council should secure co-ordination of policies, but the Council has failed to do so. Moreover, until 1987 the Under-Secretary General for Political and General Assembly Affairs at UN Headquarters in New York had a supervisory responsibility over the UN human rights programme. But this official and his office, who should have been well placed to promote within the Secretariat the co-ordination and integration of human rights with regard to the major other objectives of the UN, never made any serious efforts in that direction. With the appointment of an Under-Secretary General for Human Rights who is posted at the United Nations Office in Geneva, there is at UN Headquarters no senior official of political weight and with sufficient expertise who may function as a co-ordinating and focal point in human rights matters. Admittedly, there may be valid reasons to keep separate certain parts of the human rights programme—notably those which require most imperatively independent judgment and a distance from political bias—from other UN programmes as regards their structure and location, but that is a different discussion with different perspectives. At any rate, with the present organisation of

the human rights programme, the infrastructural conditions are not geared towards integration of human rights concerns and objectives into development policies.

Inasmuch as the UN itself, as regards its practical policies and programmes, is not serving as a bridge between human rights and development, other international actors could take up this function. Among them are many non-governmental organisations (NGOs) which energetically try to make human rights an integral part of their efforts in the field of development co-operation. In the United Nations there is quite rightly a growing awareness and a renewed emphasis on the significance of the role of NGOs. As the UN Director-General for Development said to a Conference of NGOs at UN Headquarters in New York: 'The UN needs the active support and co-operation of its second-tier constituency—the world's peoples'. And he continued, 'Some of the reasons of the success of NGOs are the high degree of motivation and personal commitment of their members, the independence of the NGOs from any external conditioning, their cost effectiveness and flexibility of management and structure'. Quoting from the Secretary-General's progress report on reform and renewal in the UN, the Director-General indicated that the UN was committed to explore new ways and means 'whereby the UN can offer a wider doorway through which NGO bodies and public movements can express ideas and promote action programmes on matters of world concern and thus feel themselves to be a more integral part of international relationships and decision-making'.<sup>17</sup> In the same statement reference was made to the strengthened role of NGOs and the relevance of their work to global peace, security and sustainable development, but the prominent UN official was absolutely silent as regards one of the major and long-standing concerns and preoccupations of NGOs: human rights. One may wonder whether this silence or ignorance was deliberate or a matter of oversight. The most plausible answer is that the Director-General for Development is not supposed to speak about human rights because human rights do not fall within his competence and are being handled within another compartment. Separation prevails over integration.

To what extent do human rights considerations play a role in the policies and activities of the United Nations Development Programme (UNDP)? It appears that only marginal consideration is being given by UNDP to human rights concerns. This occurs when its own staff is victimised or facing great risks because of human rights violations. It also occurs when circumstances do not allow UNDP to

continue its activities effectively (in Uganda under Amin). In more recent years the UN Centre for Human Rights has sought co-operation from UNDP in situations which (1) were the subject of special procedures regarding 'consistent patterns of gross violations' of human rights and fundamental freedoms, or (2) were on their way to recovery from adverse consequences of a repressive regime and to restoration of a sustainable democratic and social order. In technical terms of the UN human rights agenda, those situations were moving from the item on consistent patterns of gross violations of human rights to the item on advisory services in the field of human rights. In other words, on these situations there is a general political understanding that developments in the human rights field warrant the discontinuation of the denunciatory approach in favour of the advisory and assistance approach. Situations which have been falling within this category pertain *inter alia* to Bolivia, Equatorial Guinea, Guatemala, Haiti, Nicaragua and Uganda.

The evidence is rather meagre as regards the readiness of UNDP to integrate human rights in development efforts. In this regard the following passage from a letter of 15 July 1983 from the chief of the UNDP Division for East and Southern Africa to the Resident Representative in Uganda is illustrative: 'We note that many prospective bilateral donors have cited human rights violations as justification for withholding development assistance to Uganda. It is possible, therefore, that a small investment of UNDP funds in the human rights area might pay a large dividend in increased aid flows'.<sup>18</sup> In this perception human rights serve at best as a small herring in order to catch a shark!

In a more recent resolution adopted by the Commission on Human Rights on 2 March 1987 relating to the situation of human rights in Haiti, the Secretary-General was invited 'to facilitate the establishment of contracts between the Government of Haiti, the United Nations Development Programme and the Centre for Human Rights in order to ensure that the human rights dimensions of assistance are duly taken into account'.<sup>19</sup> It is of great interest to follow closely how this request is being implemented as a new opening for co-operation between UNDP and the Human Rights Centre. But in a broader sense it is useful to recall a recommendation included in a report of the UN Secretary-General on the international dimensions of the right to development, referred to in paragraph 13 above. In one of the concluding observations of that report it is suggested that 'a human rights impact statement, similar in concept to an environ-

mental impact statement, be undertaken prior to the commencement of specific development projects or in connection with the preparation of an overall development plan or programme'.<sup>20</sup>

In view of the great impact of the World Bank and in the light of some interesting developments in the policies of the World Bank, it would be unwarranted to ignore this institution as regards the subject matter under discussion. It is true that the World Bank has always been most reluctant to take human rights considerations into account in its lending policies. The Bank's Articles of Agreement provide that economic considerations alone are relevant to its lending decisions. The Bank is expressly precluded from taking the political character of the prospective borrower into account. But the Bank did embrace the 'basic needs' approach. Its former president Robert McNamara proposed in a World Bank policy as a target 'the meeting of the basic human needs of the majority of the absolute poor within a reasonable period of time—say by the end of the century'.<sup>21</sup>

In July 1981 the World Bank's Office of Environmental Affairs published a remarkably frank and highly interesting study entitled 'Economic Development and Tribal Peoples, Human Ecologic Considerations'. The opening phrases of the study were most relevant to the subject matter of the present chapter. They read: 'It is estimated that at present there are approximately two hundred million tribal peoples, or roughly four per cent of the world's population. They are found in all regions of the world and they number among the poorest of the poor. Bank-financed development projects which are increasingly directed to remote marginal areas of the rural environment, will unavoidably impact on these peoples, often in undesirable ways. It is oftentimes difficult to anticipate the nature and dimensions of these impacts, especially when tribal people make their first contact with the dominant society. All too often, the ensuing acculturation process proves prejudicial to the affected peoples'. The foreword continues: 'What is proposed herein is that the Bank take a conscious, substantive look at the above problems which, until recently, development planning has not adequately addressed'. And the foreword concludes: 'It is anticipated that after consideration of the material, the Bank will be able to reach consensus on appropriate policies and procedures regarding tribal peoples and measures to promote their development'.<sup>22</sup>

The World Bank's study on Economic Development and Tribal Peoples was frank, peoples-oriented, mindful of UN standards (it refers to human rights conventions) and highly sensitive to the



specific rights and interests of indigenous peoples. The study even spoke in terms of moral imperatives and offered a model how to approach human rights and development in their mutual relationships. However, I understand that soon after its publication it was withdrawn from public circulation and it became a classified document. One may wonder whether this was the end of a promising new opening and of a new policy approach. Later developments appear to indicate that this may not be the case. As was more recently reported,<sup>23</sup> the World Bank has decided to move environmental concerns from the periphery to the centre of the Bank's development policies by the creation of a 'top-level environment department' that will have to take the lead in integrating environmental considerations into all of the Bank's lending and policy activities. The Bank is apparently and hopefully moving away from its traditional stand that economic considerations alone are relevant to its lending decisions. It would seem that the shift from exclusively economic considerations to environmental and ecological concerns might also open the door to human rights concerns within the ambit of financial and development institutions. This trend deserves encouragement, support and, where possible, practical implementation, not only in the World Bank but also in other UN organs and agencies.

## RELATIONSHIPS AND RESPONSIBILITIES

The *primary* responsibility for development and human rights rests with nations themselves. This is a matter of self-determination to which all peoples are entitled in the terms of article 1 of both International Covenants on Human Rights: 'All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development'. The Declaration on the Progressive Development of Principles of Public International Law Relating to a New International Economic Order, adopted by the International Law Association in Seoul 1986, also stresses the primary responsibility of every State to promote the economic, social and cultural development of its people (Article 3, para. 3). But the Declaration adds in the same provision: '[Every State] is entitled to seek development assistance from the international community in order to overcome temporary or structural obstacles for the implementation of this task. In view of the principles of equity and solidarity, all

relevant international organisations and all States shall take joint and separate action for the implementations of this principle'. And indeed, Articles 55 and 56 of the UN Charter are the *sedes materiae* and the principle source for the subject matter of this paper. These articles:

- (1) ask for respect for the principle of equal rights and self-determination of peoples;
- (2) relate international co-operation for development and well-being to universal respect for human rights;
- (3) contain a pledge (or commitment) to take joint and separate action.

With due regard for the primary responsibility of the separate constituent units of the community of nations for the well-being of their peoples, there is also the common responsibility vested in the international community. This common responsibility is not of a residuary or last-resort nature but it reflects as a universal principle the unity of humankind and the dignity and worth of all human beings. Recognition of this principle of common responsibility creates new relationships between and within peoples and nations. Age-old legal notions stemming from Roman law and also accepted as general principles of international law are becoming the subject of reappraisal and review, such as the classical contractual notion of reciprocity '*do ut des*' or the traditional procedural principle of 'no interest, no action' (*point d'intérêt, point d'action*). International tribunals such as the International Court of Justice and the Strasbourg European Court of Human Rights, as well as quasi-judicial bodies such as the European Commission of Human Rights and the Human Rights Committee, make their contributions to the process of building the law of international co-operation.

## CONCLUSION

It is perhaps true that, as was said at the outset of this paper, development policy and human rights are characterised more by rhetoric than by reality. This also applies to much of the UN experience. It is also true that in an era of explosive population growth, exhaustion of natural resources, immense stockpiling of weapons of mass destruction and of so-called conventional weapons,

international co-operation in such areas as disarmament, development, ecology and human rights is a *sine qua non* for survival.<sup>24</sup> At the same time existing instruments and structures of multilateral co-operation (notably the core UN and UNESCO) are facing strong challenges and risks of erosion. These international organisations have developed remarkable blueprints for a new international and social order along the lines set out by the authors of the Universal Declaration of Human Rights. These blueprints provide a programme for the realisation of Article 28 of the Declaration which states that: 'Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized'. Bridging the gap between rhetoric and reality at national and international levels is no doubt a great challenge and a solemn mission for all people of good will.

## NOTES

1. Doc. 4997, Parliamentary Assembly of the Council of Europe, Report on development cooperation and human rights (Rapporteur Mr Holtz).
2. Text of Proclamation of Teheran is included in 'Human Rights, A Compilation of International Instruments' (New York: United Nations, 1983) doc. ST/HR/1/Rev. 2, pp. 18–19.
3. See on the structural approach: Philip Alston, 'Development and the Rule of Law: Prevention versus Cure as a Human Rights Strategy', in *Development, Human Rights and the Rule of Law*, Report of a Conference held in the Hague on 27 April–1 May 1981, convened by the International Commission of Jurists (New York: Pergamon Press, 1981) pp. 33–108 (at pp. 43–5).
4. UN General Assembly resolution 2542 (XXIV) of 11 December 1969.
5. Moses Moskowitz, 'Implementing Human Rights: Present Status and Future Prospects', in B. J. Ramcharan (ed.), *Human Rights, Thirty years after the Universal Declaration* (1979) pp. 109–30 (at p. 130).
6. Theo van Boven, 'United Nations Policies and Strategies: Global Perspectives?', in *Human Rights, Thirty years after the Universal Declaration* (see note 5 above) pp. 83–92.
7. General Assembly resolution 41/128.
8. Article 2, para. 1.
9. See UN doc. A/C.3/41/SR.61.
10. UN doc. E/CN.4/1334.
11. *Ibid.*, para. 15.
12. UN doc. E/3447/Rev. 1, para. 90.
13. Asbjørn Eide, *Choosing the Paths to Development: National Options*

- and International Regulation*, Working Paper prepared for the UN Seminar on the Effects of the Existing Unjust International Economic Order on the Economies of the Developing Countries and the Obstacle that this represents for the Implementation of Human Rights and Fundamental Freedoms, Geneva 30 June–11 July 1980 (doc. HR/ GENEVA/1980/WP.12, page 9).
14. UN doc. E/CN.4/1334, para. 27.
  15. The text of the African Charter is reproduced in *The Human Rights Law Journal*, vol. 7 (1986) pp. 403–10.
  16. UN doc. E/CN.4/1500, para. 131.
  17. Address of Director-General to Conference of NGOs at UN Headquarters on 5 May 1987.
  18. Text of the letter in a report of the Secretary-General on Advisory Services in the Field of Human Rights; Assistance to Uganda, UN doc. E/CN.4/1984/45, p. 12 (English text).
  19. Commission on Human Rights resolution 1987/13, oper. para. 5.
  20. UN doc. E/CN.4/1334, para. 314.
  21. World Bank, *International Implications for Donor Countries and Agencies of Meeting Basic Human Rights*, 1977 (unpublished).
  22. World Bank, *Economic Development and Tribal Peoples, Human Ecologic Considerations*, July 1981, p. iii.
  23. *New York Times*, 6 May 1987.
  24. See *North–South: A Programme for Survival*. Report of the Independent Commission on International Development. Issued under the Chairmanship of Willy Brandt, 1980.

# 9 The Federal Republic of Germany: Human Rights and Development

WOLFGANG S. HEINZ

## INTRODUCTION

The pursuance of human rights in foreign policy has been a long-standing rhetorical goal by Western countries after the Second World War. Its real direction, extent and strength, however, has varied considerably between countries and at different points in time. The astonishing feature is not so much this varied and often not very consistent human rights approach, but rather the inclusion of human rights as such in foreign policy goals on a more operative level. The realist school stressing national interest in terms of strategic and economic concerns dominated Western approaches to foreign policy. The question whether human rights could form part of the national interest is at the heart of the dispute about human rights and foreign policy.

The peculiar combination of various factors in the United States such as reaction to the Vietnam war, Watergate and an increasing alienation of larger parts of the population from their government led in the seventies to strong congressional pressure to co-direct US foreign policy in a way that emphasised human rights.<sup>1</sup> Increasing activities were also seen in various Western European countries in which strategy papers were published, new institutional arrangements set up and parliamentary and extra-parliamentary committees created to advise particularly Foreign Ministries on human rights questions.<sup>2</sup> The exchange of experience between officers from various foreign affairs ministries and other key government agencies proved to be of considerable value in co-ordinating policies, evaluating activities and seeking solutions for outstanding problems.<sup>3</sup>

Until recently little empirical research has been carried out on decision-making for, and results of, human rights policy as part of foreign and development policy.<sup>4</sup> This is particularly true for Western European countries, with the exception of the Netherlands.

When we refer to a human rights *policy* we mean a systematic and consistent human rights policy going beyond help for victims, aiming at making human rights violations less likely. This strategy would set out short- and long-term goals, resources necessary for the conduct of this policy, and institutional arrangements including procedures for resolution of conflicts within and between government agencies.<sup>5</sup>

This chapter focuses on human rights as a goal of the foreign and development policy of the Federal Republic of Germany towards Third World countries. In the following sections we will describe and analyse stated goals, means available, the decision-making process, and results achieved. The paper concentrates on four major areas: universal human rights standards, policies towards intergovernmental organisations, human rights in bilateral relations including the role of security transfers, and institutional arrangements for the conduct of foreign and development policy. Since very little work has so far been done, only preliminary results can be presented here.<sup>6</sup>

## FOREIGN POLICY

Major actors on FRG foreign policy include the federal government, the Foreign Ministry (Auswärtiges Amt) and Ministry of Economics, the Bundestag Committee on foreign affairs, economic interest groups, academic experts, the churches, trade unions, friendship societies, Third World groups, human rights organisations and the mass media. We will limit ourself here to the executive and legislative level.<sup>7</sup>

### **Guiding Principles**

Since the foundation of the Federal Republic of Germany (FRG) there has been a clear commitment to human rights expressed, for example, in the provisional constitution (the *Grundgesetz*) which states in its first article the fundamental belief of the German people in human rights. The foreign policy consensus is reflected in a document entitled '*Menschenrechte in der Welt*' ('Human Rights in the World'):

The protection of human rights is a fundamental element of our foreign policy towards securing peace and freedom. In foreign policy our constitutional commitment to human rights does not

only cover multilateral relations, but also bilateral relations with individual states. A major criterion of the national and international order is for us the good of the individual and the protection of human rights.<sup>8</sup>

In 1982 both the Christian Democratic Union/Christian Social Union (CDU/CSU) and the Liberal Party (FDP) invited the federal government to explain its position on human rights (all three parties supported conservative-liberal government). Also in 1982 both opposition parties, the Social Democratic Party (SDP) and the Green Party (Die Grünen), questioned the federal government about its policy in this area. Hans-Dietrich Genscher, minister of foreign affairs, answered in January 1986 outlining the key policy principles:

The federal government is strongly committed to demanding the strict application of and respect for internationally recognised human rights standards in order to strengthen the protection for the individual. The federal government is guided by the following principles in its work:

Equality and indivisibility of internationally recognized human rights categories.

The discussion of new rights should under no circumstances held to be curtailing of accepted rights.

Commitment to the protection of human rights in all countries, without distinction, should be guided by the protection of the dignity of the individual as well as by the conviction that massive human rights violations lead to instability of states and endanger peace.

Commitment to strengthen international institutions for the protection of human rights. The principle of non-intervention within the domestic affairs under present international law cannot be invoked as a response to the demand to protect human rights (UN Charter, Universal Declaration of Human Rights, UN Covenants, Final Act of CSCE).

The selection of instruments to pursue human rights goals towards other countries follow from considerations of maximum effect for individuals or groups concerned.<sup>9</sup>

In the area of universal standards, the non-ratification of the Optional Protocol to the UN Covenant on Civil and Political Rights has been repeatedly criticised in parliament. The federal government

refuses ratification because it considers that the European human rights protection system is sufficient and no overlap should occur. However, various Western European countries have acceded to the Optional Protocol without problems.

Though the federal government has signed the UN Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, so far parliament has not ratified the UN Convention. There has clearly been resistance from some states (*Länder*), feeling that by ratification a new case for asylum would be introduced. Moreover, the federal committee for the prison system (*Strafrechtsvollzugsausschuss*) initially rejected the idea of an additional European Convention against Torture, which allows for unannounced on-site visits of prisons; only three states governed by social democrats opposed the committee position (Bremen, Hamburg and Hessen). Perhaps it was the thinking so succinctly expressed by the Bavarian Ministry of the Interior to a member of the local parliament which made acceptance of the European Convention against Torture so difficult:

This would be seen by the employees in the prison service with good reason as a mistrust in no way justified in view of their fundamental belief in the constitutional state and their respect for the law, and furthermore it would be seen as too exacting if, by the conclusion of such a treaty, suspicion would emerge that they would only be deterred from torturing and ill-treating cruelly, inhumanely and degradingly prisoners they are responsible for because of the involvement of foreign observers.<sup>10</sup>

The FRG has supported nearly all major policy initiatives at the United Nations, International Labour Organisation and other international organisations. It has proposed three major policy initiatives—the abolition of the death penalty, the establishment of a human rights court of the United Nations and the creation of a UN High Commissioner for human rights. It has been very reluctant to support proposals for a third generation of human rights (development, environment, peace, solidarity), on the grounds that (1) this would distract from the implementation of already accepted standards, and (2) these are seen as obligations between states, not as human rights. It has consistently refused to link human rights issues with themes such as the discussion on a new International Monetary Fund and other economic issues in particular.



It has abstained on various UN resolutions criticising Latin American countries and has certainly belonged to the more conservative part of the Western group.<sup>11</sup>

### **Institutional arrangements**

Since human rights are considered as part of bilateral relations, there does not exist within the Ministry of Foreign Affairs (*Auswärtige Amt*) a special department or high-level officer for human rights. As a general theme they are dealt with in the section covering political questions of the economic and social work of the United Nations and human rights (sec. 231) and, regarding Europe, in a special office dealing with CSCE questions (sec. 212). Section 231 is entrusted with the evaluation and co-ordination of human rights policy. Country desk officers are responsible for bilateral relations. Though there is a special official for human rights in the Ministry of Justice, that work relates more to domestic policy. Since 1962 legal representation of the FRG in European human rights institutions has been delegated by the Foreign Ministry to the Ministry of Justice.<sup>12</sup> The Foreign Ministry asks embassies to file regular reports on the human rights situation in 53 suspect countries.

A lack of basic strategic thinking in FRG foreign policy is also evident in the only publication on human rights and foreign policy published by the foreign ministry, '*Menschenrechte in der Welt*'. The document, a collection of speeches and human rights conventions, contains only a brief section giving a general description of the practice of the international protection of human rights in the United Nations, Council of Europe, European Community, CSCE, and bilateral relations. The document lacks the sophisticated thinking present in documents like the Dutch or Norwegian foreign ministry strategy papers.<sup>13</sup>

### **Parliament**

The 1986 debate, following responses from the federal government to the political parties represented in parliament, was used mainly to attack opposition parties and to justify governmental positions in foreign policy. A self-critical appraisal of FRG foreign policy as well as of individual actions of political parties was, for the most part, absent from the debate. The governing parties would mainly attack the opposition SPD and Green parties for lack of interest and action

on Poland, Afghanistan and Nicaragua—and anti-Americanism in general (the last point particularly from the CDU/CSU); whereas the opposition would criticise the pro-Reagan stance and lack of action in Central America by the federal government. Very little in-depth analysis took place, and only the Green party alluded to the necessity to study root-causes of human rights violations in Third World countries. What was also lacking was a systematic and in-depth analysis of FRG economic, military and political interests to figure out potential sources for various policies being in contradiction with each other.<sup>14</sup>

In parliament the political parties faced some time ago how to organise their work for human rights. Various approaches had been used in different countries—namely, multi-party working groups comprising members from all parties represented in parliament, party working groups on human rights, and whether to elect a spokesman for human rights. In the FRG one party has a working group on human rights (SPD), one a spokesman (CDU/CSU) and two parties lack a mechanism (Liberal and Green party). Sometimes multi-party initiatives would come up. There is an important link between members of parliament working on human rights with colleagues in the parliamentary committees on foreign and domestic affairs, and also economic co-operation, defence and budget. There is an obvious need for proper co-ordination in this complex field.

Major mechanisms for discussion of human rights in the Bundestag include:

- (1) ratification of international conventions—namely, UN Covenants and other universal human rights standards;
- (2) progress reports by the federal government and/or parliamentary delegations to international conferences such as the CSCE expert meetings on human rights in Ottawa 1985 and on humanitarian contacts in Bern 1986;
- (3) recommendations for other intergovernmental bodies such as recommendation 961 (1983) of the Council of Europe on development co-operation and human rights;
- (4) major interpellations by political parties addressed to the federal government inviting it to formulate policies in major areas (on human rights, as mentioned in 1985);
- (5) specific resolutions, which in the 1980s dealt, *inter alia*, with Iran, Turkey, Chile, El Salvador, Guatemala, Paraguay, Afghanistan, Yugoslavia, East Timor, Eastern Europe, Sri Lanka and Kurds;

(6) requests directed to the federal Government to inform about its position on certain country situations, military and other security transfers, development loans, voting behaviour in international organisations, and so on.

Even a brief review of the treatment given to human rights by the Bundestag reveals a considerable number of discussions on country situations and international organisations. Structural/organisational and strategic questions have played only a minor role.

Among the few discussions on structural and strategic human rights questions were: how to integrate recommendation 962 (1983) of the Council of Europe giving consideration to human rights as a criterion in giving loans to developing countries<sup>15</sup>; whether the federal government should issue an annual report on human rights, following the US model<sup>16</sup>; whether the foreign ministry should establish a working group or department dealing with human rights communications<sup>17</sup>; and whether the Bundestag should establish a parliamentary organ on human rights.<sup>18</sup>

### **Security assistance**

Although security assistance does not form part of human rights policy, it is briefly discussed here because of its direct impact on human rights in developing countries: transfer of arms and other equipment and military and police training can be, and have been, used for human rights violations in recipient countries. Claiming to promote human rights while contributing to human rights violations is obviously incompatible with a convincing human rights policy.

All FRG governments have been involved in providing arms, spare parts, blueprints, and training of police and military personnel for Third World countries. Private companies also send security specialists to Third World countries. Information on, and hence parliamentary control of, these subjects is fragmentary. More can be learned from annual reports published by SIPRI and ADCA than from FRG sources.<sup>19</sup> Only dedicated work by some parliamentarians, Third World and human rights groups, as well as social scientists, has shed some light on what is going on and who is responsible.<sup>20</sup>

Despite strong pressure from some parliamentarians plus private groups, new guidelines on arms exports adopted in 1982 allow for considerable flexibility in granting export licences. The new guidelines provide that exports of arms and arms-line materials shall not

heighten tensions and shall not be delivered to countries in which one could expect armed conflict. Furthermore, the domestic situation shall be taken into account in the decision to export arms. Vital interests of the FRG have to be in favour of exports. Some restrictions have to be added which we cannot, for reasons of space, discuss here.<sup>21</sup>

Essentially there is no human rights clause prohibiting arms and other transfers to countries in which they can be used for human rights violations. Manipulations with end-user certificates have also been documented on various occasions. FRG arms did reach countries such as Guatemala and South Africa, and their police and military officers have been trained for years in the FRG. The federal government, in response to questions from members of parliament, responded that a democratic spirit and respect for the rule of law should be inculcated in the student officers, without being able, however, to be more concrete when pressed in parliament as to how this would be done and in which way effects would be evaluated.

In 1984 the Green party asked the federal government whether it planned to introduce a legal basis for foreign police training and whether a human rights clause would be introduced. The answer to the first question was no. Then the government was invited to evaluate the impact of foreign police training, and it was asked whether there are studies indicating that West German training had led to a democratisation in recipient countries. The federal government responded: 'FRG embassies assess the impact of foreign police training as positive. The learning of general criminal police skills increases capabilities of foreign organisations, particularly in view of anti-drug activities; the application of criminological-technical research has enhanced the importance of proof. Research or studies do not exist'.<sup>22</sup>

In autumn 1986 the federal government decided to support the Guatemalan police with technical equipment and training worth more than 10 million DM because the new democratically elected government under Vinicio Cerezo, a Christian Democrat, was seen as trying to further democracy and pluralism, to institute concrete steps to guarantee human rights, and to eliminate attacks on civil rights of Guatemala citizens ordered by state institutions.<sup>23</sup>

Another interesting case was Peru. The Green party asked various questions on arms transfers to Peru. To a large number of questions on the nature and quantity of arms transfers, the federal government answered that 'it is impossible for the federal government for legal

and political reasons to give more specific information about certain transfers'. The recipient government under Belaunde was, according to Amnesty International, responsible for the 'disappearance' of more than 1000 persons during the anti-guerrilla campaigns of the military. When asked how the federal government would ensure in the future that no arms and spare parts would be sent with the federal government's permission to institutions violating human rights, the government answered:

The federal government rejects the allegation that it authorised transfer of arms and arms material to institutions violating human rights. A qualification of the Peruvian Guardia Civil as an institution violating human rights is even wrong when individuals of its members might have committed human rights violations. After all the Peruvian police and the military have shown their loyalty for the democratic system during the elections and the change of government.

The FRG figures, according to SIPRI data, as the fifth biggest arms exporting country for 1981–85, despite the fact that the federal government emphasises the restrictive character of its export policy.<sup>24</sup> Discussions in parliament, expert meetings and public pressures so far have not influenced the Government to change the present arms exporting policy. The effects of militarisation in the Third World are known by decision-makers.<sup>25</sup>

Legislative and executive control of arms exports are clearly defective and should be strengthened to accord with an active human rights policy—including stricter parliamentary control, more public information, and the introduction of a human rights clause in relevant legislation (the latter has been done in Austria and Switzerland).

## DEVELOPMENT POLICY

Major actors in the development field are the Ministry for Economic Co-operation (Bundesministerium für wirtschaftliche Zusammenarbeit—BZM), two independent agencies responsible for the execution of projects (Society for Technical Cooperation—GTZ, Bank for Reconstruction), the Bundestag Committee on Economic Cooperation, the German Development Agency (DED), and a number of non-governmental organisations with development projects which

receive both private and government money. There are also friendship societies, Third World groups, human rights organisations, churches, trade unions, academic experts and the mass media.<sup>26</sup> We will deal here only with the executive and legislative level.

An important discussion on the effectiveness of development co-operation and aid started in the FRG after Brigitte Erler, a former Social Democrat member of parliament, published her book entitled *Deadly Aid*.<sup>27</sup> Having worked for ten years in development co-operation, Erler took the fundamental position that the negative effects of development aid outweigh by far its positive effects. She stressed the effect of government-to-government dealings in the development field, which would often result in the strengthening of corrupt elites. Strong reactions from many parts of the 'Development community' followed, arguing that there were certainly negative experiences but that development aid should continue, and evaluation of development projects should be improved.

### **Governmental principles**

The FRG government has periodically issued new policy guidelines designed to show change in development policies.<sup>28</sup> Major elements have included:

- (1) reorganisation of the West German development agency, DED, designed officially to increase its effectiveness, but in reality aiming also at changing forces perceived to be too left-wing;
- (2) emphasis on the central importance of a free-market and free enterprise economy as a precondition for effective economic development;
- (3) the re-introduction of a 'healthy self-interest'—that is, West German economic and political/security interests, which should be furthered by development co-operation;
- (4) a clear anti-leftist stance, linking development aid with democratic practices in the target countries, a link which had not been used in the past (the central case was Nicaragua, when the federal government decided not to start new projects because of lack of democracy and of human rights).

In the last fundamental guidelines on development policy, the federal government lists as a major goal the 'improvement of the economic and social situation of the people in developing countries and their creative capabilities'.

The policy should therefore:

- (1) help to guarantee basic prerequisites for life and should be a help to self-help;
- (2) contribute to the development of a viable economy and to a pluralistic society as a prerequisite for autonomous development;
- (3) further regional co-operation and the integration of the developing countries into the world economy.<sup>29</sup>

In its principle 35, development policy is defined as peace policy and its relation to human rights is stated thus: 'Development policy is part of a worldwide policy of the federal government promoting peace and stability. As such, forces of compromise are supported, the forces in favour of violent solutions and promoting totalitarian ideologies to dominate are opposed'.<sup>30</sup>

After stressing that the federal government sees development co-operation as an instrument that also furthers a policy of real non-alignment and is opposed to the East-West confrontation being brought to the Third World, it states:

The protection of human rights is an essential goal of the policies of the federal government. In its development co-operation the government supports developing countries in their endeavour to establish a society based on the rule of law and on democracy. By doing this, diverse cultural, especially religious and social realities ought to be taken into account. Arbitrary power by the state and intimidating of individuals and particular sectors of society make public development aid difficult or impossible. In such cases the needy population can receive aid from non-governmental channels.<sup>31</sup>

It is difficult to imagine how so broad a guideline can serve in formulating, implementing and evaluating a policy of promoting human rights as part of a public development co-operation programme. One is stunned by the skeletal way of expressing highly complex policy issues in such a simplistic manner. Suffice it here to signal the most obvious weak points in this singular paragraph on human rights in the guidelines:

- (1) There is no definition of what exactly is understood by human rights;

(2) The question of diverse cultural, religious and social realities is addressed only in the most general way. No reference is made as to whether some human rights should not be violated under any circumstances, be they culturally, economically or socially motivated—that is, the principle of non-derogatory rights such as the absolute prohibition of torture, slavery and discrimination. On the other hand, in a recent statement for Human Rights Day 1986 the federal government stressed: ‘We assess all states according to internationally recognised human rights. No state can exonerate itself by referring to the pre-eminence of its own state ideology, state religion or his particular cultural traditions’.<sup>32</sup>

(3) The sentence starting with ‘arbitrary power’ could be understood to suggest a patronising attitude towards repressive states using arbitrary power and intimidation. It is not set out clearly how the inter-relationship between development, basic needs and human rights is seen. There is no clear message to governments about the consequences of human rights violations and about the important link to economic and military aid programmes.

There is a lack of vision about what should be the prerequisites of a systematic and consistent human rights policy, how it should be executed, and which consequences—including economic and political losses—could be involved when applied systematically. There is no link or even discussion of what the relationship is, and should be, between development and human rights goals—both short- and long-term. Criteria for evaluating development projects do include impact on environment, energy resources, women and basic needs, but not on human rights.

## **Parliament**

As early as 1982 the Bundestag took the unanimous decision that ‘In its development co-operation the Federal Republic of Germany regards the implementation of human rights as an essential goal of the federal government. In its decision the federal government shall consequently pay attention to the protection of human rights, the promotion of social progress and social justice particularly by observing minimal social standards and respect for trade union freedom in the Third World’.<sup>33</sup>



Two years later the Bundestag adopted again unanimously guidelines for the federal government, this time being more specific:

The major goal for development co-operation should be to guarantee a life in dignity (securing basic needs) and to contribute to a higher level of civil and political rights in developing countries. The main target group of development co-operation are the poorest and most neglected sectors of society.

A stronger solidarity should be shown towards democratic countries, therefore additional support should go to those developing countries which carry out domestic reforms and try to create pluralistic and just social structures; special aid programmes (should be created) for low- and middle-income developing countries which are real democracies.

A common position among the members of the Council of Europe should be agreed to concerning states showing contempt for human rights, following these guidelines: exercise strong diplomatic pressure (a conscious policy to interfere in domestic affairs); restrict public aid only to development projects with direct impact on the needy population—especially involving non-governmental organisations (that is, no more help which could be understood as supporting or condoning dictators); if necessary, reduce or cut off public development aid while continuing with genuine humanitarian aid.

Establishment of a UN High Commissioner of Human Rights.<sup>34</sup>

The federal government committed itself to these resolutions of parliament.

## CONCLUSIONS

As indicated earlier, the conclusions presented here are of a preliminary character, given the lack of systematic and in-depth research in the area. Our discussion has emphasised four major areas: universal standards, policies towards inter-governmental organisations, human rights in bilateral relations, institutional arrangements.

On the level of universal human rights standards the FRG has signed and ratified all major human rights instruments which conse-

quently are binding for the country. The only exceptions so far are the Optional Protocol to the UN Covenant on Civil and Political Rights, the ratification to the UN Convention against Torture and probably a similar resistance to accept a European Convention against Torture.

International initiatives have included calls for a UN High Commissioner for Human Rights, a UN Court of Human Rights, the abolition of the death penalty and a refugee initiative designed to strengthen information and co-ordination between countries in cases of massive refugee movements, touching on both root-causes and consequences of such movements for Third World countries.

In bilateral relations it is difficult to come up with a general conclusion in the absence of research and sufficient knowledge about confidential interventions. There are certainly cases in which the federal government has chosen a very soft and conciliatory line and/or in which economic interests have by far outweighed concerns for systematic and severe violations of human rights (Turkey, Iran under the Shah, many Latin American countries under military dictatorship, South Africa, and so on). It is not possible at this moment to give a full picture about relations with some 160 countries.

In the area of institutional arrangements for executing a consistent human rights policy, we have seen that so far they have been and are very weak. There is a lack of clear thinking about human rights policy on the executive or legislative level. What is conspicuously lacking are mechanisms to involve systematically people with expertise in the field, and a common agreement among the political parties on what the priorities in human rights policy should be. There is no programme on human rights, but perhaps with the new parliamentary human rights committee, a sub-committee to the foreign affairs committee, some change can be brought about.

We can distinguish four different goals pursued by the federal government somewhat autonomously. First, human rights certainly form part of the FRG's general foreign policy, but there is a lack of conceptual clarity. Relations between goals and means are not clear, and there are many doubts about the likely effectiveness of this policy especially beyond help for individual victims.

Second, in development of policy there is a strong focus on meeting basic needs, strengthening the role of women, conserving energy resources and, more recently, protecting the environment. There are, however, no human rights criteria for development projects. The relationship between human rights and development policy appears

to be unclear and accidental. There does not exist a concept of what causes human rights violations, how they can be fought and what the necessary and sufficient conditions are to make them less likely.

Third, control of arms and related transfers, and military and police training, are highly relevant to human rights. While at present parliament is nearly excluded from control, executive control has not prevented arms and related equipment from reaching countries in which severe human rights violations took place and/or which were involved in armed conflict, the latter being explicitly prohibited by federal legislation.

The final policy area, but one not discussed in this paper, is international relations. Proposals for a New International Economic Order, and the impact of the present international economic order, relate to the capability of Third World countries to guarantee economic and social rights—and also civil and political rights.

There does not exist a FRG strategy which would integrate these four policy areas into one unified policy approach aimed at combating root causes of human rights violations in Third World countries. There certainly is little inclination to take human rights seriously in economic relations. With the exception of a few initiatives, FRG human rights policy in essence is reactive to events.

Particularly in development policy there exist good starting points: waiving debts for all LDC countries, focusing on basic needs, supporting countries on their way to democracy. These are certainly building blocks for a strategy towards human rights in developing countries. But in the absence of a more comprehensive policy, which takes into account both political and social effects of development projects—including impact on human rights—it is not possible to talk of human rights forming part of FRG development policy.

## NOTES

1. See David P. Forsythe, *Human Rights and US Foreign Policy: Congress Reconsidered* (Gainesville, Florida: University Presses of Florida, 1988).
2. Royal Ministry of Foreign Affairs, *Norway and the International Protection of Human Rights*, Oslo 1977; Tor Skjalnes/Jan Egeland (eds), *Human Rights in Developing Countries 1986: A Yearbook on Countries Receiving Norwegian Aid* (Oslo: Norwegian University Press, 1986); Ministry of Foreign Affairs of the Kingdom of the

- Netherlands, *Foreign Policy and Human Rights* (The Hague, 1979); Schweizerischer Bundesrat, *Bericht über die schweizerische Menschenrechtspolitik* (Bern, 1982).
3. See: American Association for the International Commission on Jurists, et al., *Human Rights in United States and United Kingdom Foreign Policy* (New York, 1979); and idem, *Human Rights and Foreign Policy: The Role of Government* (New York, 1985).
  4. See further Robert Pringle, 'US Human Rights Policy in Indonesia and the Philippines', in idem, *Indonesia and the Philippines: American Interests in Island Southeast Asia* (New York: Columbia University Press, 1980) pp. 89–118; Peer Baneke, 'Nederland en de Indonesische Gevangenen', in Wiardi Beckman Stichting (ed.), *The Netherlands, Indonesia and political prisoners* (Amsterdam, 1983) pp. 87–90 (original in Dutch).
  5. Ibid.
  6. In some of this paper we drew from Wolfgang S. Heinz, *Menschenrechte in der Dritten Welt* (Munich: C. H. Beck, 1986) pp. 31–51; and idem, 'Menschenrechte in der Dritten Welt', in *Liberal*, No. 3 (1986) pp. 32–8.
  7. West German monographs on US foreign policy under Carter include: Helmut Handzik, *Die Idee der Menschenrechte als Element der amerikanischen Aussenpolitik* (Ebenhausen: Stiftung Wissenschaft und Politik, 1979); and Friedbert Pflüger, *Die Menschenrechtspolitik der USA* (München: Oldenbourg, 1983). For the relations between the FRG and Argentina see Tino Thun, *Menschenrechte und Aussenpolitik. Bundesrepublik Deutschland-Argentinien 1976–1983* (Bremen: Edition Con, 1985). For contributions on FRG foreign policy and human rights see: Klaus v. Dohnany, 'Widerstand und Menschenrechte: Zehn Prinzipien für Bonns Politik', in *Die Zeit*, 28 July 1978; Ernst-O. Czempel, 'Menschenrechte und Staatsräson', in Schwartlander (ed.), *Menschenrechte* (Tübingen, 1978) pp. 187–202; Carola Stern, *Strategien für die Menschenrechte* (Frankfurt am Main: Fischer, 1983); Hans-Ulrich Klose, 'Menschenrechtspolitik—eine Frage der Glaubwürdigkeit', in *Vierteljahreshefte der Friedrich-Ebert-Stiftung*, No. 100 (June 1985) pp. 121–7; Wolfgang S. Heinz, *Menschenrechte in der Dritten Welt* (Munich: C. H. Beck, 1986) pp. 31–51; Christian Tomuschat, 'Die Herrschaft des Rechts: Deutsche Aussenpolitik im Dienst der Menschenrechte und des Völkerrechts', in Hans-Dietrich Genscher (ed.), *Nach vorn gedacht: Perspektiven Deutscher Aussenpolitik* (Stuttgart: Bonn Aktuell, 1987) pp. 159–76.
  8. Auswärtiges Amt, *Menschenrechte in der Welt*, 6th ed. (Bonn, 1985) p. 220. All translations by the author.
  9. Bundestag-Drucksache (BT-Drs; official Parliament Doc.) 10/4716, 23 January 1986, 2.
  10. Quoted from *Frankfurter Allgemeine Zeitung*, 11 December 1984, p. 4.
  11. In 1982–84 the FRG abstained on all resolutions on El Salvador, on two resolutions on Chile (exception: Res. 39/121) and on one on Guatemala (exceptions: Res. 38/100 and 39/120). In the 1987 session of

- the UN Commission on human rights on whether Guatemala should be discussed the following year under the agenda item on violations of human rights in specific countries, or under monitoring developments in countries needing technical advice, the FRG abstained.
12. For a discussion on a special department on human rights in the foreign ministry see Deutscher Bundestag, Plenarprotokoll 10/114 (1985) pp. 8481–3.
  13. See references in note 2.
  14. For documentation see BT-Drs. 10/4715 and 19/4716, 23 January 1986, Deutscher Bundestag, Plenarprotokoll 10/192, 24 January 1986. A conservative member of parliament even referred to the misleading notion of authoritarian and totalitarian regimes introduced by Jeane Kirkpatrick (Plenarprotokoll 10/192, p. 14477).
  15. See BT-Drs. 10/1599 and 10/1976 (1984).
  16. See BT-Drs. 10/2686 and 10/2778 (1985).
  17. See Deutscher Bundestag, Plenarprotokoll 10/114 (1985).
  18. See BT-Drs. 6123 (1986).
  19. Stockholm International Peace Research Institute (SIPRI), *Annual Report 1986* (Oxford, 1986); US Arms and Disarmament Control Agency (ADCA), *World Military Expenditures and Arms Transfer 1986* (Washington DC, 1986).
  20. For instance, Ulrich Albrecht and Birget A. Sommer, *Deutsche Waffen für die Dritte Welt, Militärhilfe und Entwicklungspolitik* (Reinbek: Rowohlt, 1972). The Bundestag held a hearing on armament and development—see: Uwe Holtz, ed., *Rüstung und Entwicklung* (Baden-Baden: Nomos, 1985).
  21. See Michael Brzoska, 'Neue Richtlinien für den Waffenexport', in Deutsches Übersee-Institut (ed.), *Jahrbuch Dritte Welt*, 1, Munich: (C. H. Beck, 1983) pp. 87–100.
  22. BT-Drs. 10/1410, 4 May 1984. Between 1974 and 1983 some 40 policemen were trained every year from countries as diverse as Afghanistan, Iran, Turkey, Morocco, Tunisia and Indonesia (BT-Drs. 10/1012). See also BT-Drs. 10/4624, 2. Amnesty International, however, reports that in 1985 'The principal police force, however, is the civil guard, and it is to this force of over 40,000 that primary counter-insurgency responsibilities have fallen, and which has most frequently been cited in reports of secret detention, "disappearance" and political killing. The civil guard's special counter-insurgency Sinchi Battalion, in particular, has reportedly cultivated an image of brutality in the emergency zone as part of a counter-insurgency strategy.' Amnesty International, *Peru Briefing* (London: Amnesty International Publications, 1985) p. 6. Political killings and 'disappearances' refer to executions of prisoners, not to armed conflict situations.
  23. (BT-Drs. 10/6476, p. 49). Amnesty International in its report *Guatemala: The Human Rights Record*, holds that 'the tide of human rights violations has abated since president Cerezo, the first civilian to lead the country in 20 years, took office. But Amnesty International continues to receive reports of the finding of unidentified, tortured

- corpses, "disappearance", and individual "death squad killings".' (London: Amnesty International Publications, 1987) p. 4.
24. See Michael Brzoska and Thomas Ohlson, 'The trade in major conventional weapons', in SIPRI, *op. cit.* (note 19) pp. 323–51.
  25. See, among others, 'The Impact of Militarization on Development and Human Rights. Statement of the Study Group on Militarization of the International Peace Research Association', *Bulletin of Peace Proposals*, No. 2 (1978) pp. 170–82; United Nations, *The relation between disarmament and development* (New York, 1982) (UN-Doc. A/36/356); and United Nations, *Economic and social consequences of the arms race and military expenditure* (New York, 1983) (UN Doc. A/37/386).
  26. On the Third World movement in the FRG see Werner Balsen and Karl Rossel, *Hoch die internationale Solidarität, Zur Geschichte der Dritte Welt-Bewegung in der Bundesrepublik* (Cologne: Kölner Volksblatt, 1986).
  27. Brigitte Erler, *Tödliche Hilfe* (Freidburg: Dreisam, 1986).
  28. In 1982 the coalition between Social Democrats and Liberals was replaced by a coalition between the Liberals and the Christian Democrats (CDU/CSU).
  29. Bundesministerium für wirtschaftliche Zusammenarbeit, *Grundlinien der Entwicklungspolitik der Bundesregierung*, Bonn, 1986, p. 20. See also BZM, *Leitlinien für die bilaterale finanzielle und technische Zusammenarbeit mit Entwicklungsländern*, vom 23 February 1984 (Bonn, June 1984).
  30. *Grundlinien*, *op.cit.*, p. 21.
  31. *Grundlinien*, *op.cit.*, p. 22.
  32. 'Erklärung der Bundesregierung zum Tag der Menschenrechte', *Bulletin der Bundesregierung*, no. 152, 11 December 1986.
  33. BT-Drs. 10/4716.
  34. Quoted from Uwe Holtz, 'Menschenrechte im Bundestag', in *Entwicklung + Zusammenarbeit*, no. 3 (1984) p. 25.

# 10 Human Rights, Development, and Dutch Foreign Policy: the Role of an Advisory Committee

PETER R. BAEHR\*

## INTRODUCTION

The foreign policy of the Netherlands is marked by a strong commitment to co-operative internationalism. For many years now policy has emphasised the following:

- (1) membership in and support of inter-governmental organisations;
- (2) furthering of the development of an effective international legal order;
- (3) development assistance to countries of the Third World (the Netherlands and Norway annually compete for the highest percentage of GNP—about 1 per cent—spent on development assistance);
- (4) respect for human rights, based on international norms such as those contained in the Universal Declaration of Human Rights of 1948 and the two UN human rights covenants of 1966.

Human rights have been variously labelled in official documents as the 'cornerstone', 'central element' or 'main pillar' of Dutch foreign policy. Foreign ministers, including the present one, have expressed their commitment to human rights. The Dutch parliament frequently shows an interest in the human rights situation abroad. Numerous non-governmental organisations keep reminding the government and the parliament of this commitment.

Against this background, this chapter deals with the external advisory unit that advises the Foreign Minister on human rights: the

Advisory Committee on Human Rights and Foreign Policy, established in 1983. In this introductory section some basic data are presented on the organisation and direction of Dutch human rights policy as background to the establishment of the committee. In the remainder of the paper the position of the committee and its relationship to the minister of foreign affairs is discussed on the basis of the advisory reports that have been issued so far. (A list of the reports is given in the Appendix.)

## DUTCH FOREIGN POLICY AND HUMAN RIGHTS

The organisational structure of the foreign ministry reflects the emphasis on human rights. A special co-ordination unit within the ministry deals with human rights affairs. It consists of representatives of all policy units of the ministry and meets once a month under the chairmanship of the co-ordinator for human rights affairs. This person, together with his deputy, are the principal officials responsible for co-ordinating the human rights efforts of the ministry. So far, however, no such institutional structure has been set up for co-ordinating human rights activities as they affect other ministries.

Much of the government's human rights effort is still based on a policy memorandum issued in 1979, in which the principles of Dutch human rights policy were set out.<sup>1</sup> In this memorandum the government emphasised its commitment to human rights as part of its overall foreign policy. In its words:

The Government regards the promotion of human rights as an essential element of its foreign policy. At the same time it is aware that the implementation of this policy aim raises many difficult problems. Partly those problems stem from the necessity of co-ordinating the promotion of human rights in foreign policy with the promotion of other values and interests the Government has to care for.<sup>2</sup>

Thus the government made clear that it considered human rights as a part of its overall policy, which meant that these rights could not under all circumstances enjoy priority. Furthermore, in this and other government documents the following ideas for priorities were presented. Joint actions with like-minded countries were to be preferred. Economic measures might only be adopted if other means



to improve the human rights situation in another country had proved to be inadequate; and such measures must not disproportionately damage Dutch interests. The human rights policy should be 'impartial' and 'non-selective'; that is to say, it must not concentrate on abuses of one particular political colour. Nevertheless, there would be more reason to make the views of the Netherlands known in those mainly pro-western countries with which it had historical, cultural and political ties. Development assistance should not be used as a means of manipulation of aid-receiving countries. Assistance should not be offered as a reward for respecting human rights or to punish countries which disregarded those rights. In cases where abuses derived directly from government policy, care should be taken to ensure that aid should not contribute directly to the perpetuation of repression. In cases of gross and persistent violations of fundamental human rights, non-allocation or suspension of aid could be considered.

During the parliamentary debates that followed the publication of the memorandum, it was agreed that the human rights efforts might be strengthened by the establishment of an official advisory committee. This committee was formally inaugurated by foreign minister Hans van den Broek on 21 April 1983. Its task was to advise the minister 'on issues of human rights in relation to foreign policy upon request or on its own initiative'.<sup>3</sup> Minister Van den Broek said in his inaugural address that the committee should not deal solely with profound and demanding intellectual work. He continued:

The Committee should direct its attention toward very *practical* aspects of foreign policy. This means that it should remain in touch with the overall direction of human rights policy. It means also that it must be aware of the administrative and political means and possibilities that are available. The Committee should for that reason be supplied with sufficient information. I will do my best to supply that necessary information.<sup>4</sup>

The foreign minister showed himself aware of the fact that the establishment of the advisory committee had to a great part been the result of intensive lobbying activities on the part of human rights organisations:

The Committee is intended to give all sections of society that deal with human rights direct access to influence policy-making. Seen

from the point of view of the Government, this is a dangerous operation. After all: no Government Minister will be keen to facilitate direct criticism of his policies, especially on a subject like this. At the same time the Committee should be seen as a necessary step in making our democratic system more perfect and in promoting the openness of our governmental structure. That presupposes *faith*. *Faith* on the part of the Minister that the Committee will contribute in a positive and constructive way to the thinking of the policy-makers. *Faith* on the part of the Committee that something is *done* with its recommendations.<sup>5</sup>

From the beginning, therefore, the committee had two kinds of parents who were to be at the same time the principal consumers of its reports: on the one hand the minister of Foreign Affairs and his staff, on the other hand the various non-governmental human rights organisations. Both parties viewed their common offspring, the advisory committee, and each other with considerable suspicion. For the committee—and its chairman in particular—this meant careful navigation so as to secure their common interest: a well-considered and effective human rights policy. The composition of the committee helped to guarantee that the views of all parties would be considered. The minister appoints the members of the committee. It consists of a minimum of 12 and a maximum of 17 members plus two advisory members from the ministry. In the explanatory memorandum to the law that established the committee, the following is said about the composition of the committee:

The ordinary members will belong to it as private individuals and will be persons considered qualified by virtue of their knowledge of human rights and foreign relations. The Minister for Foreign Affairs has in mind, inter alia, persons who enjoy the confidence of non-governmental organisations with particular interest in human rights or of other organisations representing various interest groups and beliefs.<sup>6</sup>

During the four years of its existence it has appeared to be not always simple to satisfy the wishes of all parties concerned. For example, in the choice of subjects the ministry and the major human rights organisations have not always seen eye to eye. That makes it difficult for the committee to reach a decision. From a formal point of view it would not seem to be too difficult. The committee is an

external advisory body with independent members. Its permanent secretary, who has an office in the ministry, is accountable to the committee only. The committee prepares its advisory reports at the request of the minister or on its own initiative. In the latter case it must inform the minister of its intention to do so. Somewhat ominous, however, was the announcement in the explanatory memorandum: when the Committee makes a recommendation on a particular human rights situation in a particular country the Minister for Foreign Affairs expects the recommendation to be based on a general approach to the subject.<sup>7</sup> It was not indicated what would happen if the committee did not perform in accordance with the minister's expectations.

## THE COMMITTEE IN ACTION

No problems occurred with the committee's first advice. That report ('On an Equal Footing'), issued in June 1984, was indeed an advice requested by the minister. It concerned the strengthening of the role of foreign ministry officials in promoting and protecting human rights within the framework of Dutch foreign policy. This advice received a positive reception on the part of the ministry. It contained a number of specific recommendations concerning the training of foreign ministry officials. There were further recommendations with regard to in-service training and refresher courses in the field of human rights, the gathering of information, the supply of information, the reporting on human rights situations, contacts with non-governmental organisations, other specific activities and points of attention. The advice was widely distributed and translated into English by the ministry.<sup>8</sup> Five months later, the ministry issued its official reaction which endorsed many of the committee's recommendations or announced that they would be seriously considered. By now, many of these recommendations have been carried out, most recently in the area of supply of information by the publication of a booklet of reference, *Vademecum Mensenrechten*.<sup>9</sup>

### **Surinam**

The committee's second advice ('Support for Human Rights'), also issued in June 1984, dealt with the human rights situation in the former Dutch colony of Surinam. This time, the foreign minister was

less enthusiastic. From the beginning he announced that he 'did not need' an advice on this subject. The advisory committee, for its part, was unanimous in its view that this was precisely the type of problem it should deal with. It was a clear example of the dilemma a donor country may face between its wish to supply developmental aid and its concern for human rights. The violation of fundamental human rights—the violent death of 15 opponents of the military regime on 8 December 1982—had been the occasion for the suspension by the Netherlands of its entire development programme for Surinam (which amounted to the sizable amount of \$1.75 billion over a period of 10 to 15 years.)

It has often been said that Surinam is one of the few countries in the world where Dutch foreign policy can truly exercise some influence. However that may be, it is certain that the Netherlands is one of the few countries that is really interested in the fate of Surinam.

The foreign minister was, however, not impressed by the committee's line of reasoning. When he said that he did not need advice on this subject, he really meant that he did not *want* such advice. When the advisory committee nevertheless persisted, it was in fact at odds with a traditional attitude within the foreign ministry. If the minister says that he does not need an advice, that is supposed to be the end of the affair—at least for officials of the foreign ministry itself. In the case of an external advisory group the situation turned out to be somewhat different.

The question may be legitimately asked: why persist in writing an advisory report if the minister has clearly indicated that he does not want such advice? The fact of the matter is, however, that the reports of the committee are publicly available, which means that they are also used by others than the foreign minister. These others include parliament, the press and human rights organisations. They can make use of the advisory committee's reports in their confrontations with the minister. That is one of the reasons why the committee is authorised by law to take up subjects on its own initiative. It is clearly not the task of such an advisory group to cut political Gordian knots; that task should be left to the government and parliament. The advisory committee can, however, help to clarify alternative strategies and indicate the contents and consequences of a foreign policy that is supposed to promote human rights.

The advice on the situation in Surinam was situated against the background of the more general problem of the relationship

between human rights and development assistance.<sup>10</sup> It contained an analysis of the human rights situation based on reports of international bodies and a number of policy recommendations, which amounted to the following:

- (1) a continued sharp condemnation of the human rights situation in Surinam;
- (2) the initiation of a critical dialogue with the military regime;
- (3) the supply of aid for humanitarian purposes (which was in fact still given by the Dutch Government);
- (4) the resumption of the development assistance programme, when there were sufficiently strong indications that complete restoration of respect for human rights in Surinam was in sight;
- (5) a future formal linkage of development assistance to the human rights situation.

The official spokesman of the ministry limited himself to a brief statement: the advisory committee had made a 'useful contribution' to current thinking about Surinam policy, but there was no reason to change the well-known conditions set by the Netherlands for resumption of its development assistance ('concrete steps in the direction of democratisation'). No further public official reaction has played a certain role in the thinking within the ministry about policy *vis-à-vis* Surinam.

### **Solicited advice**

The importance of the role of an advisory committee can be deduced from the number and importance of the requests for advice which it receives from the ministry. Since the advice on Surinam the advisory committee has received three such requests:

- (1) on the right to leave a country, including one's own and the right of return;
- (2) on freedom of information;
- (3) on women refugees as a special category under the refugees treaty.

#### *The right to leave a country and the right of return*

The right to leave a country, including one's own, is an internationally established right.<sup>11</sup> Nevertheless, it is being violated by many states the world over. For example, most of the communist countries and

many developing states put severe restrictions on the right of their citizens to leave the country. In its report ('Crossing Borders'), which was issued in February 1986, the advisory committee recognised that it is by no means an absolute right. Even the countries where human rights are on the whole respected, people can be required to fulfil their military service, pay their taxes and serve prison sentences before being permitted to leave their country. Such limitations should, however, receive a restrictive interpretation. Reference was made in this regard to the so-called 'Siracusa Principles', a set of principles drawn up in 1984 by a group of distinguished experts in international law on the limitation and derogation provisions in the International Covenant on Civil and Political Rights.<sup>12</sup> Restrictions on the right to leave a country should be established by law and applied in a non-discriminatory manner. The right to leave a country should not be curtailed for the reason that a person has not yet obtained permission to enter another country; these are two separate issues (albeit of considerable importance to the individual concerned), which should be dealt with separately.

A distinct problem, especially for developing nations, is posed by the issue of the so-called 'brain-drain'. Certain states limit the right of departure for the stated reason that they have spent a lot of money on the education of a person and need him or her for the further development of the nation. After extensive deliberations the advisory committee came to the conclusion that such restrictions may be acceptable, provided that they are known beforehand with regard to the type of education or training involved. The restriction should, however, not be of a permanent nature and persons should have the possibility of freeing themselves of it.

With regard to the right of return the advisory committee gave a broad interpretation to the notion of 'one's own country'. This should include not only the country of which a person holds formal nationality, but also a country with which he or she has developed a strong physical bond—for example, through the presence of close relatives, participation in its public life or having worked there for an extensive period of time. This is a rather delicate matter; witness for instance Israel's 'law of the return' which applies to all people of Jewish descent, even those who may never have lived in that country; it does not apply, however, to Arabs and their descendants who used to live in the territory which is now part of the State of Israel. The Government of Chile now denies to certain of its nationals, who hold Chilean passports, the right of return to their country.

The advisory committee recommended looking for ways to increase the possibilities of the right of return. In Europe this would mean a more generous issuing of travel documents with the right of return to resident aliens, and the improvement of travel facilities for gypsies and other itinerants. This issue should be taken up by the Council of Europe.

One year later, the Minister of Foreign Affairs issued his official reaction to the report. On the whole his commentary was positive. He agreed with most of the recommendations of the committee. However, he considered it 'not realistic' to expect that the relationship between visa requirements and the possession of formal nationality could be changed at short notice. Within the framework of the European Community, the Netherlands had in fact proposed to extend the abolition of visas for Turkish residents of the Benelux countries to all EEC nations. The minister shared the view of the advisory committee that the absence of the possibility of entering another country was not a sufficient reason to deny a person the right to leave.

Somewhat distressing in the light of later developments was his remark that airline companies have the right to refuse passengers lacking the necessary travel documents, including visas. These airlines will do so even more, if—as now happens regularly—they receive heavy fines from the countries of entry for taking such passengers. In a public letter to the foreign minister (dated 24 March 1987) the advisory committee stressed that this practice was contrary to article 14 of the Universal Declaration of Human Rights which recognises the right of everyone to 'seek and to enjoy ... asylum from persecution', as well as articles 31 and 33 of the Convention relating to the Status of Refugees of 1951, which aim to provide refugees with at least temporary asylum, even where they enter a country without the requisite travel documents.

### *Freedom of information*

In its advice 'Freedom of Information', issued in October 1986, the advisory committee emphasised that information and communication are of fundamental importance to the development of national and international society and to the personal development of every individual. As important as freedom of information may be, however, it is no more absolute than many other human rights. Various international human rights documents contain provisions for the restriction by governments of the exercise of the freedom of informa-

tion. In the light of the central significance of this right, the grounds for limitation contained in these instruments should be interpreted restrictively. The advisory committee strongly opposed the view that curtailment of freedom of information would be permissible in the interests of material progress.

The advisory committee supported the wish of many developing countries for a more balanced international information and communications order in the sense that it is desirable to aim at a full and diverse information supply. Policy should be based on the promotion of plurality by opposing both state monopolies and excessive market domination by private enterprises. This should be achieved through policies designed to stimulate, regulate and create the conditions required. The objective of combating the domination of commercial media can be gained not so much by restrictive measures—as is often done nowadays—but by establishing communication infrastructures and providing training in the management and use of media which are independent of power groups. Co-ordinated aid programmes must be developed to this end.

In the case of countries in which dissident voices are stifled by the authorities, Dutch policy should be directed towards supporting those who suffer persecution as a result of exercising their right to freedom of information. Technological developments can have a positive influence on the realisation of the right to freedom of information. This being the case, care should be taken to ensure that freedom of information is not endangered by what are supposedly purely technical arrangements. Within the ministry of foreign affairs a focal point should be created to watch over all aspects of the right to freedom of information which may come up in international consultations.

The advisory committee emphasised the importance of the right to *seek* information. Many who wish to exercise this right are prevented from doing so, and even exposed to physical danger. Measures should be taken to protect such individuals, including journalists working in countries where freedom of the press is being suppressed. This should also apply to organisations which seek to trace missing persons.

Access to information is constantly threatened by censorship. It stifles freedom of expression and prevents individuals seeking information from acquainting themselves either directly or indirectly with facts and ideas. The evils of censorship must be denounced in all relevant international fora. Sometimes, the right to seek information



can be realised only in conjunction with an obligation to *provide* information. An obligation already exists for some national governments to provide information to the public on request. Such an obligation should be extended to other governments and to the organs of the European Community. Circumstances may require that information held by non-governmental organisations should also be made available to concerned parties. Uniformity of regulation in this sphere in the international context (EC, OECD, UN) is necessary, given the fact that the need for access to information in the public interest now transcends national borders.

At the time of writing (late 1987) an official reaction from the minister of foreign affairs was not yet available. It may take considerable time to prepare such a reaction, in view of the fact that quite a number of other governmental agencies are involved: the minister of welfare, public health and culture (responsible for the radio and television systems), the minister of transport and waterworks (responsible for the postal services), the minister of economics and the minister for development co-operation.

The reports mentioned were examples of solicited—and therefore supposedly desired—advice. A requested advice on the special position of women refugees is in preparation. Moreover, two unsolicited advisory reports have been issued by the advisory committee.

### **Unsolicited advice**

There is a clear link between respect for human rights and the number of (political) refugees in the world. This means that a foreign policy that emphasises human rights can be related to the reception of refugees from countries where those human rights are being violated. Most Western European governments, including that of the Netherlands, are reluctant to increase the number of refugees they are willing to accept.

More than three years ago two human rights organisations, Amnesty International and the Dutch Association for Refugeework, asked the advisory committee to look into the official reports prepared by the Ministry of Foreign Affairs, which play a major role in the decision whether a person will be granted asylum status in the Netherlands. Both organisations were concerned about the manner of preparation and the use made of these reports. A complicating factor was that the admission of refugees is widely seen as a matter of *domestic* Dutch policy, for which the ministries of Justice and of

Foreign Affairs are jointly responsible. Domestic policy is beyond the mandate of the advisory committee. However, considerations of foreign policy and human rights do play a role in these reports—for example, in the possibility of finding a domestic flight alternative (such as in the case of Turkey and Sri Lanka) and the so-called ‘country of first asylum’, which means that refugees who have found asylum in a country are not permitted access to another country.

The minister of Foreign Affairs showed little enthusiasm for the idea that the advisory committee was going to look into these matters. He was afraid that the committee was to evolve from an advisory into a supervisory body—a function clearly reserved for parliament. On the other hand, it was pointed out that the committee could serve a useful bridge between the human rights organisations and the two ministries—for example by studying the problem and, if necessary, issuing an advisory report.

The committee decided to concentrate on a study of the international political dimensions of the refugee problem (thus avoiding the pitfall of dealing with a domestic political problem). Its study resulted in a public letter to the Foreign Minister on 24 March 1987 which considered various aspects of the movement of asylum-seekers to Western Europe, such as country of first asylum, region of origin, refugees in orbit, protection elsewhere and temporary asylum. It said that the ‘practical’ approach favoured by the Dutch Government offered insufficient legal security to the asylum-seekers concerned. Practical agreements, without sufficient juridical basis, are highly vulnerable to political developments in or among the countries concerned. The exact meaning of the often-employed term ‘region of origin’ (from where refugees are preferably to be settled) is not always very clear. It is a purely geographical concept, or does it extend to race? A further problem is that under the present approach the intentions of individual asylum-seekers are subordinated to Western European governments’ ideas of what is best for them: asylum in the ‘region of origin’ (usually *not* Western Europe).

The advisory committee felt that additional measures are required to supplement the policy geared primarily to asylum in the ‘region of origin’. It emphasised that it would be erroneous to think that the irregular movement of asylum seekers can be stopped in the foreseeable future. The defensive measures taken by Western European countries in recent years have proved ineffective, at least as far as the total number of the asylum-seekers coming to the West is concerned. The abolition of EC internal boundaries for the movement of

persons, planned for 1992, will further undermine the member states' control over entry of asylum-seekers from other states. A policy whose main objective is to reduce the number of asylum-seekers coming to Western Europe needs to be supplemented with adequate and humanitarian processing of what must inevitably remain a considerable number of asylum requests from people from developing countries. Such a policy needs agreements at European level as well as adequate national measures.

The advisory committee mentioned a number of criteria which could be used within the framework of the Council of Europe to reach agreement on a definition of the concept of 'country of first asylum'. A second European forum is the European Community. Arrangements for consultation among the 12 ministers of Justice and of Domestic Affairs on immigration currently include a subcommittee on asylum. It is not inconceivable that in their considerations the human rights aspect could easily be overshadowed by the determination to restrict the admission of aliens and maintain or tighten up border controls. An approach should be adopted which centres on the need for a humanitarian reception of refugees and a fair burden-sharing among the receiving countries.

At the time of writing (late 1987) the Minister of Foreign Affairs had not yet replied to this letter.

### *Development co-operation and human rights*

From the beginning of its existence the advisory committee considered it to be its task to develop directives and criteria as to the place of human rights in relation to other central elements of foreign policy. The first relationship it studied was that between human rights and development co-operation. Both receive great emphasis in official Dutch policy pronouncements. Yet they may—as the case of Surinam shows—come into conflict.

The advisory committee issued its report in July 1987. It took an integrated approach to human rights as its point of departure. This means that the promotion of civil and political rights should go together with that of economic, social and cultural rights. Human rights are part and parcel of internationally recognised universal norms. As long as formal procedures for supervision are not yet fully effective, human rights should be a component of national development co-operation policy. In carrying out that policy the government should be permanently aware of its effect on human rights. It should

explicitly consider the policy of an aid-receiving country with regard to popular participation, democracy and the realisation of other civil and political rights. Emphasis should be put on projects that aim at combating poverty. As far as possible development assistance should be directed at the causes and consequences of the neglect of human rights. This means aiding projects that promote the economic independence and responsibility of the local population and support for organisations that provide legal and financial aid to the poor, to labour unions and to human rights organisations. The criteria that should be used in evaluating the human rights record of an aid-receiving country are the ones formulated by the United Nations: the nature of the violated rights, the seriousness and the size of those violations and the accountability of the government of an aid-receiving country.

The fight against poverty and other impediments to the enjoyment of economic, social and cultural rights should be a main policy objective, both on the part of donor countries and of aid-receiving nations. Civil and political rights should be promoted through technical and financial aid and through a permanent dialogue with the aid-receiving governments and specific target groups. Aid should, for instance, be channelled toward legal institutions, the communication media, educational groups and UN programmes that advise governments in those fields. Financial assistance should be given to those developing countries where a beginning has been made with fragile forms of democratic government and where human rights are being respected. Such positive support may be far more effective than cutting off aid to countries where human rights are being violated. The latter may at times be unavoidable, as the case of Surinam has shown, particularly if it appears that the aims of development co-operation are not achieved. Mechanisms should be built for reconsidering the aid flow in an evaluation process.

A joint approach with like-minded countries in international consortia, consultative groups and multilateral institutions in favour of human rights is usually more effective than bilateral actions. For instance, in a future treaty with the developing nations associated with the European Community the link between classical rights and social and economic rights should be stated more explicitly. Similar considerations apply to other international institutions that are involved in giving development assistance:

- (1) the realisation of human rights should be an explicit objective of the *United Nations Development Programme*: aid should be used

to promote human rights and, if necessary, suspended to countries where human rights are being seriously violated;

(2) the *International Labour Organisation* is already heavily involved in human rights through its formulation and supervision of labour standards; more attention should be given to the link between the norms contained in ILO conventions and development assistance given through ILO channels;

(3) the *World Bank* helps to realise economic and social human rights; in addition, the situation with regard to civil and political rights should be considered more explicitly in decisions on financial assistance;

(4) the *International Monetary Fund* should not give loans which contain direct support for governments which systematically and seriously violate fundamental human rights.

Those are some of the main policy lines which the Advisory Committee wanted the Dutch government to adopt in international institutions with regard to the relationship between human rights and development assistance. Finally, the Committee suggested that a public report should be issued on an annual basis with regard to the human rights situation in countries that receive Dutch development aid. Following the Norwegian example, such a report could be prepared by an independent non-government institution but financed from public funds. Preferably such a report should be prepared in co-operation with the Norwegian and other foreign institutions.

## CONCLUSION

The advisory committee on human rights and foreign policy has—to say the least—contributed to the public debate on the role human rights should play in Dutch foreign policy. Parliament has expressed a periodic interest in the work of the committee. For instance, its report over 1985 has been the subject of a public discussion between the parliamentary committee on foreign affairs and members of the advisory committee. During the meeting members of parliament expressed the wish to be more closely involved and more directly informed of the activities of the committee. For instance, members of the parliamentary opposition even wanted to intervene, whenever the foreign minister showed himself opposed to plans of the advisory committee. This might, however, adversely affect the relationship between the minister and the advisory committee by giving the latter too much of a political role.

There remains a certain amount of tension in the relationship between the foreign minister and the advisory committee. They clearly need each other. The Foreign Minister needs the advisory committee not only for its advice, but also for showing his interest in the subject and thereby deflecting criticism from parliament and non-governmental human rights groups. The committee needs the minister as the main target of its advisory activities and as source of information. However, whereas the minister would like to see himself as the *sole* target of its advice, the committee directs its activities to other public groups as well. It is clearly aware of the fact that without the support of the non-government human rights organisations it would never have come into being. Many of its members maintain close links with such public interest groups.

Human rights policy and human rights in general benefit from a continued co-operation between the ministry and human rights organisations. That requires a certain amount of sensitivity on the part of those organisations, which must keep in mind the actual possibilities of foreign policy. The Foreign Minister, for his part, should not be over-cautious in his moves. Under those conditions an advisory committee on human rights and foreign policy can make useful contributions to the improvement of human rights abroad. Thus it can help to keep the notion of human rights as 'central element of foreign policy' alive.

## APPENDIX

### *List of Advisory Reports Issued by the Advisory Committee on Human Rights and Foreign Policy.*

No. 1. *On an Equal Footing: Foreign Affairs and Human Rights* (18 June 1984); English version available.

No. 2. *Support for Human Rights: Suriname and Human Rights* (18 June 1984).

No. 3. *Crossing Borders: The Right to Leave a Country and the Right to Return* (24 February 1986); English version available.

No. 4. *Freedom of Information* (2 October 1986); English version available.

No. 5. *Development Co-operation and Human Rights* (14 July 1987); English version in preparation.

Public letter to the minister of Foreign Affairs on *Refugee Policy and Human Rights* (24 March 1987); English version available.

## NOTES

\*The author, since 1983, has been chairman of the advisory committee featured in this chapter. The views expressed here are personal and do not necessarily reflect the views of any other person or agency. Peter van der Vaart commented on an earlier draft.

1. Ministry of Foreign Affairs of the Kingdom of the Netherlands, *Human Rights and Foreign Policy*, Memorandum presented to the Lower House of the States General of the Kingdom of the Netherlands on 3 May 1979 by the Minister of Foreign Affairs and the Minister for Development Co-operation. (The memorandum is available in English.)
2. *Ibid.*, p. 12.
3. Royal Decree of 27 October 1981; law of 20 June 1984, article 2, section 2.
4. Speech by Foreign Minister H. van den Broek at the inauguration of the provisional Advisory Committee on Human Rights and Foreign Policy, 21 April 1983, in the Hague, p. 6.
5. *Ibid.*, p. 7.
6. Netherlands Ministry of Foreign Affairs, *Human Rights and Foreign Policy: establishing an advisory committee*, p. 9.
7. *Ibid.*, p. 11.
8. An abstract of the advisory report was later published in *Human Rights Quarterly*: 'On Equal Footing: Foreign Affairs and Human Rights', *Human Rights Quarterly*, 7, 3 (August 1985) pp. 451–60.
9. *Vademecum Mensenrechten*, The Hague: Ministry of Foreign Affairs, 1987.
10. On this more general subject the committee has recently published a report (see below).
11. Universal Declaration of Human Rights, article 13; International Covenant on Civil and Political Rights, article 12, paragraph 2.
12. 'The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights', *Human Rights Quarterly*, 7, 1 (February 1985) pp. 1–14.

# 11 US Economic Assistance and Human Rights: Why the Emperor has (almost) no Clothes

DAVID P. FORSYTHE

We do not lack for studies of US foreign assistance. A computer search of the subject for this essay, covering US sources for the period 1975–85, turned up 410 entries. What we do lack is clarity. There have been a variety of approaches to the subject, concerned with different relationships, yielding a bewildering array of sometimes conflicting conclusions.<sup>1</sup> Even on the subject of foreign aid and economic development, which is a core relationship accompanied by measurable factors, a 1986 study argues that ‘More than thirty-five years of aid programs in Third World countries have not yielded any firm conclusions about the relationship between aid and development’.<sup>2</sup>

Part of the problem is that foreign aid is a ‘messy’ subject in several ways. The term is difficult to define, or, in social science jargon, the independent variable is problematical. Do we look at governmental economic transfers, governmental military transfers, both, or perhaps the transfer of all economic resources from developed to lesser developed countries? Can one separate economic from military transfers, bilateral from multilateral aid, official from private resources? Should one study data in per capita or macro terms, on a global or regional basis? Certainly the study of foreign assistance is not for one preoccupied with tidy categories.

This essay seeks insights into the relationship between US foreign assistance and selected human rights in the lesser developed countries. It focuses on economic assistance but recognises that political and military factors are important. It focuses on bilateral assistance but recognises that US bilateral programmes are often linked to multilateral decisions by the International Monetary Fund or World Bank. The main concern is with the impact of US economic aid on internationally recognised human rights, but the particular rights must be specified.



Economic aid, like military aid, has been linked to human rights by congressional legislation.<sup>3</sup> Moreover, it is clear that some US economic assistance is in fact linked to human rights considerations by Executive action. A 1983 official study showed that US economic assistance was at times affected by human rights, western values, majority rule in southern Africa, and similar considerations; a number of officials in the State Department and the Agency for International Development indicated that bilateral assistance was indeed affected by a country's human rights performance and handling of refugee affairs.<sup>4</sup> Thus the question arises as to whether there is some generalisation, some pattern inherent in the linkage between economic assistance and human rights.

The central hypothesis of this chapter is that one should not expect much impact from US economic assistance on the promotion or protection of internationally recognised human rights. The origins of the hypothesis, explained more fully below, stem from the US role in world affairs as leader of the anti-Soviet coalition, the low levels of aid, and the relative priority given to macro-economics as compared to human rights values. Testing of the central hypothesis is undertaken with the expectation, however, that the type of right considered might make a difference in final judgements.

## BASIC BOUNDARIES

It is necessary to be explicit about the conception of bilateral economic assistance employed. The most easily identified component is Official Development Assistance (ODA), a specified part of legislated appropriations. It is a declining amount of US aid under the Reagan Administration, a significant fact in and of itself. From fiscal year (FY) 1981 to 1985, ODA's share dropped from 45 per cent to 33 per cent of total US foreign assistance.<sup>5</sup>

A second component is Food for Peace, authorised under Public Law 480 (PL480), Titles I, II, and III. The first section of the act makes available concessionary sales of agricultural products, the second section grants, and the third section use of food aid to promote agricultural self-sufficiency.

A third component is more ambiguous. Economic Support Funds (ESF), formerly called Security Supporting Assistance, may be considered economic or military in nature. The ambiguity is reflected in statements by the US Agency for International Development

(AID), the main conduit for US bilateral economic aid. According to a 1984 statement, AID supposedly considers ESF to be security assistance subject to congressional provisions for that category, particularly Section 502B of the 1961 Foreign Assistance Act as revised. This would mean, if taken seriously, that ESF could not be provided to gross violators of internationally recognised human rights unless the President certified to Congress extraordinary security needs.<sup>6</sup>

M. Peter McPherson, head of AID during the Reagan Administration, having signed off on the 1984 policy statement, testified in Congress in 1985 that at least 30 per cent of ESF was used for economic purposes not directly related to security policies.<sup>7</sup> Such testimony, if factually accurate, could reasonably be viewed as consistent with the authorising legislation requiring ESF to be used in a manner consistent with economic development 'to the maximum extent feasible'. The official view, then, is that ESF is military assistance which is used to some degree for purely economic purposes.

The State Department, however, in its annual country reports on human rights practices around the world, lists 'Security Supporting Assistance', or ESF, as part of economic aid.

The same ambiguity about ESF is found in the studies of the private Overseas Development Council (ODC). ESF is first treated as security assistance, then included statistically as part of developmental economic assistance.<sup>8</sup>

ESF is considered part of US bilateral economic aid in this study. Often its uses are ostensibly economic, even if for ultimately political purposes. A significant part of ESF goes to economic programmes within a friendly country. And not least, under the Reagan administration ESF made up about half of all bilateral economic aid. In the first Reagan administration ESF increased by 90 per cent. Not to include it would distort any study of US economic aid policies. The fact remains that ESF constitutes economic aid to political allies only; that is an important dimension built into US economic aid programmes.

Largely omitted from the present study is funding for the Peace Corps and, to as great an extent as possible, US contributions to multilateral development programmes and/or international financial institutions. As will be noted, these multilateral efforts do affect US bilateral aid, and they are certainly important, but they are not the central focus of this inquiry.

Also omitted from especially the statistical correlations are special US funds which may be rightly considered part of the total US economic aid effort. Some of these special programmes will be included in the discussion but not in the tables. Examples would be Section 116E of the Foreign Assistance Act, authorising funding for the promotion of civil and political rights; and the South African Fund, authorising funding to promote the end of apartheid in the Republic of South Africa.

### WHY LOW EXPECTATIONS?

There are at least three major reasons why one should not expect US economic assistance to have much positive impact on the fate of internationally recognised human rights in the LDCs. The first is that US economic assistance is at too low a level to serve as a lever for policy impact in most situations. Even allowing for differing definitions of economic aid, the pattern is clear.

US aid under the Marshall Plan to Europe after the Second World War was about 3.5 per cent of the US gross national product (GNP). By the mid-1980s, US ODA was less than one-fifth of 1 per cent of GNP. By this measure, the US was in the bottom quartile of industrialised democracies with a foreign aid programme, as shown by their consultative organisation, the Organisation for Economic Co-operation and Development (OECD). While dollar amounts of US economic assistance increased and even remained the largest from any OECD member in absolute amounts, in part because the US GNP was growing even as the percentage devoted to economic assistance was shrinking, the US lost ground in relation to its own past in the sense of making a major commitment in the economic assistance area. Inflation, of course, and sometimes foreign exchange rates, reduced the buying power of US aid that was provided (although most US aid purchases are made in the US).

More importantly for policy impact, the US lost ground in relation not just to its own past but also to other sources. The situation in the late 1970s and 1980s was well captured by Robert E. Wood: 'Separate aid programs were . . . administered by all sixteen countries of the Development Assistance Committee [of OECD], by at least eight communist and ten OPEC countries, by approximately twenty multilateral organizations in addition to various components of the United Nations system, by hundreds of private organizations, and

through assorted other arrangements. Aid programs had even been initiated by several Third World countries'.<sup>9</sup> By 1983 the US was providing only about 8 per cent of all DAC ODA.<sup>10</sup>

As the General Accounting Office (GAO), an investigative arm of Congress, noted, for foreign assistance to be effective it had to meet a significant amount of need in the recipient country.<sup>11</sup> In some cases this seemed to have occurred. In most countries, however, US economic aid was slight. In 1970 the US provided 54 per cent of India's ODA; in 1980, 11 per cent.<sup>12</sup> In Chile in the early 1970s the US provided enough foreign assistance to hurt the Allende regime badly by shutting it off,<sup>13</sup> especially when combined with effective pressure on the World Bank and a covert campaign of economic disruption. In Chile in the mid-1980s, US bilateral aid had been reduced to a mere \$1.3 million; it was not an effective policy weapon (although retaining perhaps some symbolic importance) had the Executive or Congress wanted to shut it down altogether or make it conditional on human rights reforms.

Where US bilateral economic aid was greater in relative terms, as in Israel and Egypt, which together in FY 1985 received more than \$3.2 billion, it was difficult to manipulate for economic and social (human rights) reasons. This leads to our second point:

US bilateral foreign assistance is dominated by political–military calculations as part of global competition with the Soviet Union. This means that use of foreign assistance on behalf of human rights is a marginal consideration. Trends were marked during the Reagan administration and well captured in analysis by the ODC: 'Military aid is favored over economic aid. Within the bilateral program, security-oriented economic aid is preferred over development assistance'.<sup>14</sup> The probability that the Reagan administration might use mainstream foreign assistance systematically for human rights ends was so distant that it was not even mentioned by the ODC.

It was clear in the 1980s that the Reagan administration pursued its cold-war vision of world affairs—namely, that the name of the game was overwhelmingly short-term military competition with the USSR—with special vigour in the foreign assistance arena. Military concerns dominated other considerations, and so-called security assistance increased rapidly after 1982. The military assistance programme (MAP) went from \$110 million in 1981 to \$805 million in 1985. Out of a total FY 1985 bilateral foreign assistance bill of \$18.2 billion, ODA amounted to but \$1.7 billion.<sup>15</sup>

Newer as well as previous studies proved the obvious. If an LDC

received attention from the Soviet Union, that country was likely to gain increased foreign assistance from the US.<sup>16</sup>

The GAO showed that US foreign assistance to a country like Jamaica was given for political reasons—presumably to support conservative forces sympathetic to market economics and foreign investment, and thus to discredit democratic socialists with more statist if not mercantilist notions of national development. Even in the absence of indigenous communist, not to mention Cuban or Soviet, influences, US aid was so political, meaning ideological, that it could not be used as a lever by AID to promote its preferred vision of economic development.<sup>17</sup>

It was not by accident, then, that a military coup in Liberia in 1980 resulted in an 800 per cent *increase* in US economic support funds for 1981–85. Official military assistance increased 600 per cent. And it was predictable that when Secretary Shultz visited that country in early 1987 he should have tried to sweep serious human rights problems under the diplomatic carpet.<sup>18</sup>

The clear Reagan pattern was to load up non-communist LDCs with military sales and grants, and ESF, to the frequent exclusion of sound economic planning and serious attention to human rights. A detailed study of southern Africa showed the problem clearly. Cold War diplomacy drove out serious economic development. Human rights hardly entered the picture.<sup>19</sup> As an AID official expressed it in a public lecture, the poorest political reason drives out the best economic reason. Aside from humanitarian relief, human rights *per se* don't matter.<sup>20</sup>

In general Congress was equally responsible for events, on occasion even managing both to authorise and to appropriate a foreign aid bill giving the Reagan team most of what it wanted. More usually it failed to fashion the consensus needed to pass the aid bill, giving the Administration the greatest portion of its desires via continuing and supplemental and special resolutions. There were congressional exceptions to the dominant pattern, as when it refused administration assistance requests for certain nations—mostly in the western hemisphere, such as Guatemala, under military rule, and Chile, under Pinochet.

One of many problems with this militaristic approach to foreign assistance was that it contributed to the third reason for keeping expectations low about promoting and protecting human rights. That is to say, if the politicisation and militarisation of foreign aid was the second reason for low expectations, the growing debt burden of

LDCs, a by-product of traditional Western views of economic development, was a third reason, to which military sales contributed.

Mainstream theories of economic development had always stressed exporting more than importing and avoiding the 'debit ditch' in order to achieve national macro-economic growth through participation in the world economy, with loans used to stimulate a process in which more could be exported than imported. This open, free-market strategy for economic growth was also seen as economic containment of communism, since a healthy capitalistic economy would inoculate against the communist fever.

Certainly concern with internationally recognised human rights had never been accepted as a legitimate part of the international financial regime in general,<sup>21</sup> or the World Bank in particular.<sup>22</sup> Concern for democratic development, while of long history, had always been weak in AID and the State Department.<sup>23</sup> Concern for basic human needs and growth with equity was not assured a place in economic planning, being still debated in the 1980s.

Nevertheless, despite the problems of getting new thinking incorporated into development planning, by the 1970s there was widespread concern that the traditional formula was simply not working for a great proportion of the people in the LDCs. Export-oriented, trickle-down economic development was not improving the lives of especially the urban and rural poor, who made up the majority of many LDCs. Hence the US Congress mandated the 'new directions' approach to US economic assistance in the early 1970s, requiring more attention to basic human needs and the rural poor. The World Bank also began to emphasise basic human needs and the rural self-sufficiency, rather than just export-led industrial growth.<sup>24</sup>

The Reagan administration effectively, without saying so, replaced the 'new directions' and its focus on basic human needs with a renewed focus on export-led, macro-economic growth.<sup>25</sup> At the same time, the Reagan team confronted a huge debt crisis brought on by previous development decisions and exacerbated by the global recession which was triggered in large part by US policies in the early 1980s. US deflationary decisions, combined with a glut in oil, caused many LDCs to have trouble meeting their debt obligations to external sources, both public and private. It was precisely in this context that the Reagan team made available large amounts of concessionary financing for military purchases by LDCs. Whatever military purposes were served by this emphasis, concessionary military sales added to the already immense debt burdens of many LDCs.<sup>26</sup>

As the GAO showed, by the mid-1980s much US economic assistance, primarily via ESF, had to be directed toward balance of payments adjustments.<sup>27</sup> This meant that ESF could not be used as a lever for any other policy consideration. Neither sound economic planning nor human rights concerns could be effectively urged when much US economic assistance had to be devoted to debt relief—itself exacerbated by military sales, also urged by the US. Therefore, to the extent that the US was interested in either sound economic planning or protection of human rights, these interests were undercut by the emphasis on concessionary military sales which increased client debt problems.

The Congress did basically nothing about this contradiction in US foreign assistance. Rather, Congress briefly focused on another contradiction. The US structured part of its economic assistance, especially ODA, to accord with decisions by the IMF concerning balance of payments questions. The US officially was interested in both a positive balance of payments and, in one form or another, basic human needs. Congress, just as it had previously recognised the insufficiency in practice of export-led, industrially oriented, trickle-down theories of economic development in the LDCs, also recognised problems when US policy decisions automatically followed IMF decisions on conditionality. In particular, the Congress was at least partially concerned with the human impact of IMF conditions for standard drawing rights. IMF austerity programmes, required of applicant countries as a *quid pro quo* for drawing rights, were designed to correct balance of payments problems by leading to more exports and fewer imports. But these IMF decisions seemed to impact especially harshly on non-elites in the LDCs. For this reason as well as others, Congress resolved that US decisions linked to the IMF should pay more attention to any adverse impact on basic human needs.<sup>28</sup>

This congressional concern, however, even when added to the spate of congressional resolutions on human rights, had slight if any effect on US economic assistance. US ODA was still tightly tied to IMF and World Bank decisions about 'non-political' economic planning, and in the late 1980s the emphasis of these two giant international financial institutions was increasingly on traditional, export-led, macro-economic growth. Most US ESF was still tightly tied to military and political concerns, especially debt relief for friendly countries. This left very little room for attention to growth with equity and/or basic human needs, and almost no room at all for human rights *per se*.

To sum up the third reason for low expectations: traditional views of economic development, resurgent in the 1980s, stressed macro-economic growth rather than issues of equity and need. Extensive borrowing to achieve this end had led to serious debt problems by many LDCs. US emphasis on military loans exacerbated the debt crises. In this situation it was almost impossible to get US economic assistance significantly linked to human rights.

It is against this background that one should view special human rights funds. It is certainly true that Congress has provided, in the face of indifference from the Reagan Administration, funds under Section 116E of the Foreign Assistance Act for the promotion of civil and political rights in the LDCs. (After Congress started the idea, the Reagan Administration did not request renewal of the programme.) AID funding for the human rights programme in the financial year 1986 totalled approximately \$4.5 million.<sup>29</sup> This programme provided seminars on women's rights and conferences on religious intolerance, as well as educational materials on civil liberties and the training of lawyers for human rights work, not to mention training of persons for supervision of elections.

While one might agree with the philosophy behind this positive approach to human rights, one has to set it within its larger context. Take US foreign assistance toward Zaire, for example. In the financial year 1985 AID directed \$73 000 to four human rights projects under Section 116E funding: a law library, educational materials, legal education of the population, and training sessions for legal officials.<sup>30</sup>

In that same year, US foreign assistance directed \$64.4 million to the regime of President Mobutu which systematically violated the rights sought to be protected by \$73 000 of human rights funding. There was \$44 million in outright military grants to Mobutu's forces of repression. There was \$10.4 million in ESF, or more than ten times the amount of human rights funding. There was \$20.4 million worth of US loans, which, of course, deepened the debt problems of a country from which the President had allegedly stolen millions already.

There were indeed reasons to keep expectations low about US economic assistance and human rights. The three reasons surveyed here (low levels of funding, geo-strategic competition, and relatively traditional views of development cum debt problems) were only cosmetically affected by special human rights assistance.



## DENIAL OF ECONOMIC ASSISTANCE

Congress, especially in the mid-1970s, legislated a framework for the conduct of foreign assistance that featured human rights, among many other concerns.<sup>31</sup> Two parts of the Foreign Assistance Act are of particular relevance to the present inquiry. Section 502B, already noted, requires security assistance to be denied to recipients labelled gross violators of internationally recognised human rights, unless the President certifies to Congress extraordinary security needs. The law does mention that the Executive can, as long as other parts of the law are not violated, take into account improvement in the human rights situation of security recipients. Section 116A of the same act mandates that no economic assistance can be provided to a gross violator of human rights, unless such assistance will directly benefit needy people.

The Carter administration never officially designated any country a gross violator under these statutes, fearing a loss of Executive flexibility and a domino effect across foreign policy from such action. Nevertheless, that Administration, in a vague and under-publicised process, did deny or reduce both security and economic assistance to a number of countries, at least partly for human rights reasons.<sup>32</sup> Most of the countries so affected were in Latin America, where major security and economic interests seemed unaffected by such human rights restrictions in the late 1970s. These manipulations of US bilateral assistance were so small and so erratic that some observers found no pronounced effect on foreign aid because of human rights,<sup>33</sup> or slight effect on 'gatekeeping functions' pertaining to initial decisions about which countries were allowed to be in the aid pool.<sup>34</sup>

The Reagan administration likewise never named a formal gross violator, and in general it can be said that the Reagan Administration did not want to adjust foreign assistance in general for human rights reasons. Upon entering office the Reagan team did terminate economic assistance to the Sandinistas' Nicaragua, but it is hard to make a credible argument that the decision stemmed from a good-faith evaluation of human rights there. At the eleventh hour that administration did hold up economic assistance to Duvalier's Haiti, when the fall of the dictatorial dynasty was imminent; yet before that time the Reagan team kept economic aid flowing in the face of ample evidence of a pattern of gross violations.

In general, the administration used the 'improvement doctrine' to

keep aid flowing to recipients viewed by some congressional elements and private human rights groups as gross violators. If there was any way to argue (and be able to keep a straight face) that improvement was occurring in a country, Reagan officials did so, thus invoking at least part of the language of Section 502B, which presumably pertained to ESF; ODA and PL480 programmes could continue if they were intended for the needy people in recipient LDCs. Most AID economic assistance was so defined, but apparently some economic aid was redirected from some countries to others because of Section 116A, without publicising the switch.<sup>35</sup> It was clear, however, as the then head of the Human Rights Bureau, Elliott Abrams, said openly in an interview, that the Reagan administration did not like to link economic aid and human rights.<sup>36</sup>

Congress itself could and did adjust foreign assistance for human rights reasons. A number of countries during the 1970s and 1980s were so affected, again mostly in Latin America but also including South Korea and the Philippines at one time or another. Especially the Reagan administration fought this congressional action, repeatedly trying to pry foreign assistance out of an aroused Congress for countries like Argentina, Chile, Guatemala, and a few others. In these prominent cases the Congress basically held firm on bans of military assistance, and either reduced economic assistance or directed that economic aid to private agencies rather than suspect governmental offices.

It is difficult to evaluate the effect of this denial or reduction of economic assistance by the Congress and the Carter and Reagan administrations. It seems true that such manipulations never proved decisive in the short term. (An apparent exception to this rule was perhaps the Dominican Republic in 1978, when Carter's clear warning of no US foreign assistance if a coup occurred apparently persuaded the military to stay in the barracks.) No human rights situation was immediately turned around by manipulation of economic aid. This should not be surprising, given the analysis above concerning why one should not expect any such result. And one could observe a short-term negative reaction in recipient countries when the bans or reductions were first imposed. This was very evident when the Carter administration first restricted mostly security assistance to countries like Uruguay and Guatemala. There were strong anti-US statements and in some cases a breaking-off of the foreign assistance programme being manipulated.

It cannot be proved definitively, but it is arguably the case that US

denials or restrictions of foreign assistance, including economic aid, had some cumulative and ameliorative effect over time on various human rights situations. It would be logical for such US actions to give encouragement to foreign human rights movements, and to give warnings to repressive forces. Manipulations and redirections of foreign aid, especially during the Carter period, may have helped to account for increased attention to human rights factors in numerous countries, especially in Latin America but also in places like the Philippines and South Korea. Beyond such tentative conclusions one cannot go, on the basis of what is known at the present.

### PROVISIONS OF ECONOMIC ASSISTANCE

In the remaining pages of this essay, provision rather than denial of US economic aid will be emphasised in relation to political rights (democracy), and the right to life in its civil and economic dimensions. What are the correlations between provision of this aid and the rights in question? After all, democratic rights have occupied a special place in US political history, and a reasonable argument can be made that there is no more fundamental right than the right to life in both its civil and economic forms.<sup>37</sup>

First, a 1985 study presented compelling evidence that US economic aid per capita had a weak but negative correlation with democracy.<sup>38</sup> Perhaps more importantly, that study showed that overall US foreign assistance, including military and economic components, correlated strongly and *negatively* with democracy. One could also see that when a democratic system was overthrown in the LDCs, US aid was rarely reduced.

It is not possible to replicate that study for more recent years.<sup>39</sup> One can, however, compile some evidence for the 1980s which suggests strongly the continuing validity of those earlier findings. Table 11.1 shows leading LDC recipients of US bilateral economic assistance for FY 1983, and the percentage change this amount represents compared to 1980. Table 11.1 also shows the 1983 score for political rights (on a scale of 1–7) given to each LDC recipient by Freedom House.<sup>40</sup> This score is compared to the same score in 1980. Thus during the transition years from the Carter to Reagan administrations, one can see shifts in economic assistance compared to shifts in one widely cited version of political rights or democracy.

TABLE 11.1 *US economic aid, 1980–83, and political rights*

<i>LDCs \$50m+ Aid, 1983</i>	<i>Percentage increase, 1980</i>	<i>Freedom House political score 1983</i>	<i>Direction change from 1980</i>
Kenya, \$81.5m	+51%	5	no change
Somalia, 69.7	4	7	nc
Egypt, 1,005.1	-14	5	nc
Liberia, 62.8	168	5	+
Morocco, 53.9	99	4	nc
Sudan, 166.3	76	5	nc
Zimbabwe, 64	180	4	-
Bangladesh, 172.3	9	6	-- --
India, 209.5	-5	2	nc
Pakistan, 278.7	376	7	nc
Indonesia, 111.4	-43	5	nc
Philippines, 102.8	23	5	nc
Lebanon, 52.2	1,040	5	-
Israel, 785	nc	2	nc
Bolivia, 63	109	2	++++
El Salvador, 245.6	321	4	+
Honduras, 106	100	3	+
Costa Rica, 214.1	1,238	1	nc
Dom. Republic, 63.1	20	1	+
Jamaica, 93.5	540	2	nc
Turkey, 286	-31	4	+

NOTES:

(a) The figure \$50m was arbitrarily chosen but represented a natural breakpoint, there being no countries receiving aid in the \$40m range during FY 1983.

(b) It would be reasonable to interpret the Freedom House scale of 1 (top) to 7 (bottom) as meaning that only scores of 1 and 2 represented clear democracies, with a score of 3 indicating a borderline case (e.g., Mexico in 1980).

(c) The number of pluses (+) or minuses (-) indicates differentials in scores over the four-year period 1980–83.

It is clear that US economic aid does not correlate consistently with political rights, and that shifts in aid patterns have little to do with democracy. The four countries (Egypt, India, Indonesia, Turkey) that showed declining economic aid levels did not have a declining record on political rights. Indeed, Turkey was given a higher score in 1983 than 1980. The five countries (Liberia, Bolivia, El Salvador, Honduras, Dominican Republic) which supposedly had improving political rights all received aid increases, but the proportion of

increase (1) was not proportional to the suggested rights improvement, and (2) was almost certainly the result of political-military calculations. That Costa Rica should increase its economic aid by 1238 per cent between 1980 and 1983 almost certainly had to do with Reagan perceptions of the Sandinistas next door than with the unchanging democratic situation in Costa Rica itself. Bolivia, which supposedly implemented drastic improvements in democratic rights during the period, received a smaller increase than El Salvador or Liberia, where charted improvements were smaller.

The easily observable fact was that most countries on the chart increased their US economic aid, even though their political score remained unchanged. The 1980–83 period was a time of expanding economic aid via ESF, primarily for political-military reasons. Correlations between that aid and democracy seemed mostly spurious.

One could take other 'snapshots' of economic aid and democracy, or seek more complex models and correlations. There seems no reason to do that in the light of the evidence and logic already explored.

Secondly, perhaps we expect too much. It may be a basically illiberal world that the US confronts, and thus perhaps we should not expect US economic assistance to build or reinforce democracy. Perhaps it would be more realistic to pursue minimum standards of human rights. Arguably the most basic internationally recognised human right is the right to life. If this right is not respected, other rights have no meaning. One important dimension to this right to life is civil: the right to be free from summary execution, illegal killing, and fatal disappearance. This civil right, recognised as fundamental during time of peace, is reinforced by the international law of armed conflict, which makes it generally illegal to kill a non-combatant. Then for the US a question becomes, to what extent is economic aid correlated with governmentally sanctioned murder?

The US official view of the facts is contained in the annual country reports on human rights, compiled by the Department of State and published by the US Congress. While the process involves a judgement call rather than scientific determination, a reader can formulate a reasonably clear picture of whether there exist in any country credible reports of a pattern of fatal disappearances or other arbitrary deprivation of life by the government or quasi-governmental forces. In a few situations the evidence is not clear, either because of wording used in the reports or because, as officials acknowledge, it is difficult in some cases to distinguish combatant from non-combatant deaths. My understanding of the 1985 situation is presented in Table 11.2.

TABLE 11.2 *Arbitrary deprivation of the right to life: the civil dimension*

<i>LDCs with 1985 credible reports of pattern of summary execution, political killing, or fatal disappearance<sup>c</sup></i>	US Economic Aid FY 1985
Angola (and opponents)	\$ 4.2m
Burkina Faso <sup>a</sup>	25.2
Chad (& opps.)	35.4
Comoros	.6
Ethiopia (& opps.)	87.2
Liberia	65.5
Madagascar	18.1
Mozambique (& opps.)	38.8
Seychelles <sup>a</sup>	2.5
Sudan (& opps.)	303.6
Uganda (& opps.)	9.0
Zaire (& opps.)	56.1
Zimbabwe (& opps.)	50.5
Brazil <sup>b</sup>	.8
Chile (& opps.)	1.3
Colombia (& opps.)	11.3
Cuba <sup>a</sup>	-
Dominican Republic <sup>a,b</sup>	168.1
El Salvador (& opps.)	433.9
Guatemala	103.9
Haiti	54.6
Honduras <sup>a</sup>	224.0
Jamaica <sup>b</sup>	155.8
Mexico	11.1
Nicaragua <sup>a</sup>	-
Panama	74.5
Peru (& opps.)	79.1
Burma	20.5
Cambodia (& opps.)	.8
China <sup>a,b</sup>	-
Indonesia	114.4
Laos (& opps.)	-
Philippines (& opps.)	234.4
Thailand (& opps.)	38.6
Vietnam <sup>a</sup>	-
Turkey (& opps.)	175.9
Afghanistan (& opps.)	3.4
Iran	-
Iraq	-
Israel & Territories <sup>a</sup> (& opps.)	1,950.1
Lebanon (& opps.)	20.4
Libya	-
Morocco <sup>a</sup>	-
Sri Lanka (& opps.)	66.9
Syria	-
South Yemen	-

## NOTES:

(a) Evidence does not seem clear in US document; (b) Government killing directed at common, rather than political detainees; (c) Killings in armed conflict or rebellion not included for combatants, but included if non-combatants died, in so far as one can distinguish. Killing by torture also included here.

It is obviously the case that much US economic assistance goes to governments which deny the civil right to life. Frequently such governments exist in a situation in which their rule is challenged violently, and in which opponents also kill prisoners or civilians. Such a situation does not, in human rights terms, justify denial of the civil right to life by governmental forces. Yet it can be noted that many governments exist in a political culture characterised by much violence.

In a number of situations, US economic assistance to a government denying the civil right to life can probably be justified in principle, whatever the dollar amount of aid. A classic example is Ethiopia. A brutal Marxist government, confronted by a bloody insurrection and at times foreign intervention, also faced a famine at least partly of natural origins. The US decided to engage in famine relief and other forms of economic assistance, despite credible reports of political killings by governmental elements. A related example pertained to the Sudan, where again credible reports of political killings existed, but where many refugees had sought sanctuary from upheavals. Again the US decided to provide aid despite denials of civil right to life.

Here the question of some denial of aid re-enters the picture. One can argue that the 1985 situation should not have been completely accepted by a US government genuinely interested in protecting minimum standards of human rights. A reasonable argument can be made that the US did have room to manoeuvre in restricting economic aid, especially the more questionable uses of ESF, to countries like Liberia, Zaire, Panama, and Indonesia. In these countries in 1985 it could hardly be argued that communist forces presented a clear and present danger to US security, thereby eliminating all other considerations in US foreign policy.

In at least one (Indonesia) the regime was reasonably secure. In others (Zaire, Liberia), the legitimacy and brutality of the regime was so problematical that some sort of challenge could be viewed as reasonable. Only in Indonesia in 1985 was there no ESF. In the others, ESF made up the bulk of US economic aid, which could have been manipulated without disruption of food or other humanitarian aid. Such manipulation could have had at least political or symbolic importance by conveying clearly US support for the civil right to life.

If, as Congress mandated, economic aid was continued to the most needy citizens of such an offending government, there would seem to be reason to reduce the more politically programmed ESF. It did

seem wise not to punish the needy people for the sins of their government. Madagascar, for example, received most of its economic aid in grants of food aid. This aid continued, and probably properly, despite some killing by the government.

Once again, even when taking a minimalist approach to international human rights and thus focusing on the civil right to life, we find a negative correlation between US economic aid and the human right in question. While this negative correlation is explicable in perhaps many situations, we still have to conclude that US economic aid is not a generally useful instrument to enhance protection of this right.

Thirdly, there is also an economic dimension of the right to life, consisting of adequate nutrition. Or, to rephrase the matter, there is also the internationally recognised right to adequate food. While never formally accepted by the US as a right binding on it, this right has been widely accepted as a legitimate part of the international bill of human rights.<sup>41</sup>

We can raise the question whether US economic assistance helps to protect this right. This is simply a question of fact, regardless of legal obligation. While the question may be simple, finding an answer is not nearly so.

There have been many attempts by public and private parties to gauge the impact of various assistance programmes on nutrition levels. A 1981 study, after complex inquiry into the period 1962–75, concluded that US food assistance through both bilateral and multilateral channels did correlate positively with improved nutrition. Expecting null findings, James N. Schubert found rather that US food aid was ‘moderately important’ in alleviating malnutrition. He concluded that ‘the more [food] aid the better’.<sup>42</sup>

One cannot focus just on the Reagan administration’s two terms to analyse whether Schubert’s findings are valid for more recent times. Food aid takes time to impact on reality. Moreover, there is a time-lag in collecting and interpreting data. Yet an attempt to take a different approach to US food aid, covering all US food aid up to 1980, yields more disturbing conclusions.

Table 11.3, based on data from the Food and Agricultural Organization and the US Department of Agriculture,<sup>43</sup> covers US PL480 programmes from inception through 1980. Most of this aid is bilateral, but some is channelled through multilateral organisations, and some through non-governmental organisations. The top 20 recipients are listed (excepting the Republic of South Vietnam).



TABLE 11.3 Impact of US food aid

20 largest LDC recipients, PL 480 foods, through 1980. Unit: \$1000	1971	% Increase, PC food supply 1971-1981; a: Calories; b: Protein; c: Fat		% Population Growth 1971- 1981 Unit = 1000		Domestic Agri-Product PC 1971-1981 100 = 1974-76			
		1981	%	1971	1981	%	1971	1981	%
1. Egypt	\$301 467	1a:2525 1b:69.7 1c:47.8	2.0 1.3 2.6	33 601	43 010	2.5	107	99	-1.0
2. Indonesia	\$1111 874	2a:1973 2b:41.3 2c:26.9	1.8 1.7 3.9		150 520 697 974	1.9 2.1	95 103	122 107	2.1 .8
3. India	\$108 750	3a:1998 3b:49.8 3c:28.9	.2 .1 .6	124 794 565 146					
4. Bangladesh	\$60 791	4a:2104 4b:45.4 4c:16.6	-8 -1.0 -1.3	70 667	90 693	2.6	97	100	.4
5. Pakistan	\$55 145	5a:2212 5b:58.1 5c:38.1	.7 3 1.5	67 556	89 416	2.8	102	105	.3
6. Somalia	\$41 439	6a:2183 6b:78.8 6c:76.1	-4 -1.0 0	2 853	4 895	6.0	111	72	-4.8
7. South Korea	\$32 532	7a:2584 7b:64.8 7c:21.7	1.3 1.8 6.1	32 565	39 110	1.8	87	105	2.8
8. Peru	\$32 451	8a:2265 8b:59.8 8c:46.6	-4 -5 -6	13 828	18 119	2.7	111	89	-2.5
9. Portugal	\$31 037	9a:3094 9b:87.9 9c:88.5	.4 -5 1.9	8 782	9 908	1.2	108	73	-3.3



Then noted are increases in these countries of the food supply, measured three ways (calories, protein and fat), 1971–81. Population growth for the same period is charted, as is domestic agricultural production. If we see US food aid to particular countries, their food supply over time, their population growth, and how much food was produced by them as compared to foreign sources, we should have a rough but introductory idea about the importance of US food aid in helping to implement the right to food.

One does not need complex methodology to discover that seven of the 20 have a negative change in food supply over the 1970s, with only 12 showing an increase (data were not available for Cambodia). Even more disturbing, only two (Indonesia and South Korea) showed a rate of per capita increase in food supply that exceeded the rate of population growth. In the other ten countries showing a composite increase in food supply (Egypt, India, Pakistan, Portugal, Philippines, Bolivia, Sudan, Tunisia, Dominican Republic, Morocco), the rate of food increase did not keep up with the rate of population increase. In Indonesia, with a composite food increase of 2.7 per cent, the domestic agricultural production for the decade was 2.1 per cent of the base years 1974–76. This suggests that some element of the food increase had to come from beyond domestic production. US food aid could by inference be a part of that external contribution, but further studies would be required to show that impact directly. In South Korea, with a composite food increase of 3.1 per cent, its domestic agricultural production was 2.8 per cent. Of course, some US food aid could stimulate foreign domestic production. And some food could be bought outside PL480 programmes.

As the late Senator Edward Zorinsky was fond of recalling, there are lies, damn lies, and statistics. One must be careful when interpreting Table 11.3. While US food aid does not appear to correlate positively and always with an increase in the food supply of recipient countries after controlling for population increase, several factors can be discussed. Even in those countries where the food supply did not increase, US food aid may have helped keep the situation from deteriorating further. Furthermore, it was not the fault of US food aid if population growth was not checked, or if man-made and natural disasters occurred in recipient countries (wars, typhoons and the like). It may be that the key decisions affecting whether US food aid correlates with increasing food supply are made by elites in the recipient countries, not by elites in Washington. And there is no argument made here that PL480 *causes* any particular change in the food supply.

On the basis of this brief look, which can certainly be improved upon in further studies, it seems a close call as to whether US food aid did help implement the right to food through the early 1980s. It is well to keep in mind that PL480 is a complex programme serving many US interests at home and abroad, in addition to being ostensibly for food assistance in lesser developed countries.<sup>44</sup> At least there seems to be a general consensus that food aid in the form of emergency relief helps save lives in the short run, whatever the controversy over the longer term impact on US food aid in non-crisis situations.

## CONCLUSIONS

One should not expect much positive impact from US bilateral economic assistance in support of the implementation of internationally recognised human rights. The US is preoccupied with its global competition with the Soviet Union; most US economic aid is politically designed for that competition. US economic aid, especially ODA, has declined drastically in relation to the US past and, more importantly, to others in the contemporary world. US bilateral aid, to the degree that it goes for something more than reward for political orientations, is more sympathetic to macro-economic growth according to traditional capitalistic strategies than to focusing on rights *per se*. A rhetorical concern with basic human needs and most needy people in the late 1970s has not clearly changed this traditional orientation. Specific attention in US economic aid programmes to rights as rights is marginal and largely cosmetic.

US bilateral economic assistance, especially when combined with military assistance, correlates negatively with support for political rights—that is, democracy. When there is a positive correlation between US economic aid and democracy in Third World countries, that correlation is largely spurious. Economic assistance is also not a useful tool for dealing with deprivations of the right to life in its civil dimensions. The US provided economic aid to many governments which directly or indirectly engaged in killings of civilians; such aid can be frequently justified in context. US food aid may have a slightly beneficial effect on the food supply in its largest recipients over time; but rates of population growth outstrip even those slight gains in most countries. It still might be true that recipients would be worse off without PL480 programmes.

Ironically it is probably in the area of economic, social, and cultural rights—rights which the Reagan administration does not recognise—that US bilateral economic aid has its most positive results, however modest. Given this probability plus the challenges of precise analysis, it is in this area that future studies of US foreign economic assistance and human rights should focus.

## NOTES

1. A concise review is presented in Thomas E. Pasquarello, 'Human Rights and Other Determinants of US Aid Allocations to African Nations', paper presented at the 1986 Annual Meeting of the American Political Science Association, Washington DC, 27–31 August. See also John Wilhelm and Gerry Feinstein (eds), *US Foreign Assistance: Investment or Folly?* (New York: Praeger, 1984).
2. Robert E. Wood, *From Marshall Plan to Debt Crisis: Foreign Aid and Development Choices in the World Economy* (Berkeley: University of California Press, 1986) pp. 2–3.
3. For a summary of Congressional action on human rights in foreign policy, see David P. Forsythe, *Human Rights and US Foreign Policy: Congress Reconsidered* (Gainesville, Florida: University Press of Florida, 1988).
4. GAO, 'Political and Economic Factors Influencing Economic Support Fund Programs', *Report*, to the House Foreign Affairs Committee, 18 April 1983, GAO/ID-83–43.
5. John W. Sewell et al., *US Foreign Policy and the Third World: Agenda 1985–86*, Washington: Overseas Development Council, 1985 (New Brunswick, New Jersey: Transaction) p. 98.
6. AID, 'Human Rights', *Policy Determination*, no. 12, 26 September 1984, p. 5.
7. 'Foreign Assistance Legislation for FY 1986–87, Part 1', *Hearings*, House Committee on Foreign Affairs, 99th Cong., 1st sess. (Washington: GPO, 1985) p. 228.
8. Sewell, *op. cit.* at note 5, pp. 98–100, and annex E-1, note f.
9. Wood, *op. cit.* at note 2, pp. 68–69, notes omitted.
10. Department of State, *Atlas of United States Foreign Relations*, 2nd edn (Washington: GPO, 1985) p. 70.
11. GAO, 'Foreign Assistance: US Use of Conditions to Achieve Economic Reforms', *Report*, to AID, August 1986, GAO/NSIAD-86–157.
12. Sewell, *op. cit.*, at note 5, p. 1106.
13. Edward N. Muller, 'Dependent Economic Development, Aid Dependence on the United States, and Democratic Breakdown in the Third World', *International Studies Quarterly*, 29, 4 (December 1985) p. 459.
14. Sewell, *op. cit.* at note 5, p. 97.

15. Congressional Quarterly, *Congress and the Nation, 1981–84*, vol. 6 (Washington: Congressional Quarterly Press, 1985) pp. 125–73.
16. For a 1986 study see Pasquarello, *op. cit.*, at note 1. For an earlier study see Eugene Wittkopf, *Western bilateral aid allocations: a comparative study of recipient state attributes and aid received* (Beverly Hills, CA: Sage 1972).
17. GAO, 'Foreign Assistance', at note 11, chap. 3.
18. David K. Shipler, 'Shultz Is Under Fire for Asserting Liberia Has Made Gains on Rights', *New York Times*, 16 January 1987, p. 1; Michael H. Posner, 'Shultz's Liberia—and President Doe's', *Op-Ed Essay, New York Times*, 25 January 1987, p. 25.
19. Caleb Rossiter, *The Bureaucratic Struggle for Control of US Foreign Aid: Diplomacy vs. Development in Southern Africa* (Boulder, CO: Westview Press, 1985).
20. Hunter Farnahm, AID senior relief analyst for Africa, public lecture, University of Nebraska, October 1986. See further Richard L. Hough, *Economic Assistance And Security: Rethinking US Policy* (Washington: National Defense University, 1982).
21. Wood, *op. cit.*, at note 2.
22. Lars Shoultz, 'Politics, Economics, and US Participation in Multilateral Development Banks', *International Organization*, 36, 3 (Summer 1982) pp. 537–74.
23. Robert A. Packenham, *Liberal America and the Third World* (Princeton: Princeton University Press, 1973).
24. Robert L. Ayres, *Banking on the Poor: The World Bank and World Poverty* (Cambridge, MA: The MIT Press, 1984).
25. Sewell, *op. cit.*, at note 5, pp. 25–6, 104–5, 113, and 'Objectives of US Foreign Assistance: Does Development Assistance Benefit the Poor?', *Hearing*, House Committee on Foreign Affairs, 97th Cong., 2nd sess. (Washington: GPO, 1982).
26. Harry J. Shaw, 'US Security Assistance: Debts & Dependency', *Foreign Policy*, no. 50 (Spring 1983) pp. 105–23.
27. GAO, 'Foreign Assistance', at note 11.
28. Wood, *op. cit.*, at note 2. Two other concerns were evident in congressional debates: the independence of the US, and possibly poor decisions by the IMF. Thus human rights or humanitarian concern made up only part of the congressional motivation, and it was impossible to say which of the three concerns was the strongest in producing the congressional action.
29. Letter and enclosures to the author from Travis Horel, Coordinator, Office of Human Rights and Refugee Programs, AID, 10 December 1986.
30. *Ibid.*
31. Forsythe, *op. cit.*, at note 3.
32. See especially Caleb Rossiter, 'Human Rights: The Carter Record, The Reagan Reaction', *International Policy Report*, no. 2, Center for International Policy (Washington: September 1984); Stephen B. Cohen, 'Conditioning US Security Assistance on Human Rights Practices', *American Journal of International Law*, 76, 2 (April 1982) pp. 246–79;

- Joshua Muravcik, *The Uncertain Crusade: Jimmy Carter and the Dilemmas of Human Rights Policy* (Lanham, NY: Hamilton Press, 1986) chap. 5.
33. David Carleton and Michael Stohl, 'The Foreign Policy of Human Rights: Rhetoric and Reality from Jimmy Carter to Ronald Reagan', *Human Rights Quarterly*, 7, 2 (May 1985) pp. 205–29.
  34. David L. Cingranelli and Thomas E. Pasquarello, 'Human Rights Practices and the Distribution of US Foreign Aid to Latin American Countries', *American Journal of Political Science*, 29, 3 (August 1985) pp. 539–63.
  35. The details are presented in Forsythe, op. cit., at note 3.
  36. David Heaps, for the American Association of the International Commission of Jurists, *Human Rights and US Foreign Policy: The First Decade 1973–1983*, no place or date of publication indicated, 1984, p. 43.
  37. David P. Forsythe, *Human Rights and World Politics*, 2nd printing, (Lincoln: University of Nebraska Press, 1985) pp. 35–9. See also Asborn Eide, *Human Rights in the World Society: Norms, Reality and the International System of Protection* (Oslo: Universitetsforlaget, 1978).
  38. Muller, op. cit., at note 13.
  39. Muller used as his basic index to democracy an article by Kenneth A. Bollen, 'Issues in the Comparative Measurement of Political Democracy', in the *American Sociological Review*, 45, (June 1980) pp. 370–90. This index-rated countries for 1960 and 1965 only. No updated scores have been published, to my knowledge.
  40. There have been a number of critiques of the methodology and biases of Freedom House in compiling its ratings of political and civil rights. The author would have preferred to use an updated version of the Bollen index had it been available. Rankings by Freedom House are widely cited, perhaps for lack of alternatives, whatever the problems of bias.
  41. The United Nations Covenant on Economic, Social, and Cultural Rights states in Article 11: 'The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food . . . The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take . . . the measures . . . which are needed . . .' The Carter administration signed the Covenant and sent it to the Senate along with reservations and understandings. The Senate has never given its consent to ratification, the issue being of low priority to both branches.

The international bill of rights is made up of this Covenant, the UN Covenant on Civil and Political Rights, and the Universal Declaration of Human Rights. All of the industrialised democracies, except the US, are parties to the Economic and Social Covenant.

See further Philip Alston *et al.*, *The Right to Food* (The Hague: Martinus Nijhoff, 1984), and Raymond R. Hopkins and Donald J. Puchala, *The Global Political Economy of Food* (Madison: The University of Wisconsin Press, 1979).

42. James N. Schubert, 'The impact of food aid on world malnutrition', *International Organization*, 35, 2 (Spring, 1981) pp. 329–54.
43. Table 11.3 constructed from FAO *World Agricultural Statistics*, Rome: FAO, 1984; USDA, 'Food for Peace', *1980 Annual Report on Public Law 480* (Washington: GPO, 1982). USDA, AID, and FAO and its affiliated agencies have all made efforts to chart the impact of international food aid.
44. See James R. Walczak, 'New Directions in US Food Aid', in Nanda, et al., *Global Human Rights: Public Policies, Comparative Measures, and NGO Strategies* (Boulder: Westview, 1981) pp.29–58, and Mitchel B. Wallerstein, *Food For War—Food For Peace: United States Food Aid in a Global Context* (Cambridge, Mass.: MIT Press, 1980).



# 12 US Foreign Policy, Human Rights and Multilateral Assistance

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## INTRODUCTION

Throughout the 1980 presidential campaign, candidate Ronald Reagan clearly and sharply criticised the Carter human rights policy, arguing that it was morally unsound, ineffective, and threatening to United States' security interests. According to the Reagan view, the policy was morally tenuous because it created a double standard, condemning minor human rights violators while overlooking major offenders. It was considered ineffective because it actually reduced United States influence in the targeted nations. Moreover, Carter's policy was said to threaten United States security interests because it seriously undermined regimes which, while imperfect, were at least pro-Western. In contrast to Carter, Reagan promised that he would initiate a more realistic human rights programme. By avoiding the pitfalls of the Carter policy and properly understanding the moral questions involved, he would enact a policy that was both ethically sound and politically effective.<sup>1</sup>

The Reagan administration's reformulation of human rights policy included a complex moral argument meant to justify the unabashed pursuit of United States national security interests. The reformulation had two main tenets. The first introduced international terrorism as the principal human rights concern and directed attention towards the Soviet Union, which was charged as being the source of such terrorism. The second emphasised the *relative* moral superiority of authoritarian United States friends as opposed to the totalitarian allies of the Soviet Union.<sup>2</sup>

At the heart of the Reagan critique was a complete reformulation of the moral issues surrounding the human rights issue. It was argued

that the Carter policy was fundamentally misdirected because of the inappropriateness of its 'purist' conception of human rights. Michael Novak, the Reagan administration's appointee to the United Nations Human Rights Commission, argued that the fundamental problem was that the Carter administration 'pretended that all nations erred against human rights more or less equally. No distinction was made between totalitarian nations and authoritarian nations'. It was this, identified by Novak as the 'most important distinction of the twentieth century', that provided what the Reagan administration considered the basis for a proper conception of human rights and was at the heart of the administration's reformulation of human rights policy.<sup>3</sup>

The administration also attempted to clarify the moral issues involved in evaluating the human rights practices of various regimes. This served, on the one hand, as the basis for criticising the Carter policy, and, on the other, as the foundation for a more 'realistic' human rights policy. The Reagan critique was enunciated most consistently and clearly by Jeane Kirkpatrick,<sup>4</sup> the United States Ambassador to the United Nations during the first Reagan term, but Mrs Kirkpatrick's conceptualisation of the problem found its way into most of the major human rights pronouncements of the administration.<sup>5</sup> Kirkpatrick argued that the Carter policy was flawed from the start by its 'purist' or 'utopian' conception of human rights. More particularly, she criticised the policy, as it was practised, for its lack of effectiveness and because, she charged, it focused solely on United States allies. Public criticism and denial of aid to 'friendly' human rights violators was not effective, she argued, because it delegitimised them, thereby making these allies more susceptible to unfriendly opposition groups. Moreover, public criticism and denial of aid made these allies less susceptible to United States influences and pressure. Making the situation still worse in her eyes, the policy was 'almost invariably anti-Western in its application'. It was argued that the Carter human rights policy worked to destabilise and undermine American allies around the world. In sum, therefore, the Reagan critique concluded that the Carter policy effectively promoted neither human rights nor United States security interests.

Leaving aside the accuracy of this view for the moment, the argument is that non-democratic governments are not all the same because some are totalitarian regimes, while others are authoritarian regimes. While the latter may be responsible for serious violations of human rights, they are nonetheless preferable to totalitarian regimes

because they are western-oriented and capitalist and therefore capable of becoming democratic. When one couples this with a 'realistic' understanding that not all regimes can be perfect, one's policy choices are clarified. It is thus argued that a true human rights policy is one which chooses the lesser over the greater evil; it is a policy which lends support to authoritarian regimes (however grudgingly) in order to minimise the greater evil of totalitarianism.

The policy implications of this approach are brought to light when one understands that the Reagan administration regarded authoritarian regimes, *by definition*, as those regimes friendly to the United States, while totalitarian regimes were, *by definition*, those friendly to the Soviet Union. As a result, the Reagan administration could assert that human rights interests and United States security interests were parallel. William Clark, former Assistant to the President for National Security Affairs, highlighted this linkage when he argued that '[t]he administration believes that a good strong America—an America whose national security is assured—is good for personal liberties throughout the world.' In practice, this requires the United States to support pro-Western non-democratic regimes, however repressive they may be. As explained by former Secretary of State Alexander Haig, the 'first imperative' of a human rights policy 'is to strengthen the United States, its allies and friends, the main safeguard against totalitarian aggression'.<sup>6</sup>

These principles of the Reagan administration must be viewed within the context of Congress's efforts to promote human rights. In a series of legislative actions in the 1970s, Congress included considerations of human rights violations as a component of the aid, trade and investment practices of the United States government.<sup>7</sup> President Reagan thus was charged with implementing laws that called for consideration of the human rights practices of recipient governments when determining the amount of military and economic assistance they would receive. Congress declined to tie the President's hands completely, however, by including escape clauses in individual pieces of legislation that would allow aid to continue in the event of undefined 'extraordinary circumstances' or 'basic needs' and the Congress, as has been the case in many other areas as well, is not institutionally structured so as easily to provide consistent oversight for the implementation of its legislative outputs. As we discuss below, the opportunity provided by the various escape clauses, the introduction of rather dubious interpretations of the law, and the adoption of tactical doctrines, that is the improvement doctrine, have enabled the

Reagan administration to resist both the spirit and the letter of the law on human rights.<sup>8</sup>

As we write in 1988, we are in a position to evaluate more fully Reagan's foreign policy on human rights. It is impossible to explore adequately all the components and nuances of this policy in this brief chapter. We examine an aspect of the Administration's policy output that has received relatively little attention to date.<sup>9</sup> Specifically, we will examine the role of human rights in US multilateral aid decisions.

Thus far, the attention of most analysts, ourselves included, has been focused on US bilateral foreign assistance. As has been reported elsewhere, the behaviour of the Reagan administration in this area has appeared consistent with that of previous administrations, which is to say that there has been little or no relationship with the human rights practices in recipient nations.<sup>10</sup>

## THE REAGAN ADMINISTRATION AND MULTILATERAL ASSISTANCE

United States policy in multilateral development banks (MDBs) is not among the more visible areas of US foreign policy, despite the fact that in the late 1970s and 1980s Congress and officials of the Carter and Reagan administrations spent increasing amounts of time discussing the issue of how, if at all, human rights should affect the US participation in MDBs. As legislative interest in this area has grown, so too have the number of studies by observers and critics, beginning with the pioneering work of Lars Schoultz, and more recently with the work of Glenn Mower and David Forsythe.<sup>11</sup> Like US bilateral assistance, US behaviour in MDBs with respect to human rights is supposedly governed by congressional legislation, which stipulates the conditions under which the United States Executive Director in each bank is to oppose loans to countries which are judged to be human rights violators.

One of the most interesting facets of US policy in the MDBs during the Reagan administration has been the extent to which Members of Congress—especially those on the House Banking Subcommittee on International Development Institutions and Finance—have dogged the administration almost from the moment of its inauguration in January 1981. The administration has been forced, over a period of time, to make more and more clear the motivations which lay behind

its policy. It is ironic that the human rights area in which Congress has been the most vigilant during the Reagan administration is also the one in which the Congress has the least direct impact in that it must work not only through the administration, but also in organisations in which the United States, while the most powerful member, does not have majority control and therefore the least chance of clear implementation of policy.

The four major multilateral development banks are international financial institutions which seek to loan funds, mainly at close-to-market rates, to developing countries in order to facilitate economic development. The four major banks, the World Bank Group, the Asian Development Bank (ADB), the African Development Bank and the Inter-American Development Bank (IDB) account for most of the loans and receive most of the financial support which the United States offers to MDBs. The World Bank Group consists of the International Bank for Reconstruction and Development Association (IBRD), the International Financial Corporation (IFC), which offers equity investment to corporate ventures in the developing world, and the International Development Association (IDA), which offers long-term loans at nominal interest rates to the poorest members of the Third World. Since these institutions were founded, and especially since 1970, they have become a very significant force in the world economy. In Fiscal Year (FY) 1985, the World Bank Group, which accounts for well over half of all MDB lending, committed itself to 330 loans valued at more than \$18 billion. This represents a 600 per cent increase over commitment figures in FY 1970.<sup>12</sup> Increasing Congressional interest in how this money is disbursed every year is understandable given the amounts involved.

As with many other Carter administration human policy initiatives, the policy of using MDB voting as a means of influencing human rights violators was rejected by President Reagan and his supporters during the 1980 election campaign and after. It was unclear, first of all, if the Republican Party as a whole even supported US participation in MDBs. Many of the Republicans who did support the banks certainly opposed the perceived Carter policy of using foreign aid, multilateral and bilateral, to encourage global conformity to the Carter vision of human rights. The Republican Party Platform of 1980 advocated an exclusively realist criterion for disbursing foreign aid:

No longer should American foreign assistance programs seek to force acceptance of American governmental forms. The principal

consideration should be whether or not extending assistance to a nation or group of nations will advance America's interests and objectives. The single-minded attempt to force acceptance of US values and standards of democracy had undermined several friendly nations, and has made possible the advance of Soviet interests. . . .<sup>13</sup>

In addition, the platform also stated that a Republican administration would 'emphasize bilateral assistance programs whenever possible', since these programmes are most accountable to US taxpayers and 'wholly consistent with our foreign policy interests'.<sup>14</sup> Beneath these sentiments lay a powerful conservative critique that the MDBs, especially the World Bank, particularly under the presidency of Robert S. McNamara (1968–81), was using Western money to undermine private enterprise and freedom in the Third World.

In this atmosphere it was uncertain whether the new administration, sworn in early in 1981, would even advocate continuing US participation in the MDBs. Congressional fears of the New Unilateralism which the administration seemingly represented were borne out at least in part in February 1981, when the administration proposed reductions in the authorisation proposed by the Carter administration for MDBs by \$530 million in FY 1981 and by an additional \$406 million in FY 1982. The administration still supported participation, but had 'budgetary concerns' in mind, Deputy Secretary of the Treasury R.T. McNamara told a Congressional panel on March 11.<sup>15</sup> Remarkably, though, by the end of 1981 the debate within the administration had been resolved largely in favour of the MDBs and against the radical language in the party platform of the previous summer. The administration committed itself to modest reductions in US spending on the MDBs, but otherwise supported the *status quo*. In an important Treasury Department publication released in February 1982,<sup>16</sup> the administration offered a detailed rebuttal to virtually all of the conservative charges mentioned earlier, while pledging to improve the efficiency of MDB operations and the quality of the projects, when appropriate. Nonetheless, having entered office with the Carter guidelines in place in 1981, authoritarian countries such as Paraguay, the Philippines, Libya, and Guatemala were targets of US oppositions. After 1981, the only 'friendly' authoritarian nation to run into difficulty in the period covered was Chile.

As Table 12.1 indicates, from February to September 1981

TABLE 12.1 *Number of abstentions and 'no' votes on human rights grounds in MDBs*

<i>Time period</i>	<i>Number</i>	<i>Countries affected</i>
Carter Administration 1977-1981	112	
Reagan Administration		
Feb. 1, 1981-Sept. 30, 1981	5	Paraguay, South Yemen, Philippines
Oct. 1, 1981-Sept. 30, 1982	9	Benin, Bolivia, Guatemala, Laos, South Yemen, Syria
Oct. 1, 1982-Sept. 30, 1983	6	Angola, Laos, South Yemen
Oct. 1, 1983-Sept. 30, 1984	5	Angola, Benin, South Yemen, Syria
Oct. 1, 1984-Sept. 30, 1985	12	Angola, Benin, South Yemen, Syria, Uganda
Oct. 1, 1985-Sept. 30, 1986	6	Angola, Ethiopia, Syria

SOURCE: National Advisory Council, *Annual Report*, FY 1977-85.

Executive Directors under instructions from the Reagan administration opposed or abstained from voting on only five loans on human rights grounds.<sup>17</sup> This decline is consistent with behaviour in subsequent fiscal years. The decline in the number of opposition votes and abstentions is not attributable to a decline in the number of loans proposed for countries with bad human rights records. Rather, as Table 12.2 indicates, the new administration simply decided, despite legislative requirements to consider human rights conditions, to vote for loans proposed for countries which had previously been targeted because of their violations of citizens' rights.

Thus there is a clear change in United States behaviour in terms of MDB loans during the Reagan years. Most importantly, there is a sharp decline in the number of loans objected to on human rights grounds. However, ironically, since the Carter opposition in the MDBs had little identifiable impact on the disbursement of MDB money, there is little actual discernible impact on the policy outputs of the MDBs. The changes can only be monitored in the behaviour of US representatives to the banks and not in the banks' distribution behaviours.

It is clear that our interpretation of this process differs markedly from other accounts of these events, especially that of David Forsythe. In the area of US policy in MDBs, Forsythe takes the

TABLE 12.2 US support for MDB loans to countries with serious human rights violations 1981–85

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*Measured by State Department and/or Amnesty International (number of loans supported)*

Oct. 1, 1980–Sept. 30, 1981  
 El Salvador (1), Guatemala (1), Ethiopia (1), Indonesia (15), Uganda (2), Nicaragua (5), Pakistan (10)

1981–82  
 Colombia (9), El Salvador (3), Indonesia (20), Pakistan (12), Philippines (14)

1982–83  
 Brazil (10), Chile (2), China (8), Colombia (5), Guinea (3), Guatemala (5), El Salvador (2), Indonesia (22), Pakistan (8), Philippines (9), Turkey (4), Zaire (4), Zimbabwe (6)

1983–84  
 Indonesia (15), Philippines (13), Zaire (3), Brazil (5), Chile (3), Colombia (4), El Salvador (4), Guatemala (4), Peru (4), Uganda (4)

1984–85  
 Brazil (14), Burma (2), Colombia (10), El Salvador (2), Guatemala (3), India (14), Indonesia (19), Mozambique (1), Peru (4), Philippines (5), Turkey (7), Zaire (6), Zimbabwe (3)

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SOURCE: National Advisory Council, *Annual Report*, FY 1977–85.

position that both ‘the Carter and Reagan administrations, especially their Departments of the Treasury, disliked the provisions on human rights’ that Congress insisted should be enforced.<sup>18</sup> In addition, he finds that members from both sides of the aisle in Congress pushed for stronger action during both administrations. As he writes later: ‘By the late 1980s, Congress played a larger role in making foreign policy than at any time since the interwar years (1919–39). Its concern for human rights matters has been unusually high also during the period under study. . . . Foreign governments had to deal with Congress almost as much as with the executive branch’.<sup>19</sup> In Forsythe’s view, US human rights policy is a story about legislative-executive conflict which seems to cut across party lines.

We think that this is a problematic view. First, to sustain it Forsythe has argued that what was to become Section 701, the passage which outlines Congressional human rights provisions on MDB voting, ‘was opposed by [President Carter] as an unwise restriction on executive authority and politicization of the multilateral banks’.<sup>20</sup> This is technically correct, but it is not a fair representation of the Carter position on the issue. Carter did indeed oppose the



above language written by Tom Harkin (D-Iowa). However, he was not necessarily hostile in principle to tying MDB voting to human rights; his own proposal, sponsored by Henry Reuss (D-Winconsin), was essentially a watered-down version of the Harkin amendment which did not require that the US cast 'no' votes on loans to human rights offenders.<sup>21</sup> In addition, as Forsythe notes and as we have shown here, in practice the Carter administration was much more likely to use its influence in MDBs to make recipients aware of US dissatisfaction with their human rights performance. As Glenn Mower has noted in his account: 'Despite its early resistance to congressional efforts to compel the administration's representative to use IFIs for the implementation of this country's human rights policy, the Carter administration did, in fact, use these institutions for this purpose'.<sup>22</sup>

Second, we think Forsythe also exaggerates the bi-partisan nature of the Congressional revolt against Reagan policies in the MDBs. Without a doubt there were sympathetic Republicans such as Jim Leach (Iowa) and Doug Bereuter (Nebraska), but there were also conservative Democrats as well as conservatives on the Republican side, such as Thomas B. Evans (Delaware) and Gerald Solomon (New York). For us, ideology and partisanship are at least as important as legislative-executive conflict, as our analysis thus far shows. We also place more emphasis than does Forsythe on the transition from a moderate Democrat to a conservative Republican in the White House.

US policy in the multilateral development banks illustrates a number of interesting realities of executive-legislative interaction in the 1980s, as well as the general willingness of the bulk of legislators to accept executive leadership in foreign economic policy. Over the last seven years, Congress—especially the Subcommittee on International Development Institutions and Finance of the House Banking Committee—has been vigilant in trying to push the Reagan administration in the direction of conforming to an interpretation of the status respecting MDB voting on loans proposed for human rights violators. This vigilance may be unrivalled in the history of foreign economic policy and foreign aid decision-making, especially in comparison to US bilateral aid determinations. This vigilance has not necessarily been rewarded by success, however. As the Watch Committees have noted, 'In accordance with its policy since taking office, the Reagan administration largely ignored section 701 in its performance at the banks in 1986. . . .'<sup>23</sup> It says something about the

strategy of Congressional Democrats, however, that they have placed such great emphasis on changing a policy which, even had they succeeded, might not have any noticeable impact on MDB disbursements because of the small size of the United States quotas and the reluctance of other MDB members to tie lending to human rights. One might speculate that the combination of the relative obscurity of MDB policy and no clear ideological identity for a human rights policy by the 'folks back home' on this issue creates an environment in which legislators have a relatively high degree of freedom to manoeuvre without fear of electoral backlash. It is, however, an area in which there is much less opportunity actually to impact policy outside the United States. Despite this freedom and now seven years of complaints, we cannot help but comment on the paucity of individuals in Congress who are sufficiently committed to human rights to offer support to efforts to ensure the US aid efforts, bilateral and multilateral, are aligned with human rights, as the relevant legislation requires. In short, Congressional oversight in this, as in many other areas, appears to be largely ineffective if not inoperable.

## CONCLUSION: THE REAGAN ADMINISTRATION'S HUMAN RIGHTS POLICY IN ACTION

### **Authoritarian-totalitarian distinction**

To evaluate the Reagan administration's human rights policies it is useful to return to the totalitarian-authoritarian distinction employed by the administration to distinguish itself from its predecessors. Two important issues need be addressed:

- (1) Is the totalitarian-authoritarian distinction a useful one for distinguishing levels of human rights abuses and building operative United States human rights policies?
- (2) Does the Reagan Administration act upon this doctrinal distinction in each of the human rights policy areas with which we have been concerned in this chapter?

We argued that the totalitarian-authoritarian distinction, which forms the intellectual backdrop of much of the rhetoric of the Reagan administration approach in this area, is not a very useful device for actually measuring the level of human rights abuse or for determining

if a clear pattern of gross violations of human rights has occurred. What has often been overlooked in discussions of administration and congressional performance on human rights in the Reagan era is that the much ballyhooed distinction in essence informs you whether a particular nation's gross violations are inexcusable (or excusable). Thus, for followers of the thesis, authoritarian regime violations, while regrettable, have a potential to diminish, whereas totalitarian violations cannot diminish as they are inherent in the totalitarian regime. The distinction is not useful for determining why there are differences in the levels of gross violations among and between authoritarian and totalitarian violators. The response of the administration has thus been based on ideologically based assertions rather than based on any hard data on abuses of human rights.

Although we are of the opinion that this distinction is not analytically useful, we must further investigate whether the Reagan administration has been able to implement a policy of foreign assistance based on their distinction. Previous studies (referenced above) have shown that despite the rhetoric, on the whole, during the Reagan period very little was done in the way of redirecting the distribution of United States bilateral foreign assistance. Further, as discussed above, the administration has not had a major impact on the redirection of multilateral foreign assistance. Thus, as in the Carter administration, the distribution of aid or voting on development loans had very little to do with a systematic analysis of the level of respect for human rights in recipient nations. This apparent contravention of the law may be explained, on the one hand, by bureaucratic inertia and the normal budgetary process which saw aid distributions determined by continuing resolutions for most of the Reagan presidency, and on the other hand, by an ideological predilection to contest the underlying assumptions of the 1970s legislative package which is the basis of policy in this area.

The administration has justified its behaviour through a creative interpretation of the legislative language calling for United States action in cases exhibiting a 'consistent pattern of gross violations'. While accepting that there are gross violations of human rights in a number of countries which it actively supports, the administration has argued either that the violations are not consistent or that they do not represent a pattern, and thus the law does not apply.<sup>24</sup> This 'improvement doctrine' enabled the administration to try to justify assistance to clear gross violators.

The upshot of all of this, of course, is that the Reagan administra-

tion has not denied foreign assistance in the manner called for by congressional statutes. Further, the Reagan administration has made no secret of its intention to challenge the spirit of the 1970s Congressional initiatives as well. As in other policy areas, decision-makers frequently seek to achieve a variety of diverse goals with the foreign aid policy instrument. Beyond human rights concerns, decision-makers may also seek to achieve or improve political objectives, military security, and/or economic management or efficiency. There is also, of course, the problem of bureaucratic and budgetary inertia. Policy-makers in any administration are forced to juggle these often competing pressures and concerns. It is clear from the passage of such a broad human rights legislative package, however, that Congressional intent is that considerable weight should be given to human rights concerns *vis-à-vis* these other concerns.

### **Effectiveness of the Reagan policies**

As noted in our introduction, it may not be altogether fair to judge the Reagan administration according to criteria of which it disapproves. Despite the reasonable clarity of congressional intent, the administration has consistently stated that it did not approve of the use of bilateral and multilateral foreign assistance in the manner prescribed by human rights legislation.<sup>25</sup> It has argued that the instruments of a human rights policy should be chosen according to the criterion of effectiveness, and that 'in the majority of cases this criterion suggests an emphasis on traditional diplomacy'.<sup>26</sup> The administration has consistently promoted the use of traditional 'quiet diplomacy' or 'constructive engagement'. Thus, in concluding, it might be useful and interesting to examine briefly the question of effectiveness.

When looking at the question of effectiveness rather than consistency with United States statutes, how effective have been the Reagan human rights initiatives? The Reagan critique strongly emphasised the ineffectiveness of the Carter policy.<sup>27</sup> For example, it attributed the 'loss' of Iran and Nicaragua to the policy, highlighted Brazil's cancellation of its mutual assistance pact with the United States, and cited both the continuance of human rights violations and reduced United States influence in Argentina, Guatemala, South Africa, and other states. But the case is actually quite mixed. While the Carter policy clearly had its limitations, it did achieve several successes. The continuation of democratic rule in the Dominican Republic, the relatively moderate course of the government of Zimbabwe in its first

years, and the release of significant numbers of political prisoners may reasonably be attributed to the Carter human rights policy.<sup>28</sup>

Can we make the same attributions on behalf of the Reagan policy? The difficulty in evaluating the effectiveness of the Reagan policy is, as explained by Elliott Abrams, the former Assistant Secretary of State for Human Rights and Humanitarian Affairs, that '[t]raditional diplomacy has the drawback of being least visible precisely where it is most successful'.<sup>29</sup> In other words, since traditional diplomacy is most effective when it is conducted behind closed doors, with little or no public fanfare, a very effective policy may appear to observers either as a policy of apathy or as no policy at all. Given the nature of such a closed-door process, information is necessarily limited.

In a study of the levels of political terror in other countries, we find that over the course of the first five years of the Reagan administration the human rights situation improved in 11 of the 74 countries in our analysis and worsened in 12 others. This compares to the Carter administration in which the human rights situation in 9 out of 59 countries improved and four worsened.<sup>30</sup> The figures for the two administrations are not significantly different. Looking at the aggregate human rights situation, then, we could not credit the Reagan human rights policy with greater effectiveness than the Carter policy. Under any conditions short of direct military intervention, to claim great United States credit for the improvement of human rights in any society would be to misjudge the potential of US power in this area. The United States can heavily influence friendly regime behaviour and can reward its friends, but its human rights aid policy is simply not large enough or significant enough for most societies to transform them. As Guatemala demonstrated during the Carter administration, even a very small, heavily dependent society can choose to deny itself the opportunity to receive United States aid if the cost of receiving such aid is perceived as transforming the regime. Further, the impetus for the improvement in the human rights conditions within those Latin American regimes making the transition from military to civilian rule during the past decade has come from purely internal conditions and the failure of the military regimes adequately to contend with the economic problems and instability that they used to justify their concentration of power. It should be beyond even the spokespersons of the Reagan administration to claim that they can take credit for the improvement of human rights conditions in Argentina, Brazil or Uruguay.

It is extremely difficult to evaluate the effectiveness of quiet

diplomacy, on a case-by-case basis, but in those states where the Reagan administration has been particularly active, such as El Salvador or South Africa, the situation does not appear encouraging. Despite the Reagan administration's efforts in El Salvador, and their classification of El Salvador as a nation that has become democratic, it is actually quite difficult to support the administration's contention that the condition of human rights has improved substantially.<sup>31</sup> And in South Africa, where the policy of constructive engagement was extensively promoted, there has been no evidence of improvement. The South Africans remain entrenched in Namibia, tens of thousands of native blacks continue to be relocated to homelands, arbitrary arrests and imprisonments continue unabated, and the violence against opponents of the regime has escalated.<sup>32</sup>

Finally, it might also be useful to consider the effectiveness of each policy in terms of its impact upon the victims of these regimes. Michael Walzer has rightly encouraged all of us to give some thought and sympathy to 'the tortured dissidents, the imprisoned oppositionists, the threatened minorities, all the "disappeared" and murdered men and women of all the tyrannies, old and new'.<sup>33</sup> This is of course prudent advice; we should never lose sight of those who suffer most. It is in this area that the Carter policy was perhaps most successful and the Reagan policy most clearly deficient. Upon emerging from the depths of the repressive machinery of the former Argentine regime, Jacobo Timerman publicly expressed his gratitude for Carter and his human rights policy, saying, 'Those of us who were imprisoned, those who are in prison still, will never forget President Carter and his contribution to the battle for human rights'.<sup>34</sup>

Whatever else may be said about the Carter policy, the rhetoric pursued did mitigate a degree of the loneliness that must be felt by each human rights victim. The policy clearly bore 'witness' to the problem of human rights and in doing so it also raised the world's consciousness of human rights, and thus provide a measure of hope for the victims.<sup>35</sup> Unfortunately, the rhetoric of the Reagan approach offers the victims of human rights abuses no such hope. This often forgotten sense of effectiveness is, in Timerman's words, a case where '[q]uiet diplomacy is surrender'.<sup>36</sup> When Jimmy Carter undertook a post-presidential trip to South America he was greeted with an outpouring of genuine thanks for his perceived efforts on behalf of human rights in the region. It is unlikely, should a similar trip be undertaken to any region of the globe by Ronald Reagan in 1989, that he would be so greeted.

## NOTES

1. On the Reagan position on human rights in the campaign see Tamar Jacoby, 'The Reagan Turnaround on Human Rights', *Foreign Affairs*, 64, 5, (Summer 1986), pp. 1066–86, who on this issue claims 'his campaign rhetoric was unmistakable' and quotes a Haitian analyst with respect to the authoritarian receivers of the message, 'they thought human rights was over'. Both citations are from p. 1068.
2. See Alexander Haig, 'Opening Statement at Confirmation Hearings', *Current Policy*, no. 257, US Department of State, 9 January 1981; Alexander Haig, news conference, 28 January 1981, US Department of State, *Current Policy* no. 258, *New York Times*, 21 April, p. 1081, 6.
3. The first citation is from Michael Novak, 'Human Rights and Whited Sepulchres', in Howard J. Wiarda (ed.), *Human Rights and US Human Rights Policy* (Washington DC: American Enterprise Institute, 1982) p. 82; and the second from *A Conversation With Michael Novak and Richard Shifter: Human Rights and the United Nations* (Washington DC: The American Enterprise Institute, 1981) p. 17.
4. This critique may be best explored in 'Dictatorships and Double Standards', *Commentary* 68, 5 (November 1979) pp. 34–5. While Kirkpatrick was not actually responsible for the Reagan position, the *Commentary* article brought her to his attention and is recognised as an accurate reflection of Reagan's attitudes.
5. Kirkpatrick and Novak were not the only administration spokespersons to enunciate the criticisms discussed. For discussions by other administration officials, see Elliott Abrams, 'Human Rights and the Refugee Crisis', *Department of State Bulletin*, 82, 2069 (September 1982) pp. 43–5; William P. Clark, 'Personal Liberties and National Security', *Department of State Bulletin*, 82, 2069 (December 1982) pp. 35–8; and George Shultz, 'Human Rights and the Moral Dimension of US Foreign Policy', *Department of State Bulletin*, 84, 2085 (April 1984) pp. 15–19.
6. It is this point that separates the Reagan administration's discussion and use of the concept of totalitarianism from the far less polemically grounded work on the subject by Carl Friedrich, Zbigniew Brzezinski, Hannah Arendt, Leonard Shapiro, and others. See, for instance, Hannah Arendt, *The Origins of Totalitarianism* (San Diego: Harcourt Brace Jovanovich, 1968); Carl J. Friedrich and Zbigniew K. Brzezinski, *Totalitarian Dictatorship and Autocracy* (Cambridge, Mass.: Harvard University Press, 1956); 'Excerpts from Haig's Speech on Human Rights and Foreign Policy', *New York Times*, 21 April 1981, p. A6.
7. Most notable is section 502B of the 1976 International Security Assistance and Arms Export Control Act, Pub. L. No. 94–329, Sec. 301(a) 90 Stat. 729, 748 (1976).
8. See also David P. Forsythe, 'Congress and Human Rights in US Foreign Policy: The Fate of General Legislation', *Human Rights Quarterly*, 9, 3, (August 1987) pp. 382–404.
9. The recent article of Forsythe (note 8) notwithstanding.
10. See Michael Stohl, David Carleton and Steven E. Johnson, 'Human

- Rights and US Foreign Assistance: From Nixon to Carter', *Journal of Peace Research*, 21, 3 (September 1984) pp. 215–26; David Carleton and Michael Stohl, 'The Foreign Policy of Human Rights: Rhetoric and Reality from Jimmy Carter to Ronald Reagan', *Human Rights Quarterly*, 7, 2 (May 1985) pp. 205–29. David Cingranelli and Thomas Pasquarello, 'Human Rights Practices and the Distribution of US Foreign Aid to Latin American Countries', *American Journal of Political Science*, 29, 3 (August 1985) pp. 539–63, argue differently, but see David Carleton and Michael Stohl, 'The Role of Human Rights in US Foreign Assistance Policy: A Critique and Reappraisal', *American Journal of Political Science*, 31, 4 (November 1987) pp. 1002–18.
11. Lars Shultz, 'Politics, economics, and US participation in multilateral development banks', *International Organization*, 36, 3 (Summer 1982); A. Glenn Mower, Jr., *Human Rights and American Foreign Policy: The Carter and Reagan Experiences* (New York, Westport, CT, and London: Greenwood Press, 1987); David P. Forsythe, *Human Rights and US Foreign Policy: Congress Reconsidered* (Gainesville: University of Florida Press, 1988).
  12. US National Advisory Council on International and Financial Policies, *Annual Report 1984–1985* (Washington: GPO, 1986) pp. 286, 294.
  13. Republican Party Platform, 26, 1980, *CQ Almanac*, p. 838.
  14. *Ibid.*
  15. House Subcommittee on International Development Institutions and Finance, *Hearings*, 'US Participation in the Multilateral Development Institutions', 97th Congress, 1st Session, March 11, 1981, p. 3.
  16. US Department of the Treasury, *United States Participation in the Multilateral Development Banks in the 1980s* (Washington DC: Government Printing Office, 1982).
  17. All statistics on US voting in the MDBs have been compiled from the various annual reports of the National Advisory Council on International Monetary and Financial Policy, which is associated with the US Treasury Department.
  18. Forsythe, *Human Rights and US Foreign Policy*, chap. 3.
  19. Forsythe, *ibid.*
  20. Forsythe, *ibid.*
  21. Schultz, 'Politics, economics, and US participation', pp. 562–3.
  22. Mower, *Human Rights and American Foreign Policy*, p. 105.
  23. The Watch Committees, *The Reagan Administration's Record on Human Rights in 1986*, February 1987, p. 11.
  24. See Nicolai N. Petro. *The Predicament of Human Rights: The Carter and Reagan Policies*, vol. V (New York: University Press of America, 1983) p. 58. The creative use of the extraordinary circumstances clause and strained interpretations of legislative language is not unique to the Reagan administration, however.
  25. The administration has given some ground on its original position concerning the use of foreign aid in promoting human rights. In the introduction to its 1982 human rights report, for instance, the administration stated that: 'Decisions on foreign assistance provided



- by the United States take human rights conditions into account. The transfer of police and military equipment is carefully reviewed in order to avoid identifying the United States with violators of human rights.' (US Department of State, *Country Reports on Human Rights Practices for 1982*, February 1983).
26. US Department of State, *Country Reports on Human Rights Practices for 1981*, February 1982, p. 11.
  27. See notes 2–5.
  28. See Stanley Hoffmann, 'Reaching for the Most Difficult Human Rights as a Foreign Policy Goal', 112, 4 *Daedalus* (Autumn 1983), p. 44; Elizabeth Drew, 'A Reporter at Large (Human Rights)', *The New Yorker*, 18 July 1977, p. 59; Anthony Lewis, 'A Question of Humanity', *New York Times*, 28 February 1977, p. 27.
  29. *Country Reports of 1981*, note 26 above, at p. 11.
  30. It should be noted that the two lists of countries are different, but with some overlap. The 59 countries referred to were those which received US economic and military assistance. For this analysis see Carleton and Stohl, note 10. The other scale was that constructed for countries from which the United States admitted refugees. for this list and analysis see Mark Gibney and Michael Stohl, 'Human Rights and US Refugee Policy', in Mark Gibney (ed.), *Open Borders? Closed Societies?: The Ethical and Political Issues* (Westport, Connecticut: forthcoming).
  31. Much of the change in El Salvador may be attributed to the change in military tactics rather than improvements in human rights. Thus a switch to aerial bombing and free fire zones has increased the percentage of the population at risk although the use of death squads actually has declined somewhat. See America's Watch, *Draining the Sea*, Sixth Supplement to the Report on Human Rights in El Salvador, March 1985; and the Watch Committees, *The Reagan Administration's Record on Human Rights in 1986*, February 1987.
  32. Joseph Lelyveld, 'For Pretoria, Laws are Basic to Keeping Blacks in Check', *New York Times*, 10 October 1983, 1, p. A6. Roger Omond, *The Apartheid Handbook* (2nd edn) (New York: Viking Penguin, 1986).
  33. Michael Walzer, 'Totalitarian vs. Authoritarianism: The Theory of Tyranny, The Tyranny of Theory', *Dissent*, 28 (Autumn 1981) p. 403.
  34. 'Timerman Criticizes Reagan on Human Rights Policy', *New York Times*, 15 June 1981, p. A5.
  35. Drew, note 28 above.
  36. Quoted in Judith Miller, 'Rights Victim is a Potent Presence as Senators Assess Reagan Choice', *New York Times*, 20 May 1981, p. A14.

# 13 Human Rights, Development and Foreign Policy

RHODA E. HOWARD

## DEVELOPMENT, ECONOMIC RIGHTS AND EMPOWERMENT RIGHTS

One important but often neglected aspect of economic rights in less-developed countries is to assist Third World citizens claim and obtain their rights from allegedly development-oriented state elites. For the last two decades 'development' has been the main item on the political agenda of Third World societies. But development policies do not necessarily result in better implementation of either civil/political or economic rights. Development policies are not merely technological decisions about appropriate economic aims, nor are they normally neutral in their impact. Rather, development policies favour some groups, regions or classes over others. In poor countries as in rich, economic and other human rights will not be protected unless development policies are freely debated, and unless citizens are empowered to criticise and correct 'development' policies which are, in practice, abusive of their economic rights.

### **Economic rights and the 'right to development'**

The juxtaposition of human rights with development implies that there is something called development, which can be identified, measured and implemented. In the past development has been loosely associated with crude measures of economic growth, such as increases in gross national product or in amount of electrical energy used. At least since the early 1970s many analysts have argued that this association of development with growth is spurious because it does not take into account two other economic goals which appear to be associated with human rights—namely, equitable distribution of resources and 'national self-reliance'.<sup>1</sup>

Yet to most governments, development does mean economic

growth. This is seen as the most important means of 'catching up' with the Western world. Poor countries want to stop being poor. To some governments, development also includes—at least rhetorically—a commitment to the simultaneous fulfilment of basic economic rights. Some poor countries want to eliminate internal poverty as well as improving their overall position in the world economy.

This is a tall order. Generally speaking, economic growth in the past was not accompanied by a preoccupation with rights. Rights were not an issue during the period of industrialisation of Western Europe and North America. In the Socialist bloc, the need for development was accompanied by a rhetorical commitment to welfarist benefits, but the commitment was not always translated into practice. For example, even the urban proletariat did not benefit under Stalin's forced industrialisation policies.<sup>2</sup> The notion that growth ought to be accompanied by a commitment to (at least) basic economic rights renders 'development' a very difficult task for new nation-states.

This task is further complicated by the hotly-debated issue of distribution. On the one hand liberal analysts such as Shue<sup>3</sup> suggest that as long as certain basic rights (subsistence and security) are protected, non-'degrading' inequities in wealth are permissible. What is important in Third World countries is raising the 'floor' of economic (development) rights, not equitable sharing whatever scarce resources are available. A considerable body of economic theory supports this viewpoint, arguing that inequitable distribution of wealth permits the wealthier to save and invest—although critics suggest that saving and investment also occur among the poor.<sup>4</sup>

Some thinkers also advocate 'national self-reliance' as an aim of development policy.<sup>5</sup> But self-reliance is neither sufficient nor necessary, either for growth or for the fulfilment of basic economic rights: this is particularly true when self-reliance is a useful term insofar as it refers to an integrated economy, not one dependent, as many African economies are, on the export of a few primary products to an unpredictable and uncontrollable world market. But self-reliance also tends to be used as a justifying ideology for a nationalism that does not necessarily have anything to do with human rights.

Given the difficulty of simultaneously promoting growth and protecting access to basic economic rights (with whatever degree of equality of distribution and self-reliance), it is unwise to widen further the definition of 'development' to include non-economic goals. Yet 'development' is now taken by some influential authorities

to mean far more than mere economic growth or attainment of basic economic rights. In 1979 the United Nations agreed that 'the central purpose of development is the realization of the potentialities of the human person in harmony with the community'.<sup>6</sup> In 1981 the International Commission of Jurists defined development redundantly as 'the right of all people all over the world and of every citizen to enjoy all human rights'.<sup>7</sup> By 1986, the United Nations had declared a Right to Development which was defined as the right of 'every human person and all peoples . . . to participate in, contribute to and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized'.<sup>8</sup> Thus development has changed from meaning merely economic growth; to meaning growth plus some combination of equality, basic needs, and self-reliance; to meaning the attainment of all human rights, or indeed even the fulfilment of human potential.

Such a broad definition of the 'right to develop' may well serve a valuable normative function in the international arena, in the long if not the short run. The simultaneous recognition of the indivisibility of all rights and the need for economic rights may help to legitimate citizens' claims against the many rights-abusive states (for example, Chile, Kampuchea, Ethiopia) that voted hypocritically for the Declaration. Moreover, the Declaration may also help in the long run to validate poor countries' claims for world redistribution of economic resources. The fact that the United States was the sole country to vote against the Declaration on the Right to Development signals the continued need for rich capitalist nations to recognise the legitimate rights claims of poor nations.

Despite the possibly useful normative function of the 1986 Declaration, other definitions of 'development' include aspects that are not necessarily a means of obtaining those economic rights set down in the 1966 International Covenant on Economic, Social and Cultural Rights. These rights specify at minimum mere human survival: adequate food, health care and social security; in short, basic physical needs. The rights alone do not specify the means necessary for their realisation. For example, equality of distribution is not mandated, though such equality might be a means of satisfying the right to basic needs. Similarly, economic rights do not mandate self-reliance, which is a national, not an individual goal, and which even if economically feasible, rather than a mere political slogan, would not necessarily guarantee that each individual's economic needs were satisfied. Economic rights specify the minimum necessary for a rights-protective

regime, and do not confuse individuals' rights either with the methods which might protect them, or with 'national' (state) goals.

The 'right to development' is now not only so broad as to have become another means of advocating the simultaneous attainment of all rights: it is also ideologically loaded. The 'ideology of development' is now sacrosanct among some Western concerned citizens. It is thought that it should be possible for non-Western, non-Soviet Bloc countries to 'catch up', in economic terms, with the rest of the world, if only the correct policies for development can be located. Moreover, despite the evidence of massive exploitation, social conflict, and coercive use of power which accompanied both capitalist and Soviet-style development, some think development in the Third World can be attained without similar social costs.<sup>9</sup>

An ideology of innocence propounded by some members of Third World ruling elites feeds into this ideology of development. Formerly victims of colonialist despoiling of their territories, such elites now present themselves as representatives of the best interests of 'their' peoples. Frequently they claim to be devoid of those prejudices of gender, religious belief, ethnic affiliation or caste that influence the distribution of development benefits, and in particular to be innocent of the corrupting 'Western' preoccupations with class, power and money. The current state of Third World underdevelopment, in this ideological belief-system, is attributed entirely to the historical process of colonialism and the unequal membership of Third World countries in the present world economy.

This belief has some truth to it. Underdevelopment was indeed a historical process, and the present position of the poorest Third World economies is largely a consequence of the historical expansion of capitalism over the last five centuries. But not all human rights abuses in the Third World are results of such historical underdevelopment. Many are consequences of the internal political decisions of sovereign Third World states. Yet it is in the interests of some Third World elites to de-politicise human rights abuses entirely, deny any internal causes for them, and attribute all abuses to Western-generated policies of underdevelopment. Such an analysis is attractive to some Western activists who, as long as they can continue to believe that underdevelopment (and the human rights abuses which are assumed to be merely the unfortunate results of such underdevelopment) is caused only by (neo-)colonialism, can also believe that policies motivated by goodwill, and evolving from the best possible application of knowledge, can ameliorate both underdevelopment and human rights abuses.

But there is no neutral policy that will in and of itself be the correct economic strategy for any Third World country. Debates centred around 'growth versus development', around self-reliance versus continued treating with transnational corporations, or around capital-intensive versus labour-intensive 'appropriate' technology, are meaningless without consideration both of the political context of the society in which such development policies are to be implemented, and of the larger forces of social action which affect social structure and the control of politics and power.

### **Economic rights and social action**

The interest which some Third World politicians have in promoting an ideology of development as opposed to real analysis of internal economic rights abuse is obvious. Attribution of all (not just some) contemporary human rights abuses to underdevelopment obscures indigenous class accumulation of national wealth, and indigenous use of coercive state power to ensure that wealth stays in the hands of those who control the government. In such a world the real problem is how people can 'wrest rights' from the state,<sup>10</sup> regardless of a country's ostensible level of development. This, in turn, requires consideration of the long-term process of social change.

Both Andre Gunder Frank's early and stimulating analysis of the development of underdevelopment and Immanuel Wallerstein's more recent analysis of the world system attribute underdevelopment principally to inequitable and exploitative international trade relations.<sup>11</sup> Yet a country's place in Frank's metropolis-satellite continuum, or in Wallerstein's three-level model (core, semi-periphery, periphery) is by no means immutable. Britain, once the premier power in world trade, has drastically declined since the Second World War. Formerly peripheral countries such as South Korea and Brazil are now semi-peripheral. Even in Africa, the world's poorest continent, differences in internal policies render Kenya and Ivory Coast relatively more prosperous and rights-protective, while Uganda and Guinea are relatively less prosperous and more rights-abusive. And exemption from past colonial rule is no guarantee of either development or human rights, as Ethiopia attests.

Changes in countries' positions in the world economy are not merely consequences of changes in external environment. Changes in position in the world economy are also a consequence of internal structural changes, both economic and political. On the economic

level, new social classes possessed of entrepreneurial skills may emerge. Frequently the rich or middle peasant is the best bet for economic growth. Thus while some scholars argue that Britain became wealthy through its exploitation of its colonies, others argue that the real basis of Britain's wealth was the slow build-up of productive resources and a market economy as peasants gradually were able to buy land from their feudal lords.<sup>12</sup> Even with regard to the Third World, some analysts now return to the classical formulations of Marx himself, and argue for the increased productivity of capitalist societies which allow private ownership of land and other resources. A capitalist class is necessary, they argue, before any development can occur.<sup>13</sup>

Growth through such capitalist entrepreneurship is not necessarily rights-promoting, even though a state's position in the world economy may improve. Such growth normally entails as its obverse side the expropriation of the property of less 'entrepreneurial' people and their subsequent exploitation as rural or urban wage-workers. But growth through state direction of the economy and suppression of indigenous entrepreneurial classes can be equally rights-abusive. Yet in much of the development literature, the political level of state control is ignored.

Control of the state is a key variable in determining 'development' policy. There can be intra-elite changes, allowing new social groups with new views on how to run a country's economy to take charge. There can be actual changes in class rule, genuine 'revolutions' in the sense that the basic structure both of the state and of society is changed.<sup>14</sup> Or, there can be changes in the strength or form of the state, giving it greater control over internal growth/'development' policies. Internal changes in political control which result in a state's acquiring a 'higher' position in the hierarchy of the world system are often, of course, rights-abusive at the same time as they are growth-enhancing.

Whether individual citizens benefit from 'development' policies aimed at improving a country's position in the world economy depends largely on internal political decisions. If, in order to compete successfully in the world economy, Bismarck found it necessary to introduce some welfare measures in late nineteenth-century Germany, that was a happy coincidence. If, in order to obtain a high rate of growth which would benefit its elite, South Korea found it necessary to redistribute land and provide a minimal level of universal education, so much the better.<sup>15</sup> 'Rights' accompany growth policies

when they are seen to contribute either to the actual growth itself (for example, through a healthier or more literate labour force), or to political stability and legitimacy. Most politicians know that to rule solely by a combination of deprivation and coercion will not stabilise their control. So they must provide some economic benefits to those they rule. And to buttress their coercive resources with a semblance of popular legitimacy, they frequently provide some privileges which resemble what we know as rights.

But privileges subject to the control of state rulers are easily removed. Human rights themselves, however, are philosophically (and legally) based on a notion of individual entrenchment; they inhere in the individual *qua* individual, and cannot be removed by the state.<sup>16</sup> Economic rights cannot be true rights unless there is an effective means for their realisation. This means is embedded in citizen empowerment; in individuals' capacities to enforce their claims against the state. Most states at most times are rights-abusive rather than rights-protective. It is the business of those who control the state to protect their power, not devolve it; and this is especially so in underdeveloped or developing societies where power is more likely to approach a zero-sum game.

Analysis of economic rights, therefore, like analysis of political or civil rights, necessitates consideration of the interaction between state and citizen, especially consideration of how those subject to state authority can wrest economic rights from it. Elsewhere the author has proposed that the key to control of the state is citizen empowerment, especially through education, freedom of the press, and freedom of association.<sup>17</sup>

Literacy is a key empowerment right. High rates of literacy coincided with the beginning of large-scale struggles for rights in nineteenth-century capitalist Europe.<sup>18</sup> Literacy is now a standard tool by which the disenfranchised attempt to obtain some of the benefits of 'development' in the Third World. Many base-level political groups such as the conscientisation movement in Latin America attempt to teach a relevant vocabulary to peasants, as do many of the populist resistance movements, such as the Sandinistas before and after their acquisition of power in Nicaragua.<sup>19</sup> Literacy, even when subject to state control through propagandistic methods of nationalist socialisation in the schools, is a tool for social change; it enables people both to acquire critical knowledge and to express their own views. Recognising this, various governments of Guatemala had made literate Indians the objects of state terror.<sup>20</sup>



Freedom of the press stands for freedom of speech, but also for a whole range of political rights which enable the powerless to express their criticisms of, and demands on, the state. In countries where free presses exist there is the possibility of revealing corruption, questioning state policy, and rousing the populace to action. In Africa, for example, one of the few organisations mediating between citizen and state is the Church—in its various forms, often with independent presses.

The last-mentioned right, to freedom of association, is somewhat problematic. An important type of association which frequently acts to acquire or protect economic rights is the trade union. But in the developing world, trade unions are sometimes privileged bodies that 'get into bed' with governmental elites, as in Mexico<sup>21</sup> or in Africa. Corporatist states routinely abolish free and independent trade unions and attempt either to imprison or to co-opt all potential oppositional figures: Tanzania, for example, imprisoned 200 or more trade union activists in 1964 at the same time that it established a 'National Union of Tanganyika Workers'.<sup>22</sup> Free trade unions exist so rarely that the observer might be tempted to dismiss their relevance to the attainment of economic rights. Yet at the same time one can point to the obvious political importance of independent trade unions in both South Africa and Poland in the 1980s, despite severe political repression in both countries. The threat which genuinely free trade unions pose to the state is attested to precisely by the persecutions which they frequently endure. In Guatemala trade unionists are common victims of state terror.<sup>23</sup> Moreover, other organisations such as peasants' associations or urban self-help groups (often equally persecuted) are also important means of wresting or defending economic rights from state-controlled 'development' policies.

These three empowerment rights reflect the view that socio-political action is necessary to achieve economic rights. In this analysis the state is viewed not as the chief protector of rights, but as their chief violator. The view promulgated by the International Commission of Jurists that 'the primary obligation to promote development . . . rests upon each state'<sup>24</sup> is interpreted as an assertion of legal obligation which is fulfilled in practice only under certain specific conditions, especially citizen empowerment. Without the political organisation of those subject to the authority of the state into groups which can genuinely defend their own interests, economic rights, like political and civil rights, will be vulnerable and weakly (if at all) entrenched. Thus internal politics, regardless of a country's position

in the world economic system, is an important variable to consider in the prediction and realisation of economic rights.

## FOREIGN POLICY, FOREIGN AID AND ECONOMIC RIGHTS

### **The universe of obligation**

Why should any country be interested in the human rights of the citizens of any other country? It is rare for any community of persons to consider other persons, not in the same community, as worthy of concern. Most people have limited sympathy for those different from themselves. This is true even when the 'others' share one's race, religion and culture. For example, in the Western world, members of the more prosperous classes frequently malign those forced to rely on redistributed wealth (otherwise reviled as 'welfare') for their subsistence.

In her study of the Nazi genocide of the Jews, Helen Fein coined the term 'universe of obligation' to refer to the limits of obligation delineated by social groups.<sup>25</sup> It is normal for societies to have an 'us-them' mentality, to define insiders and outsiders even within a single state; the boundaries of the universe of obligation are narrowly defined. From the perspective of culture, this tendency can be attributed to the fact that people are socialised to value their own religion, language and customs. Outsiders who do not share their culture are easily seen as strangers or infidels. From a political perspective, often ethnically or religiously differentiated outsiders who play visible commercial or entrepreneurial roles are used as scapegoats for pressing social ills, as were the Armenians in Turkey, the Asians in East Africa and ethnic Cham in Kampuchea.<sup>26</sup> The particular vulnerability of such entrepreneurial outsiders also undermines possibilities for economic growth; should they be persecuted, the economy is likely to suffer.

This tendency to differentiate among peoples within the borders of a state extends easily to a tendency to differentiate among peoples of different states. A perspective which urges the twin goals of human rights and development as an obligation which the entire world community holds to the entire world is sociologically 'unnatural'. The 'duties beyond borders' that Stanley Hoffmann (1981) urges we should fulfil with regard to both human rights and distributive

justice,<sup>27</sup> are extremely difficult to realise. In a world dominated by nation-states, liberal democratic societies have established the legal principle that all citizens within a state should be treated equally. But within such liberal democratic nation-states, most activists concerned with human rights are aware of how precariously protected even the right to citizenship is. In the United States, the rights to citizenship finally accorded to blacks after the Civil War did not become meaningful in practice until the 1960s. Women in most Western states did not obtain the vote until the 1910s and 1920s; in Canada, women were not legally declared 'persons' until 1929.

Small wonder, then, that the notion of universal obligation is still in its infancy. The one type of discrimination still permitted under the International Bill of Rights is discrimination against non-citizens, to whom states have very limited obligations.<sup>28</sup> In the Western world, this legal form of discrimination is now being challenged by some human rights groups. Persons claiming refugee status in the United States and Canada, for example, are slowly being afforded some of the same legal protections as citizens. In both the United States and Western Europe, the principle that migrant workers and their families are entitled to the same state services as citizens is being introduced. But the fundamental difference between citizens and non-citizens still remains.

Analysis of the possibility of actually attaining international human rights, then, needs to include consideration of the bases of ties among seemingly different groups of people—whether within one state or among different states—that expand the psychological universe of obligation. It should not be assumed that the formal state (not really reflecting on 'nation' in many developing societies) constitutes, for the ruling elites, a universe of obligation in any real sense. It is easy for ethnically or religiously differentiated people to be excluded from national universes of obligation, as they appear to be and have been in the current and past Ethiopian regimes.<sup>29</sup> It is even easy for ideologies to create new categories of people outside the universe of obligation, as contemporary communism does in defining those of 'bourgeois' origin as unworthy of human respect.<sup>30</sup> Women in particular, although respected as long as they fulfil their traditional roles as wives and mothers, frequently suffer severe disrespect if they try to enter the male universe of obligation as equal citizens; rape is a common form of control of women who step out of their assigned roles.<sup>31</sup>

If one accepts that a universal realm of obligation is sociologically

unnatural, then it is easy to understand why human rights and development are little more than catchwords in most societies of the world. The siphoning off of aid money for personal uses, as alleged in the Haiti of the Duvaliers, or presidential robbery of the state treasury, as alleged in Zaire,<sup>32</sup> make sense when citizenship is little more than a symbolic word. The primitive accumulation of a country's wealth by a small elite which, at best, will share it with its own relatives and ethnic kin, makes sense in countries where the size of the national bowl of stew is very small, and where the real universe of obligation is very narrow. Neither development nor economic rights will be extended to out-groups in such societies unless they are somewhat empowered to claim their rights.

Given the difficulty of creating real nation-states with genuinely universal realms of obligation, it is easy to understand why the notion of a genuine international community is so fragile. In the world of *realpolitik*, individuals and individual rights are rarely the subject of discussion, unless they are being used, as Soviet Jews frequently are, as tools of some larger foreign-policy goal.<sup>33</sup> What realistic proposals can one make to Western governments, then, for incorporation of a concern with the right to development in their policies and aid programmes for Third World countries?

Governments do not normally have benign motives for promotion of rights in the underdeveloped world. Indeed, frequently foreign government interference or intervention violates human rights in underdeveloped countries; thus Shue makes the rather obvious point that the first duty of governments in the sphere of international rights is to refrain from deliberate violations.<sup>34</sup> If such advice were followed, the first duty of the Reagan administration would have been to end its support of the 'Contra' rebels in Nicaragua. In the case of the United States, it seems more appropriate for citizens to urge forbearance rather than increased rights-oriented activity on their government.

Even for the other members of the Western alliance perhaps the first, most pressing and most effective strategy for promoting international human rights would be to withdraw any support for US interventionist policies. This is not to suggest that only the US is a rights violator; obviously the Soviet Union and other lesser powers also violate human rights as a normal part of internal and foreign policy. It seems more effective, however, to pressure one's allies than one's enemies to adhere to the international standards of human rights, especially since such standards clearly coincide with the ideals

of liberal democracy. Moreover, platitudinous declarations of western concern for human rights and development can hardly be taken seriously by Third World citizens when those mouthing the platitudes are not willing to put their own foreign-policy houses in order.

In this respect the junior members of the Western alliance would also have to consider whether they are supporting, independently of the United States, any Third World countries which are gross violators of human rights. Canada, for example, continues to donate aid to Indonesia as a 'core' Asian recipient, despite its gross, possibly genocidal, violations of the right to life in East Timor.<sup>35</sup> Of more importance to Canada than Indonesia's human rights violations is its vastly increased trade with Canada since the early 1970s, and its strategic value as a Western ally in the South-East Asian region.<sup>36</sup> The Netherlands appears to have similar motives to Canada in dealing with Indonesia. In marked contrast to its behaviour towards Surinam, where it has cut off aid in response to rights violations, the Netherlands has consistently avoided the question of Indonesian human violations in international aid fora.<sup>37</sup>

Given these tendencies even of small powers such as Canada and the Netherlands to avoid human rights questions when trade and security are at issue, the need for private citizens to urge positive actions—expanding the role of human rights in foreign policy, foreign trade and foreign aid—on their governments is clear. Nevertheless, in the case of Canada the best that could be hoped for would be that the government would slightly loosen the constraints on its normal international policies. For Canada, trade links, the internal economic benefits of aid (markets and jobs), and traditional alliance politics (especially with the US) are the major determinants of policy toward underdeveloped countries. Even in the case of South Africa, Canada has acted very cautiously. The economic sanctions which Canada imposed on South Africa in 1985 and 1986 made very little difference to its economy. Canada's not entirely deserved moral reputation as a small power sympathetic to the Third World, and her concern to remain on good terms with her Commonwealth African allies (future growth areas for Canadian exports), figured largely in her decision to take symbolic actions against South Africa.<sup>38</sup>

If the small powers were to loosen their normal constraints on foreign policy and foreign aid, so that international human rights could figure as more than a residual in their decision-making, then perhaps they could attempt to fulfil Shue's two other duties: protecting victims from others' abuses, and aiding people whose

rights have already been abused.<sup>39</sup> Even with regard to these two duties, however, the normal constraints of sovereignty pose a problem. If the people needing aid are victims of internal rights-abusing policies, the government responsible for the abuse may well regard any aid to the victims as unwarranted political interference. For example, Canada could hardly intervene in Ethiopia to return the victims of forced resettlements back to their homes. The best that can be hoped for is some extremely polite diplomacy, and conveying of the concerns of private citizens at home.

The easiest way for all governments to promote economic rights abroad is through projects that are perceived to alleviate the effects of long-run 'historically'-caused underdevelopment. Third World governments are more likely to permit Western governments to provide foreign aid when the lack of rights can be attributed to the overall effects from gross social changes such as urbanisation or 'over-population', rather than from deliberate state policy. Moreover, such aid must not upset the balance of power between state and citizens. For example, women and development projects satisfy the feminist lobby in the Western world and at the same time are relatively harmless from the point of view of Third World governments, since however powerless their male citizens are, their female citizens are even more so. Rural development projects scattered thinly over wide territories give activist Westerners a sense that they are indeed helping the poorest, but are unthreatening as far as the host country's elites are concerned.

Infusions of resources which do not challenge a host country's policies, and which do not empower citizens previously powerless, can be assumed to be welcome. But it is precisely such empowerment which is the basis of both the successful acquisition of economic rights, and any real 'development' policy responsive to ordinary people's needs.

The capacity for Western aid donors to empower citizens of underdeveloped countries through manipulation of foreign policies in general or foreign aid in particular is limited. The principles of sovereignty and non-interference take precedence over practice based on a truly universal realm of obligation. Nevertheless perhaps this is all to the good, since most interventions allegedly to preserve human rights appear to be for self-interested motives. Is there a way out of this dilemma? If the denial of human rights is essentially a matter of politics and power, then so must be the achievement of rights. To promote an upward spiralling of implementing rights,

rather than merely remedying those absences of rights which are not a result of deliberate government policy, one must pursue an active, not a passive, approach. A Western government seriously interested in promoting human rights and development in the Third World would seek above all for ways to empower ordinary citizens. But to do so would be to challenge the politics of the regime to whose citizens aid was directed.

### **Empowering the powerless**

It was argued above that a list of analytically key human rights should include the empowerment rights of education, freedom of the press, and freedom of association. Thus foreign aid could be geared toward enhancing these rights.

A key policy of any government seriously interested in promoting both human rights and development in the Third World would be to help maintain the free flow of ideas, and help to support those individuals and organisations internal to Third World societies who discuss and advocate ideas of human rights and development. One can identify groups in any society which are potential spokespersons for the oppressed. Such spokespersons spread ideas—about democracy, human rights, the appropriate path toward development. They also discuss, criticise and challenge state policies.

Thus a human rights-oriented foreign aid policy should, for example, consider buying books, not machines, for Third World countries. Third World governments frequently declare that foreign exchange is too precious to be spent on books, effectively limiting discussion and dissent. Similarly the supply of newsprint is frequently cut off (allegedly to save foreign exchange), doled out only to newspapers which support government policy, or severely rationed. In Nigeria the prices of newspapers increased by 60 per cent in early 1987 because of a tripling of (imported) newsprint prices.<sup>40</sup>

For a Western government to choose to spend its foreign aid on the spread of ideas is of course a highly political decision. Foreign aid is normally acceptable to ruling Third World élites when it does not upset the balance of power between citizen and state. But ideas of democracy and human rights do frequently upset that balance. Many governments of underdeveloped societies prefer poverty, starvation and torture to the free debate of their development policies.

Nevertheless, all Third World governments are not equally repressive, and some Third World states vary between relatively repressive

and relatively open rule. One thinks, for example, of Nigeria, which even under military rule has been relatively free; or the Philippines, precariously emerging from rapacious dictatorship; or Senegal, one of the few multi-party political systems in black Africa.<sup>41</sup> There are also the newly democratising states of South America, especially Argentina. One foreign policy/aid idea presently being considered by the Canadian International Development Agency is to aid countries trying to establish or re-establish democracy.<sup>42</sup> This can be done, for example, by providing practical advice and training to newly elected legislators who have never had any experience of democratic politics or by providing technical aid and advice during elections, or merely by restocking judges' libraries. The elimination of expensive differential fees for foreign students studying in the Western world, combined with programmes to encourage studies in philosophy, history, political science and sociology as well as in the more 'technical' subjects, could also contribute to the creation of a cadre of future governments with some understanding of rights-protective institutions and procedures.

To provide this sort of aid certainly seems a worthwhile—and perhaps even cheaper—alternative to pouring aid monies into countries where it is known that they will be wasted, absorbed by corrupt élites, or otherwise dissipated, and where the projects envisaged may have had little or no discussion by those affected by them. Nevertheless, the type of proposals mentioned above are also vulnerable to charges of Western hypocrisy. How can aid genuinely intended to enhance human rights be provided without seeming to impose merely the forms of Western liberal democracy on Third World countries, without considering whether there is any real substance to them?

One approach would be to direct such aid to actual requests from newly emerging democratising governments—democratising not in the sense that they are sterile imitators of Western forms of multi-partyism, but that they are more responsive to public opinion and public needs than their predecessors, or than comparable governments in the region.

Another approach would be to rely on non-governmental organisations, rather than the actual foreign aid establishments of Western governments, to choose appropriate projects and administer donations. If the problem in implementing a human rights-oriented foreign policy is to convince an entire nation-state (as represented by its government) to accept an obligation to other entire nation-states,



this problem can be partially alleviated by turning to non-governmental organisations which are often dedicated to specific, but transnational, communities of obligation.

Citizens of Western nations who are politically free to form voluntary associations frequently form groups dedicated to assisting people who share their unifying characteristics but who live elsewhere. These can be groups based on national origin, linguistic community, ethnic affiliation or common religious belief. Some groups are dedicated to the process of development *per se*; others include development in their overall approach to obtaining human rights/social justice for the particular people with whom they are preoccupied. International feminism is one such group. In the Western world, the volunteer activities of middle-class women have always been influential in the implementation of welfare policies, from Jane Addams' settlement houses for poor immigrants in nineteenth-century America to services in defence of rape victims, battered wives and welfare mothers today. The loose international affiliations of many national women's groups in the late twentieth century serve to channel both ideas and physical aid from wealthier women in the West to poorer women in underdeveloped societies. Women are also in the forefront of the international peace movement.

Other non-governmental organisations are dedicated to the defence of those who spread and debate critical ideas. These include organisations such as PEN and Amnesty International, the former dedicated particularly to defending writers, the latter to defending all prisoners of conscience. Merely the provisions of international information on the oppression of such key social actors, as by the International Commission of Jurists' *Review*, or the monthly bulletins of the *Index on Censorship*, contributes to development. If one is not aware of who is being silenced, then one can be lulled into a false sense of belief that the statements put forward by national élites about the type of development wanted by 'their' people are indeed true statements. But governments and citizens of the Western world interested in genuinely assisting the poor and oppressed need to know what they are saying—or attempting to say—before being silenced.

It is certainly not novel to suggest that more aid be channelled to non-governmental organisations (at least, to those who will accept it; Amnesty International for example refuses to accept any government money). The point being made, however, is not simply that NGOs

deserve more money. Rather, NGOs spread ideas, and the free flow of ideas is essential to any real possibility for human rights or development in the underdeveloped world. Development is not simply a matter of finally locating the correct 'strategy' for balanced growth, equitable distribution of wealth and national self-reliance. It is, rather, a process in which new uses of resources are interwoven with the emergence of new social actors who will want to influence economic change and expansion, as well as the distribution of wealth. For those at the bottom of the social structure, growth will rarely facilitate entitlement to basic economic rights without political empowerment.

A role for Western non-governmental actors in this sort of development, then, is to protect the rights of key social actors in Third World countries—to keep an eye on the whereabouts of indigenous lawyers and judges, priests, feminists, trade unionists, writers, journalists, students and all those others who suffer routine abuse of their civil and political rights because of their interest in influencing supposedly neutral development 'policies'—such as the conservative monetarist policies of the Pinochet regime in Chile, which required, for their implementation, the brutal suppression of all oppositional forces.<sup>43</sup> Different NGOs have different bases of interest—and many of them will not define themselves as primarily interested in development. But they can both funnel aid to, and protect, those citizens of repressive Third World countries who might otherwise be rendered completely powerless, by death, torture, state-induced famine or other means.

Western governments that wish to expand the role of human rights in their foreign policies and foreign aid programmes to be something more than the residual factor they presently are, at least in Canada, could consider the two means suggested above. First, in response to requests from newly democratising societies, or from governments which by any reasonable standard appear to be less repressive than similar societies in their own regions of the Third World, they could provide resources to aid in the setting up of institutions which would promote justice, human rights and the free flow of debate about, and input into, economic development policies. Second, in societies in which such foreign aid would be considered unwarranted interference—and indeed might be dangerous for the recipients—Western governments could channel more support to non-governmental or volunteer organisations concerned with human rights and justice—not merely those officially concerned with development narrowly

defined—so that these organisations could in turn channel more resources to the particular groups to whom they felt obligations overseas.

These proposals, if followed by Western governments, might expand the international universe of obligation and contribute in a small way to the empowerment of the powerless abroad. Nevertheless, they are not foolproof and indeed, are perhaps somewhat naive. Just as one must treat states and ruling élites with scepticism, so one must also treat their oppositions, and the NGOs which might assist them. Not all opposition movements in the Third World would, if empowered, increase access to human rights and the possibility of reasonable development programmes. Oppositions in Third World countries are sometimes merely the outer factions of fairly unified elites. Oppositions sometimes espouse ideologies which would increase, not decrease, the level of repression and economic exploitation, were they to attain power. Similarly, there are Western NGOs such as the World Anti-Communist League whose objects are more ideological than rights-oriented. And even the most benign, rights-oriented NGO is subject, as are the people it attempts to aid, to the repressive power of the underdeveloped state within whose borders it operates; its freedom to manoeuvre is only slightly wider than that of foreign governments.

Nevertheless, both indigenous social actors and the NGOs that support them should be central foci of concern for rights-oriented Western foreign policies. The acquisition of economic rights in the Third World, as in the developed world before it, will be mainly the consequence of internally, not externally, generated social change. The best chance for protection of economic rights, and all other human rights, comes from changing internal actors, internal policies and internal social structures, especially relations of power and relations of production. These changes are influenced by the ways in which men (and increasingly women) think about their world. The protection of civil and political rights which allow people to think, and to act on their thoughts, is therefore worthwhile. And it is at least marginally possible for Western states to assist in such protection by direct aid to governments newly institutionalising forms of popular political participation, and by indirect aid, through non-governmental organisations, to the participants themselves, especially in repressive societies.

## CONCLUSION: STATE VERSUS CITIZENS

Any review of the existence of repressive and/or totalitarian governments in the world today might easily discourage an individual

interested in promoting human rights and development. One is tempted to throw up one's hands in despair, and leave the realisation—or non-realisation—of human rights to the forces of history.

Nevertheless it is important to remember that even the most repressive governments are susceptible to change. In the last 15 years, while Chile descended into quasi-fascist repression, Argentina emerged from it; fascist dictatorships were overthrown in Portugal and Spain; brutal rulers were overthrown in the Central African Empire and (twice) in Uganda. Continued political unrest in Poland and internal reforms in China and the Soviet Union challenge perceptions even of communist totalitarianism as impregnably hegemonic.

Moreover, even the most repressive governments have to invest considerable resources in disarming their opposition, before they can get on with their 'development' policies. Governments and ideologies appear to create universes of obligation considerably narrower than many ordinary decent citizens can tolerate. Thus if citizens are empowered, especially through literacy, freedom of the press, and freedom of association, there is a chance that their internal organisations can undermine repressive government policies.

Nevertheless, states—and the élites which control them—are not likely to disappear. At the international level, the lack of symmetry between causes of, and remedies for, world inequalities will continue. Changes in world trade patterns and world distributions of profits, the acknowledgement of the economic benefits to the North which would accrue from a more prosperous South,<sup>44</sup> and world government are all ideals which are less likely to occur than changes internal to individual states. Western rights-oriented NGOs, and the citizens who comprise them, will continue to knock their heads against the brick walls of their own governments' trade, aid and foreign policies, making only the occasional dent in favour of human rights. In underdeveloped countries, both rights-oriented oppositions and those foreign governments and NGOs that occasionally support them will continue to be subject to the control of self-interested élites utilising coercive state powers. The scenario for the acquisition of economic rights is one which includes political conflict and continued state abuse.

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# **Part III**

## **Country Studies**



# 14 Development, Growth and Human Rights: the Case of Turkey

ADAMANTIA POLLIS

The relationship between economic development and human rights is complex and multifaceted. It has been viewed from different perspectives which are contingent not only on empirical evidence, but on the meaning attributed both to the concept of economic development and to that of human rights. In a proclamation adopted by a United Nations international conference held in Teheran in April 1968 it was stipulated, 'The achievement of lasting progress in the implementation of human rights is dependent upon sound and effective national and international policies of economic and social development'.<sup>1</sup> Unfortunately this statement, and many other resolutions adopted by the United Nations and various other international bodies, obfuscate the substantive meaning of human rights and the nature of economic and social development.<sup>2</sup> Failure to define human rights and economic development inevitably clouds the issue of their relationship since the subject matter that is being investigated lacks specificity. Even if the meaning of human rights and economic development is not explicitly set forth, however, their use by analysts incorporates implicit assumptions as to their content, which in turn determines the selection of data. And it is the particular data used which frequently confirm or deny hypotheses on the relationship between economic development and human rights.

It is thus important to define and clarify the terms human rights and economic development. For our purposes, economic development refers to a process of socioeconomic transformation whereby the material well-being of the mass of people in a particular state is significantly enhanced. In other words, we are not talking necessarily about economic growth which entails the accumulation of capital and industrialisation, but about the extent to which economic change results in an increase in the standard of living of all. The measures of economic development which are used therefore, are not primarily increases in GNP or per capita income, but distribution of income,

and the availability of employment, shelter, food and health services. Moreover, development includes 'non-economic' dimensions such as the environment, or, more broadly, the quality of life. In using the term human rights, both civil/political and economic/social/cultural rights are included without any attempt at prioritisation. Hence, in investigating the issue of a trade-off between economic development and human rights in Turkey, the analysis focuses on the interconnection between Turkish policies for economic growth and the implementation of a complex of political liberties, civil rights and basic human needs.

A substantial body of literature argues that a trade-off may be necessary between economic development and human rights, that restrictions on human rights are a prerequisite for the successful pursuit of economic growth, or more precisely, industrialisation.<sup>3</sup> The trade-off argument, it should be emphasised, is in terms of economic growth, not development. Growth, it is contended, requires social conditions of stability and order so that appropriate policies can be adopted and implemented. Only after the primary goal of industrialisation has been attained can human rights flourish. The argument's assumption that once industrialisation takes place, state repression will diminish, and that conditions will be ripe for the implementation of civil/political rights and for political liberalisation, is dubious. Since economic growth in peripheral societies has either failed, or, at best, has not resulted in the fulfilment of economic/social rights, repression remains. Compounding the trade-off theory is the failure to look at domestic social forces and linkages with the world economy and international alliances.

Many of the studies which argue the necessity for restrictions on human rights in light of the priority of the goal of economic development measure the latter by using conventional indices, such as rates of economic growth, GNP, and per capita income.<sup>4</sup> Little attention is paid to such factors as distribution of income, which would be indicative of the extent to which the benefits derived from economic growth accrue to the masses or are retained by a wealthy few. The inadequacy of using measures such as rates of economic growth as evidence of economic development is further compounded when the notion of human rights is either limited to civil/political rights or when they are given priority over economic/social/cultural rights. This particular categorisation of rights and the ideological premises on which it is grounded has created an analytic framework which radically distorts an inherent interconnection and interdependence among civil/

political rights and economic/social/cultural rights. The entire complex of rights may be interrelated and not discrete entities. They constitute essential ingredients of development. If it is argued that development is the transformation of society in a manner leading to an improvement in the quality of life, which includes, but is not limited to, material well-being, then the interdependence of rights and development becomes apparent. Integral to development are policies designed to fulfil basic human needs, inclusive of participation in decisions which affect the people's daily lives.<sup>5</sup> The trade-off discussion, by implicitly justifying a strategy of economic growth, not development, ignores critical factors such as distribution of income and improvements in the quality of life. By foreclosing channels for the articulation of demands to the ruling authorities, this argument provides an ideological rationale for authoritarian rule by elites.

This study investigates the relationship between economic development and state repression in a peripheral country, Turkey. Several questions form the context for the analysis which follows. How have Turkish authorities conceived of economic development? Has the pursuit of different strategies of development led to greater or lesser political repression? What has been the Turkish experience with regard to the relationship between violations of civil/political rights and economic/social rights? Has Turkey's pursuit of growth, as the term is used herein, rather than development been a contributing factor to the persistence of state repression? What has been the role of the Turkish state *vis-à-vis* the domestic social formation—in particular, class conflict? What are the implications and ramifications of Turkey's peripheral position in the world economy and its international alliances on the state's autonomy in setting economic policies? And, lastly, what, if any, are the consequences for human rights in Turkey of the constraints it faces as a result of its peripheral position?

## THE ROAD TO REPRESSION

Modern Turkey, from its foundation in 1923 until the present, has consistently pursued a policy of economic growth as set by its founder, Kemal Ataturk, and not of development. Other than the Soviet Union, Turkey was the first country outside the European core to embark on a state policy of economic modernisation.\* Ataturk's revolutionary nationalist movement in the early 1920s, which signalled

the demise of the Ottoman Empire and the formation of the modern Turkish state, was aimed at the 'westernisation' of Turkish society and economy. Secularism was to replace Islam; the wearing of the fez was prohibited, the *ulema* was disestablished, while religious schools were restricted and secular ones were established. The Arabic script was abandoned and was replaced by the Latin alphabet. The shift from an Empire to a modern state also entailed the formulation of a Turkish, as distinct from an Islamic or Ottoman, nationalism. The Hittites and the Sumerians, historically located in the central plains of Anatolia, became in Ataturk's new nationalist ideology the bedrock of the modern Turk. And the capital of the new Turkish state was transferred from Istanbul (Constantinople) to the heartland of Anatolia, where Ankara, a new city, was established. Above all, Turkey was to industrialise.

Ataturk's policies with regard to economic modernisation are of utmost significance not only for the historical legacy they created, but also for the role that was imputed to the Turkish state and to the military. In the first few years after 1923 his policies were those of an open economy and of the encouragement of private enterprise. For numerous domestic reasons, however, largely the absence of private capital, by 1934 Ataturk had adopted 'etatism' as one of the fundamental principles of the modern Turkish state.<sup>6</sup> *Étatisme* mandated that the state, rather than the private sector, would be the vehicle for capital accumulation and hence the industrialisation of Turkey. Protectionism and import substitution designed to encourage domestic manufacturing geared to the domestic market became the dominant strategy for economic growth. Despite periodic pressures for a shift in strategy towards that of an open economy, particularly in the immediate post-Second World War years, prompted by pressures from the United States<sup>7</sup> and from the domestic agricultural and commercial bourgeoisie, *étatisme* and protectionism has remained the principal strategy for Turkey's industrialisation until the military coup of 1980. Since then, a radical shift has taken place. The new strategy consists of a reversal from protectionism to an open economy, encouragement of industrial exports, privatisation of the state economic sector and solicitation of foreign investment. By the mid-1980s these policies showed signs of floundering, and future prospects are problematic. It is important to note that whatever the strategy for economic modernisation, it has never been aimed at the fulfilment of basic human needs; the goal has been the development of a capitalist state.

It should be noted that state-centred economic modernisation policies were consistent with traditional Ottoman authoritarian patterns. The latter facilitated the formation of a highly centralised modern Turkish state whereby efforts to reform society and modernise the state and the economy were from the top down. The political regime that was formed drew on Turkey's authoritarian historical legacy and traditional hierarchical relations. Replacement of the local autonomy of the *millet* system by a centralised state reinforced authoritarianism. State direction of the economy and control of the state apparatus by a bureaucratic class composed of the military, the bureaucracy and, to some extent, the intellectuals, signalled the rise of a modern state relatively autonomous from society and from class interests. The centrality of the Turkish state is evident in the fact that all political groups, from right to left, and all classes have looked to the state *qua* state as the vehicle for change.<sup>8</sup> Until recently, notions of popular participation and mobilisation were alien concepts. The particular configuration of the centralised modern Turkish state—an amalgam of the patterns of traditional authority and the demands of a modern state—has formed the institutional framework within which reforms have been pursued.

Although Ataturk, consistent with his goal of the 'westernisation' of Turkey, articulated a commitment to democratic principles, these were relegated to the distant future after the secularisation of Turkish society and economic modernisation had been achieved. In a pattern reminiscent of the newly independent Third World countries, he created a one-party state, the Republican People's Party. His rationale was the necessity of forging national integration and unity so as to pursue successfully the primary goal of modernisation. The formal trappings of representative government, such as an elected legislature, were adopted, but delegates to this body, the Grand National Assembly, were cadres of the RPP beholden to Ataturk. Thus, the political regime established in 1923 did not embody liberal features; in fact it was highly repressive, intolerant of dissidence and prone to the use of force. Only when conflict among factions of the bourgeoisie erupted did the class composition of the legislature begin changing while opposition within the Party mounted.<sup>9</sup> By the end of the Second World War, precipitated by intensifying conflict among the commercial, industrial and agricultural bourgeoisie, and prodded by Turkey's new ally and patron, the United States, the hegemony of the one party state collapsed.

The formation of the Democratic Party in 1945 was not reflective of

the democratisation of Turkish life and society *per se*. It was a consequence of the defection from the RPP of the landowners and the merchant capitalists (compradors) signifying the failure of the Turkish state, despite its authoritarianism and the suppression of dissent, to reconcile conflicting interests or to submit to domination by any single faction. With the erosion of the cohesiveness of its ruling strata, Turkey embarked on a period of ongoing, unresolved intra-bourgeois conflict revolving around alternative strategies for development which invariably were accompanied by political instability.<sup>10</sup> Intra-bourgeois conflict over control of the state apparatus and over strategy for economic growth has persisted and, within narrow parameters, state policy has fluctuated. Hence, periodic political 'democratisation' has not signified the success of demands for democratic liberties and freedoms, nor has it come about because of an ideological commitment to democratic principles. Rather it has been the consequence of the fluidity of intra-bourgeois tensions whose articulation has taken the form of a multiparty system. The failure of any one faction to dominate has led to the enhancement of the autonomy, but not necessarily the strength, of the Turkish state. Simultaneously, persistent social tensions and upheaval have been a rationale justifying state terrorism. The repeated failure of all strategies for economic growth, and the periodic economic crises, have had drastic consequences for human rights.

The authoritarian modern Turkish state, and its relative autonomy from domestic social forces, have been reinforced by the role of the military.<sup>11</sup> This has been the single most powerful institution in Turkey. Moreover, the power it exercises has been seen as legitimate by all social classes.<sup>12</sup> This legitimacy in turn, more deeply rooted in the fabric of Turkish society than the legitimacy of democracy, stems historically from the military's status in the Ottoman Empire, from its revolutionary role in the formation of the modern state, and from the role assigned to it by Kemal Ataturk. The military was to embody and personify the ideology of Kemalism and was to be the guardian of the new Republic. Protector and defender of the new secular state, it was to transcend domestic conflict and insure the adherence by politicians and civilian authorities to the true path of Kemalism. Each time Turkey has faced a political and economic crisis—in 1960, 1971 and 1980—the military has arrogated to itself the prerogative of executing a coup in order to extricate Turkey from the crisis. In contrast to military coups in much of the Third World, the Turkish military has not retained power but has returned Turkey to civilian

rule. Even in periods of civilian rule, however, it has functioned as a shadow cabinet, a watchdog, poised to intervene when, in its judgement, conditions warrant it. Following the military coup in 1980, however, there are signs that the military's unchallenged authority is beginning to erode.

An analysis of the interrelationship between strategies of economic growth and human rights in Turkey, in addition to considering domestic variables, must also take into account Turkey's position in the world. The conflicting interests of the Turkish bourgeoisie and the strains this created in Turkish society were compounded by the constraints placed on Turkey as a result of its position in the world economy and in the international political arena.<sup>13</sup> The Treaties of Capitulation which exempted foreigners from Ottoman law, the emergence of a class of Ottoman merchants profiting from trade with the west, and some foreign investments, were developments during the nineteenth century indicative of the penetration of the Ottoman Empire by western capitalism. These developments, the precursors of contemporary intra-bourgeois conflicts, concurrently began the process of integrating Turkey into the world economy in a dependent position.

Hence the interests of the Turkish merchant and agricultural classes and, later, a segment of the industrial bourgeoisie, were furthered by the persistence of their dependent linkages to the industrial west. Simultaneously, however, a counter-trend existed, articulated by the 'domestic' bourgeoisie and the state. These elements aimed at reducing external dependency and developing a more self-sufficient, industrialised Turkish economy. Beginning with the Tanzimat reforms of the mid-nineteenth century, to the 1908 Young Turk movement, to Kemalism, 'catching up' with the industrialised states of the west entailed policies designed to disengage Turkey from its position of dependency. Turkey failed, however, to become self-sufficient or to sever its dependent linkages with the core.

The consolidation of Turkey into the world system was solidified in the post-Second World War years with the extension of Turkey's dependency into the political and military realms. In the new international political order of the post-war era, Turkey was relegated to the western camp in a subordinate position. The Truman Doctrine of 1947, which provided Turkey with extensive military and economic aid on the grounds of a perceived Soviet threat, transformed it into a military and political client of the United States.<sup>14</sup> Military aid for the modernisation of the Turkish armed forces and

the development of a military related infrastructure not only resulted in increased Turkish military obligations, but also in concomitant military expenditures. Concurrently, while the United States rhetorically advocated democratisation of Turkish politics, its strategic concerns in the region led it to support the Turkish military and the state's repressive actions.<sup>15</sup> In the economic realm foreign aid, beyond outright grants, included both bilateral loans and loans from various international financial and development agencies. The latter were initially undertaken by Turkey at the prodding of the United States, and were to become a major factor in its subsequent balance of payments difficulties.

The conjunction of domestic social formation and class interests, the economy's dependence on external financing, control by international financial institutions and subservience to the United States, coalesced not only to perpetuate Turkey's peripheral position, but also to support state repression, authoritarianism, and military action. Efforts to increase Turkey's autonomy through a closed economy, import substitution, and the growth of an industrial base for domestic consumption floundered. On the one hand the continued need to import capital and intermediate goods, in other words external financing of its industrialisation, and the limits to the domestic market due to the low wage scale and the poverty of the peasantry, perpetuated its dependency. On the other, its periodic exorbitant foreign debt subjected Turkey to austerity or stabilisation measures imposed by the IMF, which further restricted its policy options and consequently its autonomy. Overlaying the economic dynamics was United States policy which, for its own security interests in the region, supported a dependable, pliant ally which could ensure domestic stability and a developmental ideology which reinforced Turkey's dependency. Clearly, in the post-war era, the multi-levelled mechanisms and structures of dependency were firmly consolidated.

In analysing the relationship between economic growth and human rights, a few additional words are needed on the success and/or failure of Turkey's development policies in the post-war decades and on the radical shift in policy after 1980. Controversy over strategy has revolved around the form of capitalist development: state capitalism versus private enterprise; foreign capital versus domestic capital; an open economy versus a closed economy; and the strengthening of merchant and agricultural capitalism versus industrial capitalism.<sup>16</sup> At times the articulated strategy for growth has shifted, albeit



*étatisme* dominated until 1980 partly because of structural rigidities in the Turkish state and economy and partly because of the failure of that faction of the bourgeoisie which favoured linkages to foreign capital to dominate the state. Despite conflict over strategy the goals of economic growth, of consolidation of capitalism and of capital accumulation have persisted and have not encountered serious challenges. At no time did Turkey adopt a development programme aimed at fulfilling basic human needs or implementing economic and social rights. Its strategies for economic growth, although successful in creating an industrial sector, have led to periodic, severe economic crisis which in turn has intensified state repression culminating in military coups.

Turkey's economic crises, one each decade beginning in the late 1950s, were resolved repeatedly by military coups. The crises themselves had been precipitated by an apparently insurmountable economic impasse and an exorbitant foreign debt. After a period of economic expansion, the economy experienced soaring inflation, increasing unemployment, declining standards of living, worsening balance of payments deficits, mounting foreign debt, and stagnation in economic growth. In the intervening years between the acute crises, most pointedly during the decade of the 1960s, however, Turkey underwent remarkable economic growth.<sup>17</sup> In the aftermath of the coup, the 1960s were years of industrialisation and of impressive economic expansion. The development of a manufacturing sector was accomplished through state direction and a policy of import substitution. The industrial growth rate from 1963 to 1969 was approximately 11 per cent, while the deficit in the balance of payments was compensated for, to an extent, by remittances from Turkish labour working in European factories.<sup>18</sup> This export of the unemployment problem, plus industrial development and a prosperous world economy which absorbed Turkey's agricultural exports, improved living conditions for both urban and rural labour. Real wages rose, as did peasants' income. Moreover, the constitution, adopted in 1961, established Turkey's most democratic regime. All political parties became legal, individual rights and freedoms were protected and the right of labour to organise and to strike was guaranteed. Turkey, it appeared, was on the way to modernisation and to 'catching up' with the West.

By the end of the decade, however, the rate of economic growth was declining rapidly, the industrial sector was unable to absorb the rural migrants, the domestic market was exhausted, the foreign trade

deficit had reached an all-time high, and Turkey was unable to service the mounting foreign debt. In reaction to deteriorating economic conditions, social discontent—strikes, demonstrations—erupted. The government restricted the exercise of constitutionally guaranteed rights and began massive arrests.<sup>19</sup> Demanding law and order and accusing the civilian government of failure, the military intervened while the IMF came to the rescue and imposed a stabilisation programme.

A consequence of Turkey's periodic economic crises, as was becoming apparent by 1970, was increasing control of its economy by the International Monetary Fund and private international financial consortia. A foreign debt and deficits in the balance of payments necessitated additional foreign loans and rescheduling of debt payments in order to avoid serious default or bankruptcy. And although this process alleviated the immediate crisis, it further deepened Turkey's dependence on financial institutions, particularly the IMF.<sup>20</sup> In the long run, loans from the IMF not only worsened Turkey's external financial obligations but also placed its economy under the direction and control of the IMF. Each time the latter came to Turkey's rescue, as a condition for further loans or for the rescheduling of payments on existing loans, it imposed austerity measures under the rubric of stabilisation of the economy. Inevitably, these austerity measures have had severe repercussions on the economic well-being of the Turks, particularly those in urban centres, by increasing unemployment and reducing real wages. In the past 30 years, Turkey has resorted to the IMF three times, in 1958, 1971 and 1978.

By contrast to the 1960s, the recovery following the military intervention of 1971 and the imposition of the IMF austerity programme was short-lived. Its programmes, aimed at a radical transformation of the Turkish economy ostensibly in order to 'ensure' its further growth, nevertheless continued import substitution as its principal strategy. Compounding the endemic problems of the Turkish economy were developments in the world economy, such as the oil crisis in 1973, the decline of remittances from Turkish workers in western Europe as a result of the contraction of the European economy, the decline of Turkish agricultural exports, and the saturation of the domestic market for Turkish goods. By 1977 an economic crisis had reached acute proportions; inflation was out of control, and the balance of payments deficit was exorbitant, as was the foreign debt.<sup>21</sup> Furthermore, under conditions of social disorder and instability at the governmental level, despite the more restrictive

provisions of the 1971 constitution, the international financial institutions were reluctant to extend further aid. For assistance to be forthcoming, among other conditions, the IMF insisted on political stability. Turkey inevitably resorted once again to the IMF, whose rescue measures, in addition to its demand for the establishment and maintenance of stability, included: devaluation of the Turkish lira, support of the export sector, opening of the economy to international competition, encouragement of foreign capital, tax changes to facilitate further accumulation of capital, and policies for the modernisation of the agricultural sector.<sup>22</sup> The then Finance Minister and later Premier, Turgut Ozal, negotiated the agreement and undertook its implementation both prior to and after the military coup of 1980. The conjunction of domestic conflict among the bourgeoisie, particularly acute pressure from big capital, resistance to the IMF measures by the entrenched bureaucracy and the state apparatus, the disaffection of the military with right-wing and left-wing terrorism and the demand for political stability, were the precursors to the military coup of September 1980.

The military coup signalled the inauguration of a new era in Turkey. Kemalism, the modern Turkish state's ideological underpinnings, and in particular its etatism, was abandoned, while the relative autonomy of the state diminished. A free market economy, reflective in part of the failure of the dominant earlier strategy of economic growth and of Turkey's changed position in the international division of labour, to be enforced by an authoritarian political regime, was to become the mechanism for economic growth. The measures adopted by General Kenan Evren, the leader of the military regime installed in 1980 in alliance with the Economics Minister Turgut Ozal, were in conformity with the IMF terms and were retained after the return to civilian rule. The role of the state as the agent of capital accumulation and as the regulator of the economy was to be minimised. Private investment, both domestic and foreign, was to be encouraged. Furthermore, the State Economic Enterprises were no longer to be subsidised by the state; in fact, they were to be dismantled and privatised. Clearly the military's changed strategy for growth meant that import substitution and protectionism was to be decisively abandoned, while a concerted effort was to be made to expand exports. This reversal in economic policy did not reflect a change in the goals of the Turkish state but in developmental strategy reflecting the victory of monopoly capital and its control over the state apparatus.

Developments subsequent to the military coup of 1980, such as the shift of political power to the big industrialists and the increasing strength of the Islamic fundamentalists, has not only seriously eroded the relative autonomy and potentially the secularist premises of the Turkish state, but also has reduced the autonomy of the bureaucratic élite and the consensus of the military. While the military via the National Security Council publicly continues to present a united front as it has done historically, beneath this public façade tensions and conflicts are becoming apparent. Agreement on the substance of Kemalism, always tenuous at best, is disintegrating. The military's recent accommodation with the industrialists, stemming in part from the economic interests of the Army Mutual Aid Association,<sup>23</sup> and, possibly of greater long-term significance, with advocates of Islamic fundamentalism, is eroding its legitimacy. The failure of the military, the traditional guardian of the secular republic, to uphold the ideal of secularism, by aligning with Islamic forces, diminishes its authority. Concurrently, penetration of the bureaucracy by Islamic and neo-fascist ideologues has destroyed the ideological parameters of the Turkish bureaucracy and has contributed to the decline of its autonomy. This erosion of the technocratic–bureaucratic élite stems from the 1970s, when the necessity for the major parties to form coalitions with minor parties resulted in the 'colonisation'<sup>24</sup> of the government bureaucracy by cadres of the extreme right-wing parties including Islamic fundamentalists.

The radical transformation of the Turkish economy and its consequences for the nature of the state is reflected in the 1982 constitution, which, by contrast to the emphasis in the 1961 constitution on the duty of the state to encourage economic development and to intervene when necessary, places far greater emphasis on private enterprise. This transformation signifies the end of the modernising bureaucratic state and the consolidation of the peripheral bourgeois state in which a free market economy and private enterprise reign supreme. In terms of its articulated goals, the changed strategy for economic growth produced mixed results in the first few years. On the average, GNP grew nearly 5 per cent and exports increased, while their composition, which had been close to 60 per cent agricultural, showed a significant shift to manufactured goods and construction services approximating to 75 per cent of total exports.<sup>25</sup> By 1986, according to the OECD, however, a decline began in manufacturing exports. Beneficiaries of increased manufacturing exports have been

the large industrialists and big holding companies.<sup>26</sup> Turkey's much-vaunted drive for foreign investments, on the other hand, has been disappointing, while privatisation of state enterprises has been minimal. While on some economic indicators an improvement in the economy can be discerned, the years since the coup have had devastating repercussions on the economic well-being of the population. Unemployment, which was on the rise before the coup, has continued to increase, while real wages have declined to the level of 1962. Moreover, despite the IMF's prescriptions, Turkey's foreign debt not only remains high, but is mounting.<sup>27</sup> If the difficulties in repayments increase, as seems likely, international bank loans may again dry up, and Turkey will be confronting yet another crisis.

Periods of economic growth in Turkey, it has been argued, have been accompanied by political liberalisation. The economic expansion of the 1960s, however, was not replicated; in subsequent decades the political regime has become increasingly restrictive of political liberties and civil rights. By the 1980s implementation of the new economic growth strategy for the benefit of monopoly capital necessitated a coercive regime to impose labour discipline, fulfil IMF conditions by suppressing dissent, and affirm loyalty to the United States by insuring stability. Institutionalisation of a repressive regime, under the guise of parliamentarianism, would accomplish these objectives by strengthening authoritarianism while creating the illusion of democratisation. Defenders of the coup who argued that it was a 'structural "repair job" to preserve the fabric of Turkish democracy'<sup>28</sup> argue furthermore that the 1982 constitution and the subsequent elections in November 1983 and November 1987 prove that Turkey is on the road to democracy. In reality, this constitution, which is discussed more fully below, in marked contrast to the liberal one of 1961, establishes a form of 'guided democracy' with limited participation and restrictions on fundamental rights. While the elections of 1987 were more open than those of 1983, which were conducted under the aegis of the military and had excluded traditional parties and leaders from participation, by 1987 institutionalised repressive mechanisms had been consolidated. To the extent that some pluralism is re-emerging, it reflects both the regime's economic failure, prompting pressures from discontented factions of the bourgeoisie, and the regime's need for international legitimacy particularly in the light of Turkey's application for membership in the European Communities.

## HUMAN NEEDS, RIGHTS AND STATE REPRESSION

While Turkish gross violations of civil and political rights prompt periodic outcries of indignation, and while poverty is an admitted and lamented phenomenon, these are usually considered discrete phenomena with no inherent causal connection. Causal linkages between capital accumulation, external dependency, and the impact on a wide range of human rights have not been probed. Although the evidence from modern Turkey's history points to strong linkages among these factors, neither theoreticians nor political activists have seriously questioned the desirability of growth as the primary goal. In other words, the socio-economic and political consequence of Turkey's economic policy has not been investigated. No consideration has been given to a policy of development rather than one aimed at high rates of annual growth. A policy of development would use available resources for improving socio-economic rights and would de-emphasise capital accumulation. Such a policy would be detrimental to the bourgeoisie but beneficial to the masses.

Neither the social democratic Republican People's Party, under Ecevit's leadership,<sup>29</sup> nor the leftist Marxist parties, such as the Turkish Labour Party, have challenged the basic goal of industrialisation, although they differ on private enterprise and control of the state apparatus. Political dialogue has not raised the possibility of an alternative to industrialisation which would aim at the fulfilment of basic human needs. The contentious issues remain intra- and inter-class conflict, control of the state apparatus, and alternative growth strategies. While more liberal parties such as the RPP have lamented state repression, it has often been viewed as an inevitable response to social disorder which thwarts modernisation and growth. The possibility that neglect of economic and social rights leads to social upheaval, which leads to further violations of civil and political rights, has not been given serious attention.

The post-Second World War Turkish experience lends credence to the hypothesis that it is the failure to improve the material conditions of life of the population as a whole that precipitates repression, including martial law and military coups. Social discontent mounts each time the economy has faced an economic crisis characterised by inflation, unemployment, declining real income, and increased poverty. This means that when economic and social rights are neglected and in fact worsen, civil and political rights decline as well. Moreover, it is significant that social protest against deteriorating

economic conditions has been articulated most forcibly during periods of greatest political liberalism during which dissent has been possible. Since strategies for economic growth are not designed to further economic and social rights, the minimal 'trickle-down' effect during prosperous years is reversed in times of crises. Time and again, the response to this socio-economic upheaval by the state with the support of the bourgeoisie has been massive restrictions on civil and political rights. The fundamental right to life and security is violated as arbitrary arrests mount, political prisoners increase, and torture becomes policy. This cumulative process results in a military coup which, in the name of law and order, abrogates the operative constitution and suspends any remaining rights.

Economic crises and social discontent have not been the only determinants of the repressiveness of the Turkish state. Undoubtedly, the Ottoman legacy of authoritarianism, in conjunction with traditional hierarchical relations and the dominant role of the modern military as the guardian of Kemalism, have facilitated the exercise of arbitrary state power. Despite this, as indicated earlier, unresolved class conflict, as well as pressures from the United States in the aftermath of the Second World War, had led to the emergence of a multi-party system and of representative government. Moreover, subsequent to each military coup, demands for a return to parliamentarianism have been forcefully voiced by the ousted political élites, the trade union leadership and intellectuals. Although such demands frequently stemmed from different class interests which viewed democratic institutions as providing an arena for articulating conflicting interests, the fact remains that pluralism was one of the characteristics of the Turkish polity. The answer to the critical question of why the initial process of establishing a democratic framework did not evolve into the institutionalisation and consolidation of democracy, inclusive of respect for fundamental human rights, must be sought in the persistence of the goal of growth rather than development and Turkey's structural integration in the world economy. Despite the adoption of democratic forms, the state and the military have not hesitated to intervene, thus abrogating the freedoms of a democratic polity in the face of economic impasse and social upheaval.

Turkey's post-war history highlights an alternating cycle between economic expansion and freedoms on the one hand, and economic decline and state repression on the other. The swings of each cycle, however, have become increasingly narrow. In the 1950s, after the establishment of a multi-party system, combined with apparent

liberalisation and the electoral victory of the Democratic Party, Prime Minister Adnan Menderes' effort to impose an open economy failed. His response to the ensuing economic decline and social discontent was arbitrary arrests, restrictions on freedom of the press and assembly, the calling out of the army to crush anti-government demonstrations and finally the declaration of martial law.<sup>30</sup> Concurrently, foreign indebtedness had already resulted in the imposition of a stabilisation programme by the IMF. This created further economic hardship for the lower classes in particular. The personal and intra-class conflicts among the bourgeoisie, the paralysis and indecisiveness of the government, and the foreign indebtedness of Turkey, in conjunction with the failure to improve the quality of life or the material well-being of the vast majority, led to political and social unrest. Accelerating state repression inexorably culminated in the military coup of May 1960. Among the victims of this military coup were approximately 400 politicians who were rounded up, tried, and convicted—three of whom, including Prime Minister Menderes, were sentenced to death, ostensibly for political crimes and embezzlement.

It is significant that for the first time in modern Turkish history, in the aftermath of this coup, a liberal political regime accompanied by economic prosperity came into existence. The 1961 constitution, the drafting of which the military had assigned to university professors, guaranteed individual rights and freedoms and legalised all political parties, including the socialist Turkish Workers Party, numerous other leftist parties and somewhat later new rightist parties. Shortly thereafter the right to strike was legalised, while an autonomous leftist labour federation, Revolutionary Workers Union (DISK), as distinct from the government-controlled union, Turc-Is, was organised in 1967. Concurrently, *étatisme* and a strategy of protectionism and import substitution made possible the development of a manufacturing sector; Turkey appeared to be on the road to industrialisation. Severe restrictions on imports and state investments induced growth in industrial capacity, while rising real income created a demand for the newly available consumer goods. Real wages in the industrial sector increased approximately 3 per cent per year from 1960 to 1971<sup>31</sup> while unemployment, which had begun to recede, particularly with the export of surplus labour to the factories of western Europe, began increasing towards the end of the decade. Thus, prosperity had resulted in an improvement in living conditions, but more importantly, it had instilled hope and rising expectations. Simultaneously the



expanded civil rights and political liberties enabled political actors, particularly labour, to articulate their demands without fear of reprisals.

The prosperity of the Turkish economy and political liberalisation began to contract towards the end of the 1960s. Severe economic problems surfaced again, which Prime Minister Demirel and the ruling Justice Party were unable to resolve. As limits were reached to Turkey's industrialisation, as the dependence on imports of intermediate and capital goods persisted, and as foreign exchange earnings declined to such an extent that Turkey was unable to finance its mounting foreign debt, intra-class conflicts over economic policy and political power became acute. With the deterioration of the economy, whatever benefits had accrued to the workers and the peasantry were dissipated. The workers, however, whose labour movement had expanded both because of an increase in the urban labour force and their newly acquired rights, and propelled by their heightened expectations, became more militant as their economic position began declining, largely due to high inflation. Particularly after 1968, with the formation of DISK, both official and unofficial strikes were spreading. Student demonstrations, a massive workers' demonstration, and a threatened general strike organised by teachers precipitated the declaration of martial law in June, 1970.<sup>32</sup> Faced with widespread discontent throughout many sectors of society, constitutional guarantees of rights were ignored as the government, even before the declaration of martial law, became increasingly repressive. Hence, a prelude to the military intervention of March 1971 which followed the implementation of the IMF's stabilisation programme, were restrictions on civil and political rights and the arbitrary arrest of trade unionists, students and other political dissidents.

Subsequent to military intervention, which was justified on the grounds that the government had failed to cope with 'anarchy, internecine strife, social and economic discontent', Turkey entered a decade of acute social strife, political instability, and an ongoing economic crisis.<sup>33</sup> Politically, military intervention was not followed, as it was in 1960, by the re-establishment of a liberal polity. Constitutional amendments were enacted which established the State Security Courts and restricted the exercise of freedoms. Although, particularly after the elections of 1973, a semi-democratic regime was operative, overriding this façade of democratic legitimacy was the gradual consolidation of repressive para-state mechanisms, a process which was backed by the military. Meanwhile, acute political instability

prevailed since neither of the two largest parties, the Justice Party or the RPP, could form a majority government, and had to resort to coalitions. Minor parties, espousing either Islamic revivalism or right wing extremist nationalist ideology, and appealing to the petty bourgeoisie, lumpen proletariat, and alienated students, held the balance of power. This in turn enabled them to infiltrate the bureaucracy and the educational system with their adherents.<sup>34</sup> Compounding the political instability caused by personal and political rivalries, was the intensification of the intra-bourgeois conflict fuelled by the increasing domination of monopoly capital. Meanwhile mounting inflation, continued deficits in the balance of payments and a massive foreign debt persisted. Under these economic conditions poverty worsened and social protest, articulated through a variety of ideologies, erupted forcefully; the response was state terrorism.

Throughout the 1970s, as social disorganisation was worsening and the struggle for domination of the state among political leaders and factions of the bourgeoisie intensified, no challenge was posed to the fundamental goal of growth; no consideration was given to reordering the state's priorities. The actions of the political leadership and the military were directed at containing the mounting socio-economic discontent by activating the state's repressive apparatus. Despite severe restrictions, dissidence spread; the labour movement, DISK in particular, became increasingly militant; student activism increased; the Kurdish nationalist movement grew<sup>35</sup>; conflict erupted between the Alevis and the Sunnis. Moreover, Turkish society was plagued by a new phenomenon—the appearance of right-wing and left-wing non-state terrorism. Particularly in the *gecekondus*, the shanty towns surrounding Istanbul and organised into separate communities of rural migrants, terrorist bands engaged in political assassinations. Initially formed by the neo-fascist National Action Party with the tacit approval of the Justice Party, left-wing groups, both in defence and in retaliation, organised their own terrorist bands.<sup>36</sup> Political leadership perceived it had no alternative but martial law and further state repression.

While United States strategic interests in the region and the IMF's monetary concerns called for political order and economic stability in Turkey, it was during this decade that Turkey's human rights violations came to the attention of both non-governmental human rights organisations and the Council of Europe.<sup>37</sup> Turkey defended itself either by denying the allegations or by claiming that the spread of anarchy, as a result of the activities of terrorist bands, mandated

harsh measures. Restrictions on freedoms, arbitrary arrests of thousands, and the torture of political prisoners, however, predate the rise of terrorism. Also, they were often directed at non-violent dissidents or opponents. Political assassinations, mostly executed by the right wing, were estimated at 37 in 1975, although they gradually increased to the frightening proportions of 20-30 per day. The torture of political prisoners was documented as early as 1972.<sup>38</sup> As the years passed, in addition to arbitrary arrests, press freedom was restricted, strikes were prohibited, and leftist parties, including the TLP, were banned. In 1977 snipers opened fire at a rally organised by DISK. And after a change in government and the return of Bulent Ecevit to the premiership, the intercommunal Kahraman Maras massacre, instigated by the NMP, occurred in December 1978, resulting in over 100 deaths. Ecevit declared martial law. Throughout the decade both the Council of Europe and Amnesty International repeatedly condemned Turkey for massive violations of human rights. Shortly before the 1980 military coup Amnesty's findings, based on the report of an investigative mission, were that 'torture was widespread and systematic'.<sup>39</sup>

A discernible pattern with regard to human rights violations has emerged in Turkey in the last 20 years. Some observers argue that following each military intervention Turkey has re-established democracy. But subsequent to the military intervention of 1971 and the coup of 1980, overall the Turkish polity has become less democratic. Human rights have been curtailed concurrently with worsening economic conditions and hence with a deterioration of economic and social rights. This process culminated in the constitutional framework of 1982, which attempted to institutionalise and consolidate a highly repressive regime within the framework of formal parliamentarianism. The coup itself was the bloodiest and the harshest in Turkey's experience.<sup>40</sup>

It merits restatement that the return to constitutionalism did not signal a return to democracy. Both internal and external pressures, in particular Turkey's application for membership in the European Communities and its concern with acquiring legitimacy in the international community, led it to adopt the formal trappings of democracy. Rather than institutionalising a democratic regime, however, 'guided democracy' in 1983 was designed to thwart social upheaval. Political stability was demanded by the IMF as a precondition for overcoming the economic impasse and for attaining growth. Moreover, the United States wanted stability for strategic reasons.

The constitutional framework within which these objectives were to be pursued severely jeopardised the protection and implementation of fundamental rights. Constitutional strictures were placed on the exercise of civil and political rights, concurrent with the granting of enhanced powers to the state's repressive apparatus. The constitution stipulates that rights 'may be restricted by law' and can be exercised only in 'accordance with the law' while specifying multiple conditions—ranging from national sovereignty, to morals, to public order—which justify the abrogation of rights. The right to organise labour unions, the formation of political parties and their activities, in fact all 'voluntary' associations, are regulated by the state. The Chief Public Prosecutor can initiate a process for the disbanding of political parties, while the State Supervisory Council has oversight and supervision over public and private bodies. Moreover, the State Security Courts have jurisdiction over persons deemed to threaten the internal or external security of the state. These and other constitutional restrictions on rights were supplemented further by repressive legislative acts.<sup>41</sup>

Actions have been taken since 1983 to develop a broad ideological commitment to free enterprise and to institutionalise 'guided democracy' so that the more blatant features of state terrorism can be mitigated. From the mid-1980s onwards, the press exercised more freedom and became the regime's severest critic, particularly in its exposé of the extensive practice of torture. The universities, however, traditional training ground for future élites, at the beginning of 1988 had remained restricted and controlled. In September 1987 a referendum amended the ten-year constitutional ban on more than 200 former politicians including Bulent Ecevit and Suleyman Demirel, and in the November elections Turgut Ozal and his Motherland Party won two-thirds of the Assembly seats with one-third of the popular vote. The formal structures of parliamentarism have been re-established, but the aura of political liberalisation is belied by constitutional and statutory restrictions on the exercise of liberties and the continued violations of rights, including the prevalence of torture.

Although massive arrests no longer take place, arrests continue. In 1985, two years after 'democratisation', the number of political prisoners was estimated at 17 000, at 13 000 in 1986 as a result of reductions in sentences, while the estimates for 1987 are widely disparate. No distinction is made between political crimes involving violence and those involving thought or belief. Torture, in interrogation centres and in prisons, continues unabated.<sup>42</sup> One of the

best-known trials, that of the Turkish Peace Association (TPA, organised in 1977 by the Turkish Bar as an equivalent to the Helsinki Watch group) resulted in 1987 in a few acquittals and sentences for others. In December 1985, France, Denmark, Norway, Sweden and the Netherlands had dropped the charges they had brought against Turkey for violating the European Convention of Human Rights allegedly in exchange for an unfulfilled commitment by the Turkish government that the TPA members would not be convicted. In another major trial, that of the trade union movement DISK, 264 were sentenced to prison terms of up to 10 years in December 1986. DISK, which had been suspended after the coup, was totally destroyed,<sup>43</sup> while Turc-Is, after developing some autonomy in the pre-coup years, was brought again under government control. Strikes are banned, as are all parties deemed to be leftist. The institutionalisation of repression and authoritarianism within a formal democratic framework remains an ongoing process.

Paralleling the authoritarianism of the current regime and its oppressive character is severe economic deprivation. A dramatic decline has taken place in the standard of living. Real income in 1986 is estimated at the 1962 level, before Turkey's economic expansion. Since 1982 real wages have declined approximately 10 per cent per year while unemployment has been increasing on the average of over 16 per cent per annum.<sup>44</sup> Furthermore, at least since 1978 the situation with regard to distribution of income has worsened.<sup>45</sup> Not only have material conditions deteriorated, but there is little provision for health care and social services. Only in education has an effort been made to reduce illiteracy. The need for a repressive regime and for the imposition of labour discipline is mandatory if the current regime's economic transformation is to materialise in line with Turkey's position as a peripheral economy. However, despite high expectations for recasting the economy, inflation remains, estimated at 45 per cent in 1987, and the foreign debt is mounting once again.<sup>46</sup> The IMF austerity programme and the shift in class power to monopoly capital have not resolved the ongoing crises in the Turkish economy. Neither the political restrictions, which for the moment have created the appearance of political stability, nor the neglect of economic and social rights have contributed to the successful economic transformation of Turkey.

In summary, as Turkey has encountered increasingly acute economic crises in the last 20 years, the pattern of violations of civil and political rights have worsened immeasurably, as have economic and

social rights. Earlier, particularly in the 1960s, when the strategy for growth was apparently succeeding and industrialisation was taking place, political liberalism was prevalent. There was both extensive freedom and improvement in the material well-being of the Turkish population as a whole, rather than just for the élites. At present, as industrialisation falters and the foreign debt mounts with the consequent imposition of stabilisation and austerity programmes by public and private international institutions, the mechanisms of state repression have been consolidated. Turkey's future is problematic. Despite the constriction of political competition to the élites, the intensification of political controversy is symptomatic of the difficulties of current economic strategies in resolving fundamental economic problems and hence the re-emergence of intra-bourgeois disputes. At the base, since repression thwarts the articulation of grievances, alienation and dissent is erupting in new forms. Extremist 'anti-imperialist', nationalistic right-wing, and Islamic fundamentalist ideologies are making headway among the working class and the alienated lower class youth. The pillars of the Kemalist Turkish state are threatened with collapse to the extent that secularism is challenged and modernisation fails.

## CONCLUSION

Turkey's experience in the post-Second World War decades raises serious doubts regarding the trade-off theory between economic development and human rights. In the first place, whereas the trade-off theory is concerned with civil/political rights, the evidence from Turkey indicates a clear interconnection between economic/social rights and civil/political rights. Empirically, these two sets of rights cannot be meaningfully separated. Deprivation of economic/social rights has been accompanied historically by increasing repression and violation of civil/political rights. Secondly, the trade-off theory equates economic development with economic growth, thereby ignoring the political, social and economic consequences of the pursuit of a strategy of growth as the primary goal of peripheral states. The Turkish experience reveals that the pursuit of growth, particularly in light of its economic dependency, has been a major factor in the violations of the entire complex of rights. Its priority of economic growth at the expense of political/civil rights has not succeeded either in achieving meaningful, self-sustained long-term growth or in improving socio-economic rights in the long run.

## NOTES

- \* As used with reference to Turkey, the term modernisation implied for the Turks the vague notion of catching up with the 'West'. In practice the strategy pursued was one of economic growth which was understood as consisting of industrialisation.
1. Cited in Stephen P. Marks, 'Principles and Norms of Human Rights Applicable in Emergency Situations: Underdevelopment, Catastrophe and Armed Conflict' in Karel Vasek and Philip Alston (eds), *The International Dimensions of Human Rights* (Paris and Westport, Conn.: UNESCO and Greenwood Press, 1982), vol. I, pp. 179–80.
  2. The International Bill of Human Rights, which encompasses a multiplicity of UN covenants and conventions is composed, on the one hand, of legal instruments with limited enforceability and subject to differing interpretations; and, on the other, political documents resulting from bargaining among sovereign states. Although useful as guidelines, in their present state of development they do not contribute much clarity to the issue of human rights.
  3. Jack Donnelly, 'Human Rights and Development: Complementary or Competing Concerns', *World Politics* XXXVI,2 (January 1984) pp. 255–83. In reviewing several publications the author criticises the trade-off theory.
  4. Mainstream theorists of economic development either ignore other measures such as distribution of income and welfare services, or explicitly argue that concern with economic rights or even with political and civil rights can deter the process of development.
  5. Paul Streeten, 'Basic Needs and Human Rights,' *World Development*, 8 (1980) pp. 107–11. While the author recognises the importance of basic needs he limits the notion of rights to civil and political rights and cites cases in which rights exist without needs and vice versa. Although it is true that the specificity of their articulation may differ, he ignores their inherent interconnection.
  6. For a classic study of Ataturk's policies and the origins of etatism see Bernard Lewis, *The Emergence of Modern Turkey*, 2nd edn (London: Oxford University Press, 1968) pp. 286–8; see also A. Ender, 'The Origins and Legacy of Kemalism', in Khamsin, *Modern Turkey: Development and Crisis* (London: 1984) p. 58.
  7. George S. Harris, *Troubled Alliance: Turkish–American Problems in Historical Perspective, 1945–1971* (Washington DC: American Enterprise Institute for Policy Research, paperback, 1972) pp. 32–3, in which the author cites the opposition of some Turks to US pressures to adopt an open economy policy.
  8. Ahmet Kemal, 'Military Rule and the Future of Democracy in Turkey', *Merip Reports*, no. 122 (March/April 1984) p. 13.
  9. For a discussion of the changing composition of the Grand National Assembly by occupation see Frederick W. Frey, *The Turkish Political Elites* (Cambridge: MIT Press, 1965) pp. 180–92.
  10. Caglar Keyder, 'The Political Economy of Turkish Democracy', *New Left Review*, no. 115 (May/June 1979) p. 29.

11. For a discussion of the Turkish military see Semih Vaner, 'The Army', in Irvin Cemil Schick and Ertugrul Ahmet Tonak (eds), *Turkey in Transition* (New York: Oxford University Press, 1987) pp. 236–65.
12. Ahmet Samin, 'The Left', in Schick and Tonak, p. 151, speaks of the 'pernicious legacy of Kemalism for the Left', being the 'combination of radical-progressive policies imposed from above on the Turkish masses'; similarly Keyder, *op. cit.*, p. 32, speaks of the 'intellectual heritage of Turkish radicals who still believed in the feasibility of a "revolution from above"'.
13. For a detailed elaboration of Turkey's position in the world economy see Huseyin Ramazanoglu (ed.), *Turkey in the World Capitalist System* (London: Gower, 1985).
14. For a discussion of the activities and the control exercised by the Joint American Military Mission for Aid to Turkey, which was set up as a result of the Truman Doctrine, see Daniel Lerner and Richard D. Robinson, 'Sword and Ploughshares: The Turkish Army as a Modernizing Force', in Henry Bienen (ed.), *The Military and Modernization* (Chicago: Aldine Atherton, 1971) pp. 129–33.
15. Particularly with the loss of Iran in 1979, the United States considers Turkey of the utmost strategic importance. At a minimum it had prior knowledge of the 1980 coup and since then it has been forcefully arguing that Turkey has been moving towards democracy. Turkey is the third largest recipient of US aid.
16. See Kutlay Ebiri, 'Turkish Apertura', in Ramazanoglu, *op. cit.*, pp. 98–120, for a discussion of the competing arguments for different strategies of economic development in Turkey.
17. See Caglar Keyder, 'Economic Development and Crisis: 1950–1980', in Schick and Tonak, *op. cit.*, pp. 295, 302. The author cites World Bank and OECD figures which indicate an impressive growth of GNP from 1960 until the mid-1970s and a decline from 1978 to 1980. Similarly industrial production increased over 10 per cent per annum from 1960 to 1973 and then began a steady decline.
18. Demetrios G. Papademetriou, 'A Retrospective Look at Mediterranean Labor Migration to Europe', in Carl F. Pinkele and Adamantia Pollis (eds), *The Contemporary Mediterranean World* (New York: Praeger, 1983) p. 239. The author estimates that the number of 'guest workers' remains at 3/4 million in 1980. Immigrants' remittances, which increased from 1979 to 1982 after an earlier decline, have been steadily declining since 1982; see *OECD Economic Surveys 1986/1987: Turkey* (Paris: OECD, 1987) p. 84.
19. Cem Erogul, 'The Establishment of Multiparty Rule: 1945-71', in Schick and Tonak, *op. cit.*, pp. 134–6.
20. Irvin Cemil Schick and Ertugrul Ahmet Tonak, 'The Political Economy of Quicksand: International Dimensions of Turkey's Economic Crisis', *The Insurgent Socialist*, X, 3 (Winter 1981) pp. 68–70.
21. Kemal, *op. cit.*, pp. 17–18; Keyder, *op. cit.*, pp. 303–5, for an overview of the economic crisis leading to the military coup; Ziya Onis, 'Stabilization and Growth in a Semi-Industrial Economy; An



- Evaluation of the Recent Turkish Experiment, 1977–1984', *METU Studies in Development*, 13, 1 and 2 (1986) pp. 7–14.
22. Schick and Tonak, 'The Political Economy of Quicksand', op. cit., pp. 73–4.
  23. Vaner, op. cit., p. 253.
  24. Irvin C. Schick and E. Ahmet Tonak, 'Conclusion', in Schick and Tonak, *Turkey in Transition*, op. cit., p. 369.
  25. In 1986 the increase in GNP was close to 8 per cent; OECD, op. cit., p. 7. For figures on the decline of agricultural exports and the increase in manufacturing see OECD, op. cit., p. 20. Significantly, for 1986 manufacturing exports declined while agriculture exports increased.
  26. The 1986 OECD report, at p. 17, states with regard to the shift in economic policy, 'it was mainly the large industrial holdings or big enterprises which were able to take immediate advantage of the policy change in favour of exports and thus become the mainstay, as well as main beneficiaries, of the export drive.'
  27. The 1986 OECD report, at p. 41, states, 'the balance of payments will probably remain a principal concern for policy over the next few years.' The 1987 report, at p. 24, documents the continued increase in the deficit of current balance of payments.
  28. Walter F. Weiker, *The Modernization of Turkey: from Atatürk to the present day* (New York: Holmes & Meier, 1981) p. xv, note.
  29. When Bulent Ecevit took over leadership of the Republican People's Party in 1972 he transformed it from a traditional state bourgeois party to a social democratic one representing the interests of the urban workers and the peasants.
  30. Keyder, 'The Political Economy of Turkish Democracy', p. 24.
  31. Berch Berberoglu, *Turkey in Crisis* (London: Zed Press, 1982) pp. 99–100, for real wages. For a discussion of agricultural policy which worsened rural unemployment and massive migration to the cities and the consequent increase of unemployment to 11 per cent of the labour force by 1967, see *ibid.*, p. 97.
  32. Keyder, op. cit., p. 30.
  33. *Ibid.*
  34. Mehmet Ali Agaogullar, 'The Ultrationalist Right', Schick and Tonak, op. cit., p. 201, for a discussion of the infiltration of the bureaucracy by the NMP.
  35. This study does not deal with the Kurds of eastern Turkey. It is a vast topic with relatively little material available. However, it is clear that the Turkish nationalists view them as 'backward' people. Over the decades repressive policies have persisted in order to obliterate the Kurds' cultural identity. For a historical overview see Martin van Bruinessen, 'The Kurds', *Merip Reports*, 144, 2 (February 1984); see also Ender, op. cit., pp. 61–3. In addition to the long-standing violations of the Kurds' rights geared to destroying their ethnicity, the rise of a leftist guerrilla movement after 1984 prompted massive arrests, killings and arbitrary arrests. See Helsinki Watch, *State of Flux: Human Rights in Turkey* (New York: December 1987 update), pp. 114–49.

36. See Agaogullar, *op. cit.*, pp. 203–5 for a discussion of the political violence of NMP youth gangs.
37. Keyder, 'The Political Economy of Turkish Democracy', in Schick and Tonak, pp. 53–4. A series of press releases from the Council of Europe during the 1970s is also relevant.
38. Jane Cousins, *Turkey: Torture and Political Persecution* (London: Pluto Press, 1973).
39. Amnesty International, *Torture in Turkey* (London: July 1980) p. 2.
40. Helsinki Watch Report, *Violations of the Helsinki Accords: Turkey* (New York: November, 1986) p. 51. Estimates of arrests at the time of the coup range from 120 000 to 180 000.
41. The discussion of provisions of the 1982 constitution is based on the official English version of 'The Constitution of the Republic of Turkey'. For a defence of the new constitution as an appropriate reaction to the previous one which 'had been liberal to a fault', see John H. McFadden, 'Civil-Military Relations in the Third Turkish Republic', *The Middle East Journal*, 39, 1 (Winter 1985) pp. 69–85.
42. See Helsinki Watch Report, *Freedom and Fear—Human Rights in Turkey*, March 1986, pp. 58–71; Helsinki Watch Report, *State of Flux: Human Rights in Turkey*, December 1987, pp. 70–107.
43. For the TPA and DISK trials see Helsinki Watch Report, *ibid.*, December 1987, pp. 61–4, and 68–9.
44. OECD, *op. cit.*, 1987, pp. 11, 15.
45. There is little data on the distribution of income in Turkey. In one of the few studies, Merih Celasun, 'Income Distribution and Domestic Terms of Trade in Turkey, 1978–1983', *Metu Studies in Development*, 13, 1 and 2 (1986), p. 194, states that 'the Turkish economy appears to have experienced . . . a significant deterioration in income distribution during 1979–83'. Moreover, the percentage decline in real income from 1978 to 1983 was greatest in the bottom decile, particularly in the agricultural sector, *ibid.*, pp. 208–9.
46. The rate of inflation in 1986 was approximately 30 per cent; OECD, 1987, p. 60. The foreign debt began increasing steadily from 1982; *ibid.*, p. 25. For an analysis of the economic impact of Ozal's economic policies in the first few years see Altan Yalpat, 'Turkey's Economy under the Generals', *Merip Reports*, 14, 3 (March/April 1984) pp. 19–22.

# 15 Ethnicity, Politics and Human Rights in the Southern Sudan

K. K. PRAH

## INTRODUCTION

One of the dominant themes in twentieth-century conceptualisations of human rights is the right of nations and peoples to self-determination. Indeed, as I have elsewhere argued, the notion of the right of peoples to self-determination has possibly been the single most potent force in the struggles of mankind this century for economic and political equity in international relations.<sup>1</sup>

For Africa, the implementation of self-determination has generally been linked specifically to the decolonisation process. Its ideological expression was articulated in the language of pre-independence populist nationalism. The nationalities represented in the colonial state were regarded as holistic, constituting the primary unit for self-determination. The wider and longer-term interests of departing colonial powers denigrated ethnicity. This was a principal legacy of colonialism: the fragmentation throughout Africa of various ethnicities into fragments straddling colonial borders. African independence left largely untouched the question of the rights of individual ethnicities. Too easily and too often, nationalist politicians treated ethnic aspirations as dangerous manifestations.

Lord Lansdowne, during the *fin de siècle* period, showed the dominant colonial mentality. In negotiations with King Leopold about the borders of the Southern Sudan, Lansdowne pointed out that he had no idea who the 'Quak Quaks and Kuk Kuks' were (meaning Kakwa and Kuku ethnicities).<sup>2</sup> Lord Comer added in a letter that:

Although I somewhat regret to say so, we cannot, on purely humanitarian grounds, afford to lose sight of the main British and Egyptian interest involved in this discussion. That interest, as I have frequently stated, appears to me that both banks of the Nile,

from Lake Albert Nyanza to the sea, should be in British or Anglo-Egyptian hands. The good government of the wild tribes in the interior, and even the possession of districts which may be commercially productive are, relatively speaking, of minor importance.<sup>3</sup>

The result of this colonial mentality was that, with the exception of Somalia, Lesotho and Swaziland, African states are represented within their borders by a plethora of nationalities and sub-nationalities. Without exception the coexistence of these nationalities within existing state borders has been a source of varying degrees of tension and conflict. While the sources of these tensions are not identical in all cases, they would appear to be most acute where socio-economic cleavages tend to parallel ethnic differentiation and rivalries. These tensions also exist in situations where there is an absence of state policies for according cultural and ethnic rights on the basis of equity and democracy.

While tensions and fissiparous tendencies arising out of the African situation may therefore be regarded as objective structural conditions, there are other factors (economic and political) affecting these ethnic tensions.<sup>4</sup> What needs to be emphasised is that while ethnic awareness or self-assertiveness may be a phenomenon common to human groups to a large degree and pronounced in Africa, it does not in itself constitute a basis for inter-ethnic antagonism or exclusivistic reaction. Ethnicity does not *per se* define its *raison d'être* as either the imposition on, or suppression of, the rights of other ethnicities or nationalities.

In short, ethnic or national awareness is not necessarily an anti-social force. Indeed it is often an expression of democratic aspirations under conditions of national subjugation or cultural deprivation. There is therefore an obvious need in the discussion of African realities for historical and social specificity. One must differentiate awareness of ethnicity from the situation in which ethnicity is used as an instrument of political and economic weaponry. An élite may try to use ethnicity in order to rally trans-class or vertical solidarities for the enhancement of its interests. In popular usage this is described as 'tribalism'.<sup>5</sup>

It can be called an ideological, anti-class conscious process because of the vertical nature of the attempted mobilisation which runs counter to class (horizontal) solidarities and consciousness. This contention is, however, only sustainable where nationalities within a

state are more or less evenly distributed within the class structure. Where nationalities within an ethnically plural society occupy distinctly hierarchised positions (one ruling over others), some ethnic solidarities and their mobilisation may become a democratic form of social expression. Examples of this latter situation could be some of the non-Amhara nationalities in Ethiopia, the Hutu in Rwanda, the Northern minorities in the Gold Coast and Ghana, or the African nationalities in South Africa and the Sudan.

## THE SUDANESE AFRICAN NATIONAL QUESTION

Since 18 August 1955 an armed confrontation has persisted intermittently in the Sudan. This conflict is the longest standing war on the African continent. This fact is partly indicative of the profoundness of the causes of the war. But it is also indicative of the inability of the post-colonial Sudanese state to offer a solution which is far-reaching enough to resolve the underlying contradictions.

The Sudanese conflict is often described as a regional problem; a North–South confrontation, between a Muslim north and a Christian or Africanist south. Such a description is relevant to the realities of the situation, but it fails to capture the essence of the conflict. While the north is culturally Arabised and the south pre-eminently African in culture, even in the north most of the ethnicities are African although Muslim. Significantly, the cultural divide is underpinned by severe underdevelopment in the south as compared to the north. This factor throws into sharp relief social class differentiation manifested along ethnic, national and regional dimensions. Thus the heights of government, commerce, trade, finance, politics, the civil service and the armed forces are commanded by the Arabised northern Sudanese. These factors have created a recipe for conflict, since the culturally Arabised ethnicities form only a minority in Sudanese society as a whole. According to the 1956 census, which among other things measured national self-identification, 39 per cent of the population claimed to be Arabs in a society where the claim of Arabness generally bestows superior social status.<sup>6</sup>

Another revealing fact is that many of the northern Sudanese who claim to be Arab are Arabised Nubians. The other largely Islamised African nationalities in the north include principally the Fur, Messalit and Zaghawa in the west, the Nuba in the centre, the Funj in the east, and the Beja in the north-east, who, although Islamised, maintain

their African cultural identity. It is in the south that Arab influences are weakest; conversely, it is here that African national and cultural characteristics are strongest. Thus, in essence, the Sudan is a predominantly African country with a culturally dominant Arabised national minority. Southerners see the mainsprings of the Sudanese conflict as attempts to suppress their national identity and cultural rights through policies of Arabization.

Soon after the Torit Mutiny in 1955 Lord Raglan, who had known the Southern Sudan as a colonial administrator, eloquently complained that:

The most serious disturbances in the Southern Sudan are reported from a district of which I was in charge for two years. I left it nearly 40 years ago. The Northern Sudan is an arid country inhabited by Muslim Arabs. The Southern Sudan is a country of swamps and forests inhabited by pagan Negroes. Until recent times the only contact between them was when Northerners used to raid South Sudan for slaves. These slave-raids went on until the time of the battle of Omdurman—that is well within our memory. The Sudan as it exists now, is an artificial creation of the British Government. It is a great chunk of Africa and it happens that the inhabitants of the Southern half are totally different from the inhabitants of the Northern half. There is no good reason why, without their consent, the Southerners should be placed under the domination of the North. The Government was informed that if these people were placed under the domination of the North without adequate precautions there would be trouble; but the Government chose to ignore this warning completely.<sup>7</sup>

## ETHNICITY IN THE SOUTHERN SUDAN

The Sudan is the largest country on the African continent. Within its borders it includes branches of most of the principal ethno-linguistic groups found on the African continent as a whole. The Southern Sudan, holding about a quarter of the Sudanese population, shows a wide variety of ethnicities. The largest of these groups, which is also the largest ethnicity in the whole of the Sudan, is the Dinka-Nuer group. Other prominent groups in the South are the Shilluk, the Anuak, the Azande, the Latuka and related groups, and the Bari-speaking ethnicities. Although most anthropologists have

tended to classify the Dinka and Nuer as separate groups, ethnological and linguistic evidence suggests that they represent sub-ethnicities with limited dialectal differences rather than any profound ethno-cultural differentiation. While the Dinka are mainly concentrated in the Bahr el Ghazal province, the Nuer are principally located in Upper Nile province. Other ethnicities in the Bahr el Ghazal are the Ferogo group, the Kara, the Kresh, the Banda, the Ndogo group, the Shatt, the Dembo, the Jur, the Njangulgule, the Belanda, and the Mananger. While many of these groups share ethno-historical links with various groups in Zaire, Chad and the Central African Republic, most of the ethnicities of the Bahr el Ghazal share the same antecedents as the other Luo groups of Eastern Africa. The Anuak who straddle the Ethiopian–Sudan border are of Upper Nile. The Shilluk are from north of the Nuer.

With the Bahr el Ghazal in the east, and Upper Nile to the west, the southernmost province of the Southern Sudan is Equatoria Province, covering both banks of the Nile and bordering Zaire, Uganda and Kenya. Close to the Zaire border are the Azande and to the east of them are smaller groups; these are the Kaliko, the Baka, the Avokaya, the Makaraka and the Mundu. The Moro are north of the Azande, while further eastward are to be found the various sub-groups of the Bari-speaking people; the Kudu, the Kakwa, the Fajelu, the Nyangbara, the Mondari, and the riverian Bari. The Madi are situated on the Uganda border. The Equatorial Nile east bank is inhabited by other small groups; the Lulubo, the Latuka, the Lokoya, the Acholi, the Boyar, the Toposa, the Didinga, and the Murle. Significantly, unlike the Northern Sudan the culture of the people of the Southern Sudan has been relatively little affected by Arab culture. All these groups do not represent distinct categories; rather, they are mostly closely inter-related sub-groups.

In a linguistic profile produced by Thalwall (see Table 15.1) in the later 1970s (although with some significant omissions) the following picture is given for the Southern Sudanese province.<sup>8</sup>

In spite of the wide variety of ethnicities which inhabit the Southern Sudan, the pre-eminent politico-economic backwardness of the area, plus its effect of isolating ethnicities within their largely pre-capitalist social structures, has tended to support an atmosphere in which the manipulation and usage of ethnic solidarities and rivalries have been relatively easy for both southern and northern political élites.

From the early years of Anglo-Egyptian Condominium Rule

TABLE 15.1 *Linguistic profile chart*

<i>Bahr el Ghazal:</i>	Dinka	87%
	Shilluk	4.6%
	Ndого Sere	2.8%
	Arabic	0.9%
<i>Upper Nile:</i>	Nuer	52.2%
	Dinka	25%
	Shilluk	13.7%
	Teso	4.8%
	Arabic	1.7%
<i>Equatoria:</i>	Zande	23.8%
	Teso	19.4%
	Bari	18.4%
	Lotuko	13%
	Moru	10%
	Bagumi	4%
	Baka-Bongo	3%
	Arabic	0.6%

(1898–1956), the British as the senior partners in the Condominium arrangement considered it judicious for the purposes of administration to encourage the usage of African cultural institutions in the general ordering of southern society. In a country where Africans resented the role of Arabs in enslaving them and where a great degree of suspicion existed with regard to Northern Sudanese Arab intentions based on past history, British administrators—favouring Christianity and inclined to the discouragement of Arabisation of Africans—conceived the administrative formula which came to be generally known as Southern Policy. This formula developed from small beginnings as far back as 1902 and evolved over the years into a coherently emergent form during the 1922–24 period. By 1928, its general tenets were well understood if not clearly spelt out.<sup>9</sup> In a confidential memorandum dated 25 January 1930 and directed to the Governors of the Southern Provinces of Upper Nile, Bahr el Ghazal, and Mongalla Province, the Civil Secretary, Sir Harold MacMichael, put into writing the gist of Southern Policy.

The policy of the Government in the Southern Sudan is to build up a series of self contained racial or tribal units with structure and organization based, to whatever extent the requirements of equity and good government permit, upon indigenous customs, traditional usage and beliefs.<sup>10</sup>



In his cover note to the memo, MacMichael, stressing the implementational ramifications of the policy document, pointed out that:

Application of the policy will obviously vary in detail and in intensity according to locality. It is essential however, that the ultimate aim should be made clear to all who are responsible for the execution of the policy, and the memorandum should therefore be circulated to and studied by all your District Commissioners.<sup>11</sup>

This policy remained in force until soon after the Second World War when British imperial interest in Egypt, and East of Suez, induced the British to revise it with the view of linking more organically the politico-administrative structure of the two halves of the country. The revised argumentation of Southern Policy was made to read thus:

The policy of the Sudan Government regarding the Southern Sudan is to act upon the facts that the peoples of the Southern Sudan are distinctively African and Negroid, but that geography and economics combine (so far as can be foreseen at the present) to render them inextricably bound for future development to the middle-eastern and arabicised Northern Sudan: and therefore to ensure that they shall, by educational and economic development, be equipped to stand up for themselves in the future as socially and economically the equals of their partners of the Northern Sudan in the Sudan of the future.<sup>12</sup>

By now, the prospect of the independence of the Sudan was emergent on the political horizon.

#### NATIONALIST POLITICS (1947–72)

During the 1940s and early 1950s southerners, especially the emergent élite, got the chance to interact and know each other at institutions such as Loka Secondary and Rumbek Senior Secondary schools. The Equatoria Corps was also an integrating institution. But by and large the political perspectives of southerners were narrow. The economy of the south was an integrating factor, given the beginnings of a cash economy under condominium, but this was limited in its effects and opened up geographical mobility mainly for a small portion of the emerging élite concentrated in the civil bureau-

crazy.<sup>13</sup> Across ethnic boundaries, Africans in the Southern Sudan, as in other parts of Africa, have until fairly recent times had only limited contact with other proximate groups. Ethnic fragmentation has been pronounced in the Southern Sudan, more so than in other parts of Africa, for reasons of underdevelopment. Worsley makes the point in general terms thus:

Beyond the range of hills, across the other side of the river, they never ventured. That was the territory of enemies, penetrated only for purposes of trade, war, and marriage, people one needed principally as victims or friends, suppliers or consumers, but who remained essentially separate and marginal to one's own society, and therefore potentially hostile.<sup>14</sup>

African national consciousness as a supra-ethnic phenomenon is weak in Africa as a whole and particularly weak in the Sudan. R. N. Hoppe formulates his understanding of the national consciousness of Southern Sudanese thus: 'They [Southern Sudanese] have only one thing in common and that is fear and distrust of the Northerners'.<sup>15</sup>

The Juba Conference of June 1947, whose primary objective was to test the ability of the Southern Sudanese to meet the Northerners on a more or less equal footing, was the first forum in which the Southern élite—consisting essentially of chiefs and leading Southern bureaucrats—had worked in practical unison for concrete political and social objectives affecting the whole of the Southern Sudan in its relations with the North. Co-operation across ethnic lines continued after the Juba Conference. The Southern Party (later to become the Liberal Party) served as the political voice of Southern leadership during the 1950s.

The Torit Mutiny of August 1955, when the Equatoria Corps mutinied against its Northern officers, enjoyed support and sympathy throughout the Southern Sudan, with defiance against Northerners reverberating through the whole of the Southern Sudan. The Torit Mutiny marked the start of a trans-ethnic insurgency in the Sudan for self-determination. As General Lagu has pointed out:

The war which the Anya-Nya fought was the continuation of the 1955 revolt. Briefly after 1955 the actors in the movement disintegrated but the movement did not collapse. Pockets of isolated groups under men like Amedeo Taffeng and Latada kept the spirit of the movement alive until we joined them in the 1960s to intensify and continue with the struggle.<sup>16</sup>

Thus when independence came on 1 January 1956, the southern rebellion had already started.

Throughout the 1950s most southern leaders demanded 'a federal arrangement which would permit and facilitate the maintenance and preservation of the African national and cultural identity in the Southern Sudan'.<sup>17</sup> Although southern views generally supported a federal arrangement, the absence of a coherent understanding of national rights and of self-determination made a common front on the issues among southern political leaders brittle. The 1958 Constituent Assembly elections were contested by southerners for 46 seats, with the Southerners almost unified under the political party umbrella of the Liberal Party. When Southern politicians entered the parliament, however, about a third of them had been cajoled, bribed, or persuaded to join the Northern-based political parties.<sup>18</sup> In an effort to salvage the fragments of Southern representation, Father Saturnino Lohure and Ezboni Mondiri formed the Southern Sudan Federal Party, while Alfred Wol Akoc—submitting to ethnic sentiment—founded the Dinka Youth Organisation.<sup>19</sup> While Mondiri was incarcerated on political charges, Saturnino Lohure succeeded in mustering a parliamentary Southern Block. This group, resisting strongly attempts by Northern parliamentarians to adopt an Islamic constitution that denied Southern aspirations for a federal arrangement, decided on a mass walk-out of parliament. It was the denial of Southern demands for federation, the attempt to push through an Islamic constitution, and finally the consequent parliamentary walk-out by the Southern Block which precipitated the collapse of the government of Abdallah Bey Khalil in 1958 and the handover of the government by tacit agreement to General Abboud.

The southern leadership which fled into exile in December 1960, and in 1962–63 formed the SANU and Anya-Nya as respectively the political and armed wings of African resistance, was fairly united until the Khartoum Round Table Conference of 1965. After the conference William Deng broke off to form a SANU internal wing which was repudiated by the original SANU. While this break-up cannot be attributed solely to ethnic considerations, Alexis Bakumba, one of the prominent exiles of the period, considers ethnic factors to have been partly responsible for the split.<sup>20</sup> In general, however, as long as the threat of Arabisation of the South was imminent, Southern leadership was sufficiently united. This was particularly true under the Abboud military regime of the 1958–1964 period.

The 1965 Round Table Conference lowered slightly the clamour

for secession which had been centre stage in southern demands during the early part of the 1960s. George Akumbek Kwanai, one of the SANU leaders who participated in the Round Table Conference, had the following to say on the achievements of the conference.

The Round Table Conference of 1965 showed that political war is not a war of attrition. But a war to gain certain things that have been summarised in United Nations documents such as security, justice, welfare, liberties, and human rights . . . We realised that we were not personal enemies after all . . .<sup>21</sup>

The massacres which followed soon after the conference in key southern towns, however, hardened southern views against the central government. The Azania Liberation Front was formed in July 1965 by the old SANU in exile, differentiating itself from the William Deng wing of SANU operating inside the country. From this time until Joseph Lagu, with Israeli help, emerged as unchallenged leader of the Anya-Nya resistance, the movement was racked by dissension, factionalism and ethnic strife. Leaders such as Oduho and Mondiri went to their native districts. Major Goi arrested Mondiri, and Oduho was arrested by Brigadier Taffeng. International intrigue affected the movement. Different political leadership formations appeared successively as the Southern Sudan Provisional Government, Nile Provisional Government, the Anyidi Revolutionary Government and the Southern Sudan Liberation Front. This latter group, supporting Lagu, who was then well-established as leader of the Anya-Nya, concluded the first civil war via the Addis Ababa Agreement of 1972.

Throughout the period of the 17 years' war, 'tribalism' played a constraining role on the ability of the African nationalist insurgency to create an integrated organisation politically and militarily. Ethnic considerations constantly inhibited moves towards the centralisation of authority. As one observer has suggested:

The fear that the centre might appoint foreign tribes to command in different tribal areas was great. It would be the headquarters to direct the major operations, deployment of troops and allocation of resources. The fear was that certain areas would be less equipped, then exposed to continuous army raids.<sup>22</sup>

The two key southern political parties operating in the Sudan in the 1960s were the Southern Front and the Sudan African National

Union (Internal). Bullen Alier Buttic, a prominent southern administrator, informs us that shortly before Numeiri came to power in 1969 an important meeting of the Southern Front was held. Hilary Paul Logali, a Bari-speaking Southerner who had been hitherto Secretary-General of the Southern Front, was elected to the vice-presidency. This was objected to by Southerners from Equatoria who felt that the election was a move to render Logali 'redundant' and pave the way for unity with a Dinka-dominated SANU.<sup>23</sup>

## THE ADDIS ABABA AGREEMENT AND AFTER

Colonel Jafaar Numeiri, who came to power on 25 May 1969 through a bloodless coup, in a statement broadcast over Omdurman Radio (which has come to be known as the 9th June Declaration) conceded the cultural and regional identity of the south. Then, taking up the ideas of the Sudanese Communist Party on regional autonomy, he revised these as a guide to southern policy. A regional government was created within a federal national structure.

Although some measure of armed struggle continued throughout the 1970s, the Addis Ababa Agreement of 1972 brought to a close most of the fighting. Especially since the agreement recognised some southern autonomy, it enjoyed the support of a good proportion of southern opinion. But many southerners and some of their leaders were dissatisfied with its precipitous nature and content. Leaders like Gordon Mourtat Mayen, Aggrey Jaden, Elia Duang, Joshua Dau, Barri Wanji and others distanced themselves from the agreement. Abel Alier, a Southern Front politician, led the central government party to the negotiations. The fact that he, instead of Lagu, came to lead the post-agreement Southern Regional Government was indicative of the extent to which the African nationalist resistance compromised with the central government. In the words of Arop Madut, 'For six years Abel Alier was not really able to put flesh on the Addis Ababa Agreement'.<sup>24</sup> For one thing Alier was a protégé of the Numeiri government; for another, he had neither the political will nor the power base to champion effectively African aspirations for their national and cultural rights. Government policy was mishandled: for example, the Jonglei Canal Project to drain the waters of the Sudd in order to provide water for Egypt was pushed despite Southern opposition. Former exiles were not given the opportunities many had hoped for, the integration process of former Anya-Nya

into the Sudanese Army was not handled with the delicacy the issue deserved, and economic development was not given the priority it warranted. Graft and corrupt practices increased amid charges of 'tribalism'. Numeiri asked Alier to step down when it became obvious that the Alier administration was on the point of losing its parliamentary control.

On 27 February 1978 the Alier administration was removed. In a move which was described as a 'wind of change' Lagu replaced Alier as leader of the Southern Regional Government. Some of the remaining exiles returned in the hope that the new Lagu administration would represent more authentically the aspirations and rights of Africans.

Within a year, the Lagu administration was in difficulties. Facing constant charges of ineptitude, corruption, nepotism and tribalism, on 24 February 1978 Lagu reshuffled his government. Principal figures such as Samuel Aru Bol, Benjamin Bol, Dhol Acuil, D. K. Mathews, Mathew Obur and others were removed and replaced by elements who were considered to be Alier associates. When a \$2.5 million scandal was allegedly linked to people close to Lagu, a motion to impeach was conceived. Lagu dismissed the Speaker, Clement Mbro. A commission was appointed to investigate the matter. Numeiri dismissed the Lagu government in 1980, and subsequently Alier returned to power—only to be replaced a year later by a soldier, Gismalla Abdalla Rassas, appointed by Numeiri.

From 1972 to 1980, in hindsight, the central government played one southern faction against the other. The susceptibility of the Southern élite to bureaucratism, corruption and ethnicity aided the North's attempts to weaken Southern unity and political resolve.

In June 1983 Numeiri unilaterally decreed the division of the South into three regions. This move preyed on the demands of the Lagu faction, based mainly among ethnicities in Equatoria province, to divide the south in the name of 'decentralised government'. These three regions were practically divested of the rights and collective privileges which were vested in the former Southern Regional Government by the constitution and the Southern Regional Self-Government Act of 1972. More specifically, the 1983 decree in effect abrogated Article 34 of the Self-Government Act and thus Article 8 of the Constitution (Article 34 sets out the procedure of amending the Self-Government Act).<sup>25</sup> By then, however, Southern disaffection with the central government had grown to such proportions that already in early 1983 full-scale civil war had again broken out in the South.

Many of the leading figures of the Redivision faction in Equatoria were elements who had collaborated and supported the Amin regime in Uganda. Coming from ethnicities which were closely related to the ethnicities in North Uganda from where Amin drew most of his armed support, these Sudanese had melted easily into the social fabric of Uganda. After the collapse of the Amin regime in 1979, many returned to the Southern Sudan and competed for the scarce and limited bureaucratic positions in the South. The politics of redivision was in a sense thus an attempt not only to eliminate competition from bureaucrats from Upper Nile and Bahr el Ghazal but also to support in general the expansion of the bureaucratic élite as a whole in the Southern Sudan.

In September 1983 the Numeiri government imposed Sharia Law on the whole country. A new penal code was enacted which set out the following penalties: amputation of the right hand for theft of goods; amputation of the right hand and the left foot or death penalty for armed robbery or persistent robbery; flogging of 100 lashes for the offence of adultery committed by an unmarried person; death penalty by stoning to death or hanging for adultery by a married person; flogging of up to 100 lashes for drinking, manufacturing, possessing or selling alcohol; flogging for perjury or defamation; flogging of up to 25 lashes for participating in an illegal gathering or demonstration.<sup>26</sup>

According to John Luk Jok, by early 1985 over 100 amputations had been carried out.<sup>27</sup> Until the overthrow of the Numeiri government, the flogging of naked men and women was common. The introduction of Sharia Law partly gave cause for Southerners to reunite their political position *vis-à-vis* the central government. In a strongly worded resolution, the First Equatoria People's Regional Assembly, among other things, drew attention to the fact that:

we also believe in unity in diversity as stipulated in the 9th June Declaration which basically was a recognition of the cultural and civilizational differences of the Sudanese people and the necessity for creating a distinct constitutional or legal structure for the then three Southern Provinces.<sup>28</sup>

In another document put out by the Church, attention was drawn to the fact that 'Christians see the adoption of the Islamic Sharia as a way to oblige them to become Muslims by force of Law'.<sup>29</sup>

The Southern Students Organisation at the University of Khartoum, writing in the name of an organisation calling itself the Africa

Nationalist Front, did not confine itself to condemning the Sharia legal system but listed a catalogue of events and instances which were indicative of the suppression of the national rights of Africans:

Several incidences can be cited relating to your government's arbitrary and subversive actions against the wishes of our people. These include: the disastrous digging of the Jonglei canal which solely serves Arab interest to the detriment of the south, the mishandling of the Abyei issue, the conflict over the site of the oil refinery, the border crisis between the North and South, the issue of integration between Egypt and the Sudan, the continuous purging of Southern officers from the People's Armed Forces, the vagaries caused by your Security and Armed Forces to our people, the arrest and torture of Southern politicians and the unconstitutional redivision of the South into three regions.<sup>30</sup>

## CONCLUSION

In contemporary Africa, civil liberties and individual rights are massively violated by governments which, under the excuse of preserving a centralised polity, maintain often ruthless and festering cultures of repression. This type of human rights violation has tended to attract more attention than those violations which involve group, ethnic, cultural or communal rights. Most African wars today have direct or indirect bearing on the problem of the denial of such peoples' rights. All the wars in the Horn of Africa, in countries such as Ethiopia, Somalia, Uganda, Kenya, Chad and the Sudan have ethnic and nationality questions at the foundation. For the past few decades southern Africa has been in turmoil for similar reasons. Mauritania is increasingly explosive on the same account.

The Sudanese case appears to be one of the most intractable. The imposition of Arab culture by a national minority on an African majority violates the principles of peoples' rights. The legal principles of the United Nations and the Organisation of African Unity, in so far as these refer to the non-interference of member states in each other's internal affairs, deters active international interest in the issue. If the experience of three decades of intermittent war is sufficient evidence, one can conclude that until the peoples' rights of the African majority are ensured constitutionally in the Sudan, durable peace and socio-economic development cannot take place in the country. A practical way forward was defined within the terms of



the declaration which resulted from the Koka Dam Conference. Present at the conference was a broad grouping of extra-governmental Northern groups (The National Alliance for National Salvation) and the SPLM (Sudan Peoples' Liberation Movement)—the leading Africanist resistance group in the contemporary Sudan. The six principal points in this declaration were that:

- (1) the matter under discussion be defined as not the 'Southern problem' but the national problem—that is, concerning the national system of government;
- (2) the repeal of Sharia laws;
- (3) the lifting of the state of emergency;
- (4) the abrogation of military agreements made between Numeiri and other countries, which infringe on the Sudan's national sovereignty.
- (5) a constitutional conference be convened as soon as possible, and that the government of the day make a public commitment to resign if the conference decided to set up a broadly based transitional government of national unity, which would organise elections (the Alliance had some reservations on this point, and it was agreed to discuss it further at a later date);
- (6) a joint liaison committee be set up with five members from each side to follow up the recommendations.<sup>31</sup>

These understandings may constitute a viable departure point for the search for peace in the Sudan. They centre on the collective rights of the southern African people to equity within the Sudanese state.

## NOTES

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# 16 Protecting Civil and Political Rights in India: Mrs Gandhi's Emergency and Thereafter

KUNJA MEDHI

In 1975 a state of emergency was proclaimed by the President of India, acting on the advice of the Prime Minister. A number of major violations of civil and political rights subsequently occurred. But the departure from the Indian Constitution proved of relatively short duration (19 months). The episode thus provides a useful case study not only of the forces leading the world's most populous democracy to abandon many civil and political rights, but also of the forces leading to their restoration. This essay presents a few observations on the causes of emergency, then discusses some of the violations of rights which occurred. The main intent, however, is to identify the major forces among many which led to the termination of emergency. In other states facing similar problems of democratic stability, which means maintaining implementation of civil and political rights, it might prove useful to look for the presence or absence of similar forces.

## SOME FACTS

On 26 June a state of emergency came into effect in India, allegedly to allow the government of Mrs Indira Gandhi to deal with internal disturbances. Several major events precipitated this extraordinary event. A general strike had been launched by railway workers in opposition to conditions required by the International Monetary Fund for a loan (standard drawing rights) to India. Also, a number of political leaders were already challenging Mrs Gandhi's centralisation of power. Further, the Bihar movement, started by the well-known

Marxist leader Mr J. P. Narayan and featuring a People's Struggle Committee, was demanding action against price rises, governmental corruption and unemployment; the movement sought to bring down the Bihar regional government as well as Mrs Gandhi's cabinet.<sup>1</sup>

Judicial action brought the crisis to a head. The Allahabad High Court set aside the election of Mrs Gandhi on grounds of two violations of electoral laws.<sup>2</sup> The Court barred Mrs Gandhi from electoral office for six years. She did not resign but rather appealed to the Supreme Court of India, which issued a conditional stay allowing her to continue as Prime Minister and as a Member of the Lok Sabha (Parliament) without the right to vote.<sup>3</sup> At this point the Prime Minister was under considerable pressure to resign in political and mass media circles, since her trusted advisor, Mr M. Kumaramangalam, had been killed in a plane crash in 1973.

It was in this context that Mrs Gandhi advised the President to declare an emergency under Article 352(1) of the Constitution, on the grounds of a threat to national security from internal disturbances. From that time a personality cult was developed in India, and it would not be going too far to say that a reign of terror was let loose there.

Complicating the situation still further was the fact that on 7 November 1975 the Supreme Court of India unanimously reversed Mrs Gandhi's conviction of electoral offences and quashed the judgement of the lower court. This judicial action of course strengthened Mrs Gandhi's position immensely. She then proceeded during the emergency to institute certain changes in the Constitution which had the effect of augmenting executive power and reducing judicial power.<sup>4</sup>

## VIOLATIONS DURING EMERGENCY

One can understand the nature of the state of emergency in India during 19 months by looking at the suspension of fundamental rights, press censorship, and the detention and treatment of prisoners. There were other violations of internationally recognised human rights as well, but these three categories suffice to give a flavour of the fate of civil and political rights in India under emergency decree.

### **Suspension of fundamental rights**

A Presidential Order, requested by the Prime Minister under Article 359(1) of the Constitution, suspended the right of citizens to petition

the courts for the enforcement of fundamental rights as found in Article 19. The Presidential Order in effect suspended Articles 14, 21, and 22.

An amendment to article 352 made Presidential action final, not being justiciable in any court. The second clause of article 352 removed the jurisdiction of the Supreme Court or any lower court in this regard. Hence no Presidential action infringing on fundamental human rights could be subjected to judicial review. The door was thus open for arbitrary action.

Rights to equality and to protection against arbitrary deprivation of life and personal liberty were suspended. Matters of arrest and detention could not be brought before the courts. Rights to free speech, assembly, freedom of movement, choice of residence, private property, and choice of work were suspended and not subject to judicial review.<sup>5</sup>

As if these governmental actions were not sufficient to deny almost all fundamental human rights, 59 clauses of the Constitutional Act of 1976 amended the Constitution in such a way that almost all laws and governmental actions were made unchallengeable in the courts. According to this Constitutional change, all federal and state laws could only be altered by a two-thirds majority of the sitting members of Parliament.

### **Press censorship**

A number of legislative and administrative measures were put into effect to censor the press. The Press Council, a professional association interested in freedom of the press, was dissolved. In February 1976 the Prevention of Publication of Objectional Matter Act made it illegal to criticise in print the President, Vice-President, Prime Minister, and Speaker of Parliament. Publications which violated the act could be seized. The Government saw to it that this act was exempt from judicial scrutiny.<sup>6</sup>

Even the proceedings of the Parliament and those of the State Assemblies were subject to censorship under the Parliamentary Proceedings Repeat Act. The reports or comments about the transfer of the High Court Judges also could not be published. The extent to which these steps departed from Indian tradition can be seen by the fact that similar steps were *not* taken during the armed conflict with Pakistan in 1948 over Kashmir, the armed conflict with China in 1962, and the armed conflicts with Pakistan in 1965 and 1971.

Censorship imposed under Rule 48 of the Defence and Internal Security of India Rules was implemented by a set of guidelines never made public. Electricity was shut off to certain publishing establishments. Some journalists were detained. A number of them lost their press credentials.

From these and other actions much of the Indian press was effectively silenced or gravely restricted. A number of foreign correspondents were expelled. According to Mr Loren Jenkins of *Newsweek*, 'In 10 years of covering the world from Franco's Spain to Mao's China, I have never encountered such stringent and all-encompassing censorship'.<sup>7</sup> Offices of the BBC in New Delhi were shut down. The news circuit of Reuters was cut for reporting on the fate of a detainee.

It subsequently became clear, from the 'White Paper on Misuse of Mass Media during the Internal Emergency' published in 1977, that Indira Gandhi used the absence of a free press as well as the presence of federal agencies to build a personality cult for herself and her son, Sanjay Gandhi. The private media agencies that were allowed to function were required to disseminate what the Prime Minister wanted.<sup>8</sup> The media officials who co-operated with the Government in these policies published a 'code of ethics' requiring subservience to Government policies. Considerable sums of money were spent for television coverage of Sanjay Gandhi as well as for films about him. Several multi-media companies were launched to portray Mrs Gandhi in a highly favourable light.

### **Political detention**

During the emergency more than 100 000 persons were detained without trial. The Maintenance of Internal Security Act of 1975 was subsequently amended to permit indefinite detention without trial. Detainees did not have to be informed of any charges against them.<sup>9</sup>

In Delhi alone over 1000 persons were detained. They included 146 members of banned organisations, 180 persons belonging to other political parties, and 538 criminals. Fifty-one civil servants were also detained. Many of those detained had engaged in peaceful actions. Even toward the end of emergency when it was clear that Mrs Gandhi's policies would not be maintained, 20 000 to 30 000 political prisoners remained detained, the number depending on the date.<sup>10</sup>

Even while administrative detention was being implemented, unlawful arrests were made on fabricated allegations. It also

subsequently became known that numerous people were detained for reasons not covered in administrative regulations. After the fact it was clear that administrative detention was used broadly and indiscriminately by officials; the targets were political opponents, criminals, those resisting sterilisation, anyone.<sup>11</sup>

It cannot be denied that detention conditions were harsh and that there was torture and mistreatment. Jails, in general, were overcrowded, ill-equipped and without proper ventilation and sanitation. The conditions became so bad that in Bihar jail the detainees went on a hunger strike to protest against their situation. Some detainees were denied family visits, others were held in solitary confinement despite lack of charges or convictions. In principle notification of arrest and location of internment was not provided, which meant that the detainee had 'disappeared'.<sup>12</sup>

According to one account, published after the emergency, both psychological and physical mistreatment and torture occurred.<sup>13</sup> According to this report the following acts were committed against detainees: stamping on the bare body with boots, severe beatings on the soles of the feet, rolling of a heavy police lathis (a long bamboo stick) over the legs while an official sat on the instrument, preventing standing in an upright position, beatings on the spine, giving electric shock to sensitive parts of the body, beatings with the butt of a rifle, slapping both ears, forcing nude prisoners to lie on slabs of ice, burning the skin with cigarettes or candles, denying food, water and sleep, requiring prisoners to drink their urine, suspending prisoners by the wrists which were tied behind the back.

This recounting of the treatment of detainees was confirmed by press accounts,<sup>14</sup> reports by Amnesty International,<sup>15</sup> and other sources after the emergency. According to one official for AI, 'Mrs Gandhi's regime shows itself even less responsive to the principles of human rights than many other police states such as Chile, Taiwan, the Soviet Union, and Korea'.<sup>16</sup>

## THE ROLE OF THE JUDICIARY

It has been shown already that Mrs Gandhi's Government used the emergency to push through constitutional amendments and legislation, stripping the courts of much of their authority. This finalised a trend of politicising the Indian court system which had started under Mrs Gandhi long before emergency. In 1973 she had promoted a

junior but co-operating judge to the post of Chief Justice of the Supreme Court, despite the resignation of several senior and protesting judges.<sup>17</sup>

A number of judges across India sought to block Mrs Gandhi's actions during the state of emergency. For their efforts many of these officials lost their positions or were denied normal extensions. Mr Justice R. N. Agarwal of the Delhi High Court was forced to revert to the post of Session Judge. Mr Justice U. R. Lalit of the Bombay High Court was refused extension of his term. At least 16 judges were transferred for political reasons after entertaining writs of habeas corpus against Governmental actions.<sup>18</sup> In a celebrated case, Mr Justice Tulzapukar of the Bombay High Court opposed Governmental attempts to close down the magazine *Sadhana*; the judge castigated Governmental ministers not only for that action but also for strident criticism of and veiled threats against the court.<sup>19</sup> Other courts sought to block many of the denials of fundamental human rights, using principles of natural law and common law. Some, but not all, escaped political sanctions.

The Indian Supreme Court, by a majority of four to one, ruled that in view of Presidential decrees from the summer of 1975, no person had any *locus standi* to petition about the legality of detention. This greatly hurt the effort to challenge detention policies via the courts, whatever the attitudes of the lower judiciary. Mr Justice Khanna of the Supreme Court dissented and subsequently resigned.

Apart from a decision by the Supreme Court to nullify part of a constitutional amendment adopted in August 1975 divesting the courts of adjudication authority involving election of the Prime Minister, that Court was a slight barrier to the violations of human rights that occurred in India during the emergency. Thus one cannot attribute a large role to the upper echelons of the Indian judiciary opposition to Mrs Gandhi's policies, and on balance it can be said as a generalisation that the Indian judiciary did not distinguish itself.

## POPULAR REACTIONS

Indigenous, grassroots movements and actions played a very significant role in opposing the denials of civil and political rights under discussion. A 'People's Union for Civil Liberties' was formed as a national movement with branches in various local states. A



'Citizens for Democracy' movement was also created, partially drawn from legal circles and concerned especially with detention matters. One of its sub-units was a 'Committee of Inquiry' which proved vigorous, especially in Andhra Pradesh. In general it can be said that the Indian Bar Association distinguished itself by organising a number of protests against deprivations of rights. Members of the Indian Bar gave free assistance to any number of petitioners against various aspects of detention. The bar provided a link with those parts of the judiciary sympathetic to protection of rights. The New Delhi Bar Association elected as its president an opponent of the Government, Mr Pran Nath Lekhi, who was in solitary confinement at that time, and turned down the candidate favoured by Sanjay Gandhi, Mr D.D. Chawla. The Government then took reprisals against members of that association, who nevertheless continued their actions in support of rights.

Academic circles also responded strongly against the violations of the emergency. In the Jawaharlal Nehru University in New Delhi, students went on strike—albeit for one day only. In Delhi University some 500 faculty and students were arrested for opposing various Governmental measures. In general the Indian intellectual community maintained a high-profile opposition to the Government and were never demoralised during the 19 months. At one point 300 teachers, artists, and writers publicly challenged the actions of the sitting Parliament. An underground press was created, which criticised among other things the Government's close relations to Moscow during the emergency.

There were massive street demonstrations on occasion, as in the Punjab when large-scale arrests were made. But in general it can be said that the rank and file Indian citizen was largely submissive to authority, perhaps fearing arrest and mistreatment or torture. Very few people, however, really accepted the changes forced upon India by Indira Gandhi. The empirical evidence of this was given in the election of March 1977. Opposition parties united, and the voters gave them a resounding victory over Mrs Gandhi's India Congress Party. The election turned out to be a major strategic mistake by the latter, who was apparently counting on fear and passivity in the search for legitimisation of her rule. The Indian masses, while not in the forefront of the struggle for civil and political rights during the emergency, nevertheless showed clearly in the 1977 election that they wanted a return to democracy.

## TRANSNATIONAL FORCES

A number of public and private organisations took a position on events in India during the mid-1970s. It is extremely difficult to assess the impact of these forces on civil and political rights in India. It seems to be the case that these international influences were slight compared to popular movements within India, although this judgment cannot be proven scientifically.

Foreign governments did comment on Indian events, but there is little public evidence that they directly pressured the Indian government in a particular direction. Western governments were in general critical but apparently did not make direct representations to Indian officials. The United States did postpone a scheduled visit by President Ford, and did offer political asylum to Mr Ram Jethmalani when that prominent lawyer faced reprisal for speaking out against the Government. The British postponed a visit by Prince Charles. Eastern governments were largely supportive of the emergency, although the People's Republic of China expressed public criticism of the Government.

Organs of the United Nations were largely silent.

Among private organisations, Amnesty International was clear in its opposition to events during the emergency. It not only undertook its normal letter-writing activity on behalf of particular detainees, but it also commented critically on the overall situation. AI noted that the constitutional amendments, new laws and regulations were so vaguely worded as to permit arbitrary deprivation of rights. It also noted the emasculation of the Indian judicial system.

Other international non-governmental organisations such as the International Commission of Jurists also commented negatively about Government actions. The World Council of Churches sent a letter to Mrs Gandhi from Geneva charging 'very serious abridgement of human rights'.<sup>20</sup> The Socialist International decided to send a delegation, headed by Mr Willy Brandt, the former West German Chancellor, to India, but it was denied visas.<sup>21</sup>

Indian nationals abroad campaigned against emergency events, most notably within the United States. 'Indians for Democracy' demonstrated in front of the Indian Embassy in Washington and circulated a petition deploring events in their native country. A group of Indian students in the US demonstrated near the Indian Ambassador's residence, an act which cost them scholarships and passports. Protests also occurred in Chicago. The AFL-CIO trade union

movement in the US lobbied for withholding of US foreign assistance to India until the emergency provisions were rescinded, but this effort proved unsuccessful. As noted previously, foreign members of the mass media were carefully monitored while in India, and various steps were taken to restrict their activity and influence.

It is difficult to know precisely, but it appears that much of this foreign activity in opposition to violations of human rights in India lacked deep connections with Indian individuals and groups also active in opposition. It seemed as if the international and national reactions operated independently of each other. It is especially difficult to demonstrate that much of the Indian indigenous opposition had important connections with international circles or drew their inspiration from the international norms and documents. It appears that groups such as the Indian Bar Association based their activity on Indian laws and traditions, not on such norms as found in the Universal Declaration of Human Rights or other international documents. Some Indian lawyers did have connections with the International Commission of Jurists, but not many. These sorts of transnational linkages did not seem terribly important in the revocation of the emergency, which occurred on 21 March 1977.

## CONCLUSIONS

The case study of India during Mrs Gandhi's state of emergency is filled with paradoxes difficult to analyse. The political culture of India is, to a significant degree, a culture of groups. The family, the caste, the community of various sorts is highly important; the individual within the group is less so. Yet groups of Indians—the Bar Association, the academic community, and several citizens' groups—rallied to defend individual civil and political rights. Mrs Gandhi, having sought to institutionalise a personality cult and a reign of terror, allowed elections to be held which terminated her emergency policies—and she respected the outcome of the 1977 elections.

Given these and other paradoxes, it is difficult to be precise about lessons to be learned for the protection of human rights in India of the future. It does seem clear that despite all the deficiencies in the Indian democratic political system, there is a strong grassroots commitment to civil and political rights. Regardless of the importance of groups, of the secondary status of women, of the illiteracy of about 65 per cent of the population, of the use of voting for patronage

purposes, and so forth, the masses are committed to individual civil and political rights especially when led by democratic politicians, the Bar Association, the intellectuals, and so on. It was, basically and in general, the Indian voter which restored democracy and its incumbent civil and political rights to India. This bodes well for the future protection of these rights.

Perhaps not so promising was the weakness of transnational influences on India in defence of internationally recognised human rights. It was certainly true that some private groups such as Amnesty International did what they could. But it seemed fairly clear that the Indian legal profession was not very sensitive to the international law of human rights, and did not try—at least in the upper echelons of the Indian judiciary—to use that law to protect the rights in question. Even the Indian Bar Association, which in general was courageous in opposition to Mrs Gandhi's emergency, did not appear to draw to any great extent on international human rights and attendant networks.

Certainly official or public transnational influences were weak, whether in the form of UN action or separate governmental policies.

Perhaps the clearest conclusion to be drawn from events is that there is no substitute for a private sector committed to human rights to guarantee the continued implementation of those rights within a country. This is itself a paradox, because for the private sector to be able to agitate and demonstrate and petition for civil and political rights, there must be the recognition of civil rights to begin with. There must be the right to speak, to associate, to petition; there must be some civil and political rights, meaning the absence of effective totalitarianism, for the larger range of civil and political rights to be respected.

In this regard it is important to note that in the last analysis Mrs Gandhi was unwilling to become a Stalin. However far down the road of authoritarianism she contemplated going, she did schedule reasonably free and fair elections in 1977 and did abide by the outcome. She respected a minimum of civil-political rights, no doubt in pursuit of her own self-interest, and it was this minimum commitment which restored the other rights so clearly violated during the emergency.

In India in the 1970s, it was not the judiciary which protected civil and political rights, although a few individual jurists were so committed. And it was certainly not the Parliament, which had a dismal record in this regard. And it was not transnational influences working on behalf of internationally recognised human rights, although a few such influences could be documented. It was the people of India, led

by certain groups in the private sector, which brought to an end Mrs Gandhi's emergency. This bodes well for the future of individual civil and political rights, if India is not in the meantime torn apart by sectarian and religious violence of a group nature.

## NOTES

1. The Bihar agitation, a prelude to the declaration of Emergency in 1975, was led by J. P. Narayan in March 1974 as a student protest against rising prices, corruption and unemployment. It developed into a mass movement from April onwards. *Indian Backgrounders*, New Delhi, 17–23 February 1975.
2. The judge Mr J. M. L. Sinha found Mrs Gandhi guilty of corrupt practices in the election and of using services of Government officials in the constructions of rostrums. See Bhushan Prashant, *The Case that shook India* (New Delhi: Vikas, 1978) pp. 98–9.
3. Prashant, *ibid.*, pp. 125–6.
4. See Shah Commission of Inquiry, *Interim Report 1*, New Delhi, 1978. On 19 May 1977, a Commission headed by Mr J. C. Shah, a former Chief Justice, was appointed by the Janata Government to inquire into: 'specific instances of misuse of authority, excesses and malpractices committed during the Emergency, misuse of power to arrest or issue detention order; specific instances of compulsion in the implementation of the family planning programme and indiscriminate demolition of houses; acts of misuse of authority and malpractices alleged to have been committed by public servants; and the conduct of other individuals who might have directed, instigated or abetted the commission of such acts of public servants'. See also *Keesing's Contemporary Archives* (London: Longman) 8 July 1977.
5. *Keesing's*, 18 June 1976.
6. The Prevention of Publication of Objectionable Matter Act, 1976, provided for:
  - (1) inclusion in the expression 'objectionable matter' any words, signs or visible representations which are defamatory of the President of India, the Vice-President, the Prime Minister or the Speaker of the House of the People or the Governor of a State;
  - (2) seizure of copies of the publication made in disobedience of the Central Government Order prohibiting the printing or publication, and closure of any printing press or other instrument or apparatus used in the publication;
  - (3) power to demand security from the presses, publishers and editors of newspapers and news sheets when it appears to the competent authority that the publication contains an objectionable matter;
  - (4) power of the Central Government to declare certain publications forfeited.

- Shah Commission of Inquiry, op. cit., at note 4, pp. 5–34.
7. As quoted by Nayar Kuldip in *The Judgment* (New Delhi: Vikas, 1977) p. 45.
  8. The Door Darshan (television) carried Mrs Gandhi's pronouncements on 171 occasions on newsreels and Samachar Darshan Programmes, and Sanjay Gandhi figured 24 times on these programmes. Between 1 January 1976 and 18 January 1977, 192 items were carried on him in the main news bulletins broadcast by the All India Radio. The television stations incurred the expenditure of a sum of Rs 833 055 on Sanjay Gandhi during this period. A number of films were produced by the Film Division to project his image not only as a youth leader but as a leader in his own right. The Directorate of Field Publicity and the Song and Drama Division projected Mrs Gandhi's image along with a number of mass-media campaigns. Shah Commission of Inquiry, op. cit. at note 6, pp. 44–7.
  9. The Maintenance of Internal Security Act was amended thrice during the Emergency: 5 August 1975; 25 January; 25 August 1976. The amendment of 5 August 1975 provided that: (1) revocation of a detention order shall not ban making another detention against the same person; (2) persons detained under section 15 shall not be released on bail, bail bond or otherwise; and (3) a new section 16A was added barring provisions of grounds and approach to a law court.
  10. Amnesty International, *Amnesty International Report*, London: AI, 1977, p. 180.
  11. Shah Commission, *Third and Final Report*, New Delhi, 1979, p. 134.
  12. Ibid. Also see *The Judgment*, op. cit., at note 7; Basudev Uma, *Two Races of Indira Gandhi* (New Delhi: Vikas, 1977); Gupta Anirudha, *Revolutions through Ballot* (New Delhi: Ankur, 1977).
  13. R. K. Murthy, *The Cult of the Individual* (New Delhi: Sterling, 1977) p. 112.
  14. The arrests of some leaders of the opposition including J. P. Narayan, Morarji Desai, Chandrashekhar and Mohan Dharia were reported in the Press despite censorship. In fact the censors were able to gain a firm hold over their new responsibilities and rights only after the reports of the first few arrests escaped their vigil. Murthy, op. cit., at note 13, p. 110.
  15. Amnesty International, *Report*, op. cit., at note 10, p. 182.
  16. As quoted by Nayar Kuldip, op. cit., at note 7, p. 45.
  17. Mrs Gandhi, while promoting a junior Judge to the post of the Chief Justice of India, overruled the claims of three Judges who were in quite good physical and mental health. But according to her they were philosophically not so developed or progressive as to merit the appointment as Chief Justice of the Supreme Court in her regime. M. M. Kothari, *Reflections During Emergency* (Jodhpur: Hope Books, 1977), p. 24.
  18. Article 222 of the Constitution of India states: 'The President of India may after consultation with the Chief Justice of India transfer a Judge from one High Court to any other High Court.'

19. Justice Tulzapurkar castigated the Union Law Minister, H. R. Gokhale, for three types of remarks.

(1) He (the Minister) said that some years ago a certain member of the Rajya Sabha had made the observations that the law was one generation behind, the lawyers two generations behind, but the Judges are not merely three generations behind but many more.

(2) Referring to the judgements delivered by the Supreme Court, he stated that some of the judgements were very long, running to more than 200 pages, and added, 'One does not know whether all the Judges are saying the same thing or different things. Sometimes we do not know whether they are saying anything at all.'

(3) Emphasising the fact that Article 386 was being further amended to ensure against a recurrence of any confrontation between Judiciary and Parliament, he said that the Supreme Court should do a bit of introspection, realise that the Supreme Court was not after all that supreme and resist the temptation to intrude into the fields which did not legitimately belong to them. If a confrontation recurred 'it will be a bad day for the Judiciary of this country'.

Mrs Gandhi complimented her Law Minister for his co-operation in betraying the law and exploited Gokhale to serve her interests. Murthy, *op. cit.*, at note 13, pp. 96-7.

20. See Nayar, *op. cit.*, at note 16, p. 92.
21. The Socialist International was refused permission on the ground that it would be a 'gross interference in the internal affairs of India'. The Socialist International said in reply, 'All Socialists must now feel a great sense of personal tragedy at what is happening in India'. Quoted in Nayar, *op. cit.*, at note 16, p. 55.

# 17 Self-Determination, the Chittagong and Bangladesh

AKRAM H. CHOWDHURY

## INTRODUCTION

One of the human rights problems confronting developing nations, although in this respect these nations may be no different from others, is how best to protect indigenous peoples. In many parts of Latin America the national push for economic growth has led to hardship for many Indian groups, just as the same dialectic played itself out in North America during the last century. This problem of how to promote the overall national good while also protecting the internationally recognised rights of groups within the nation arises in the 1980s with particular saliency in Bangladesh.

The tribal peoples of the Chittagong Hill Tracts had been a recognised and protected group under British colonialism and also at times under Pakistani sovereignty. Since the creation of Bangladesh in 1971, the peoples of the Chittagong Hill Tracts—an area near the Indian and Burmese borders—have had their traditional lives disrupted by the imposition of outside peoples, cultures, laws, and economic concerns. The question arises as to whether steps should be taken under internationally recognised norms to protect the Chittagong from this encroachment.

Several possibilities would seem to be available. One could perhaps look at recognised civil and political rights. Alternatively, one could look at cultural rights recognised in the United Nations Covenant on Social, Economic, and Cultural Rights (first entered into force for adhering states in 1976). This chapter examines the concept of self-determination and its relevance to the Chittagong.

## INDIGENOUS PEOPLES

The scope of the problem for indigenous minorities around the world can be seen in the fact that in 1981 the United Nations Sub-Commission



on Prevention of Discrimination and Protection of Minorities created a Working Group on Indigenous Populations. This was in response to persistent complaints about the treatment and fate of indigenous minorities, especially in the developing countries, where the push for economic growth was disrupting—with great hardship—the lives of many indigenous peoples.

The UN Sub-Commission Working Group, since its first meetings in 1982, has had to grapple with numerous reports about killings, torture, arbitrary arrest and detention, and confiscation of natural resources pertaining to indigenous peoples. These grave breaches of internationally recognised rights have been designed by their perpetrators with one end in mind: to suppress the demands of indigenous peoples for some form of autonomy or degree of self-government which would allow them to develop their own way of life.

United Nations efforts to respond to these petitions and reports have not been made easier by the delicate position of the Sub-Commission. This body of independent experts, which reports to the parent Human Rights Commission, has been targeted for elimination ostensibly because of financial exigency. It was functioning in the late 1980s through private and voluntary contributions.

Even if the financial and organisational problems of the UN could be resolved, substantive difficulties would remain concerning the international protection of indigenous peoples. One of the thorniest is that of definition. A UN rapporteur for the Working Group submitted the following:<sup>1</sup>

Indigenous Populations are composed of the existing descendants of the peoples who inhabited the present territory of a country wholly or partially at the time when persons of a different culture or ethnic origin arrived there from other parts of the world, overcame them and by conquest, settlement or other means, reduced them to a non-dominant or colonial condition, who today live more in conformity with their particular social, economic and cultural customs and traditions than with the institutions of the country of which they form a part, under a state structure which incorporates mainly the national social and cultural characteristics of other segments of population which are predominant.

This working or draft definition, never adopted officially by any UN body, has become the definitional norm for collection of

information on indigenous minorities. As such, UN core human rights agencies are continuing in the tradition of the International Labour Organisation (ILO). In an effort to protect the labour rights of indigenous workers, the ILO *inter alia* produced Convention Number 107, known as the Indigenous and Tribal Populations Convention. This 1957 treaty contained a definition of indigenous peoples now largely rejected as inadequate by both governmental and private circles.<sup>2</sup> This ILO Convention, however, did confirm the legitimacy of international concern with indigenous peoples—a concern which had lapsed somewhat in the late 1940s and early 1950s when no international effort was made to renew the minority treaties designed to protect East European minorities during the inter-war years.

A private World Council of Indigenous Peoples not only exists but also is active *vis-à-vis* the UN Working Group.<sup>3</sup> It has put forward its own definition of an indigenous group, but it co-operates with UN efforts under the rapporteur's working norm cited above.

Should the UN Working Group on Indigenous Peoples be able first of all to maintain its existence, and secondly to move toward development of guidelines for the protection of its target groups, there are numerous legal instruments extant which provide rules which might be made relevant to indigenous peoples. There is the Convention on Genocide, on Apartheid, on Racial Discrimination, on Torture, on Civil and Political Rights, and on Economic, Social, and Cultural Rights. There are several labour conventions which are relevant. Furthermore there is the Charter of the UN (Articles 1, 13, 55 and 56), and the Universal Declaration of Human Rights from 1948. The Working Group might, despite charges of redundancy, move to produce a new convention on indigenous peoples. While it has been said that what is needed in the 1980s and 1990s is less new law but rather some increased will to apply the law of human rights which already exists, still it can be argued that a new convention, or at least a UN declaration, on indigenous peoples would help to draw attention to a pressing problem.

## SELF-DETERMINATION

The concept of self-determination may be as old as the nation-state itself, but certainly the spirit of nationalism which swept the world in the 17th and 18th centuries did much to popularise the concept.<sup>4</sup> It is

well known that President Woodrow Wilson of the United States emphasised the principle of self-determination in the early twentieth century,<sup>5</sup> but Soviet leaders too endorsed the concept.<sup>6</sup> An indication of its elusive contents, however, can be seen by looking at the League of Nations era. On the one hand the Mandates system can be seen as confirming the validity of the concept that all national peoples have a right to eventual self-determination.<sup>7</sup> On the other hand, the Permanent Court of International Justice in the Aaland Islands Case said that the mere mention of self-determination in several treaties could not be 'considered as sufficient to put it upon the same footing as a positive rule of the law of nations'.<sup>8</sup>

In the United Nations self-determination has become clearly important, but just as clearly quite controversial. The UN Charter mentions self-determination both as a goal of the Organisation and as one of its fundamental operating principles. The key, of course, is to stipulate exactly which group it is which possesses the right.<sup>9</sup> Interestingly, the Ukrainian spokesman in a UN body argued that self-determination included the 'capacity of a people to establish a regime of their own liking'.<sup>10</sup> This formulation, apart from confusing rights with capacity, seems to suggest that the right of self-determination follows the exercise of power: if a group has the power to establish its own political regime, it has the right of self-determination. This is certainly a problematic formulation, and indicates the difficulty of thinking clearly about the concept and getting international consensus on defining who exactly is entitled to exercise the right—apart from the question of whether they have the power/capacity to do so.

UN bodies have never authoritatively said so, but a reasonable view of self-determination is that it pertains to the right of peoples to establish their own form of government. Where peoples already exist in a state, the right of self-determination normally excludes secession.<sup>11</sup> Otherwise the right obtains for peoples both in a colonial situation and in independent countries.

However reasonable this formulation may appear in the abstract, numerous ruling élites, and especially the élites controlling the central government in developing countries plagued by ethnic fragmentation, are not likely to rush to recognise distinct peoples with a right to form their own government. Even in stable, well-established states like the US, difficult questions arise between federal and state authorities about which can exercise authority and power on certain issues.

Thus the precise meaning of the right to self-determination is likely

to remain elusive, given that power relationships are very much affected by the exercise of the right. As usual, politics proves the independent and controlling variable; law proves to be the dependent and secondary variable. This remains an unfortunate reality most of the time regardless of the exact wording of human rights legal instruments containing the concept of self-determination. One can do a textual analysis of the two UN Covenants on Civil-Political, and Socio-Economic, Rights. Each contains a first article referring to self-determination of peoples. But neither Covenant clarifies who is to be recognised as a people with the right.<sup>12</sup> The same point pertains to other contemporary legal instruments such as the Declaration on the Granting of Independence to Colonial Countries and People.<sup>13</sup>

If one keeps in mind that the right to self-determination must be balanced by the right to territorial integrity on the part of states already extant, one can conclude, as has one scholar, that a people's right to self-determination is a continuing one involving several principles<sup>14</sup>: every state has an obligation to respect the right; all peoples possess the right, even those in independent states; the right can be implemented short of total independence; real choice about political regime and course of development must exist; gross violation of the right may justify secession/independence.

## THE CHITTAGONG

The Chittagong Hill Tracts comprise a little over 5000 inaccessible square miles inhabited by 13 main ethnic groups totalling about 600 000 persons. Conflicts between these people and the dominant groups in Bangladesh have escalated since 1971, after which date the dominant Bengali population moved into the Hill Tracts area in increasing numbers. The Chittagong, who are quite different from the Bengali in appearance, customs and religion, first peacefully sought local autonomy from the central government for a number of years. But in recent years a spiral of governmental repression and armed resistance has intensified the struggle.<sup>15</sup>

The various Chittagong groups have formed an overall alliance and have demanded considerable local autonomy. But the Bengali-dominated central government, with a view to the considerable natural resources of the area, has refused to compromise over the question of local rule. Bangladesh is, of course, highly over-populated and a member of the Fourth World of least developed states.

Thus the central government sees the Chittagong area as a natural one for expansion demographically and economically.

What is happening in Bangladesh is similar to what has happened in places like Brazil and Paraguay, where the power of the central government is put at the service of private concerns representing the dominant groups who desire economic growth at the expense of indigenous peoples. In Bangladesh the Chittagong have resisted with more political power, including a nascent armed struggle, than in many other places.

One of the reasons for this resistance was that under British colonialism, the people of the Chittagong Hill Tracts were given special privileges concerning their political and administrative affairs. Many administrative officials were locally recruited, even if they did function under the directives of British officials. The collection of taxes and the dispensation of traditional justice were the responsibility of three tribal chiefs. Moreover, migration into the Tract area was virtually prohibited by the British since the necessary permissions were almost impossible to obtain.<sup>16</sup> The British, in effect, recognised limited self-government for the area, and in 1935 the British called this land a 'totally excluded area'.<sup>17</sup>

When the British left the Indian sub-continent in 1947, the leaders of the Chittagong sought independence, or secondarily affiliation with India, since other indigenous peoples lived in what became north-west India. But the Tract area wound up in east Pakistan.<sup>18</sup>

During the time when this area was under Pakistani sovereignty, there was tension between efforts to preserve the traditional way of life found in the Tracts, and on the other hand efforts to open the area to migration and economic development by the Bengali. For example, in 1948 the Pakistani government disbanded the local police forces in the area. Yet under the 1956 Constitution (which lasted only two years) the Tract was recognised as an 'excluded area'. Again under the 1962 Constitution the area was protected, but several years later amendments removed this special status and concomitant local autonomy. These latter legal steps coincided with the completion of a major hydro-electric project in the area, and the government announced its intention to open up the area for migration and economic development.<sup>19</sup>

After the violent creation of Bangladesh in 1971, a delegation of the Chittagong Hill Tract peoples submitted demands to the new government in 1972 seeking: (1) autonomy for the area together with a separate legislative body; (2) a return to the provisions operative

under British rule; (3) constitutional protections against, *inter alia*, the influx of non-tribal peoples into the area.<sup>20</sup>

These demands, apparently being seen as synonymous with secession, were rejected out of hand by the Bangladeshi government. No legal protections were given the area. Consequently the Chittagong Hill Tracts Peoples Solidarity Association was formed; it possesses an armed wing. Violence became commonplace after about 1975. By the mid-1980s, armed attacks on governmental places and persons were frequent. Non-tribal peoples in the area were also attacked with considerable loss of life. There was also political hostage-taking.<sup>21</sup> It has been said that India has supported the armed resistance as part of its manoeuvres in international politics.

Against this background of escalating violence, various talks were held between tribal representatives and the central government. These led nowhere and the violence continued.<sup>22</sup> Some high officials on the government side were in favour of granting local autonomy to the area, but they were not able to push their views through the parliament.<sup>23</sup>

In March 1982 Lieutenant-General H. M. Ershad came to power in a coup, and after that the central government made some overtures to defuse the rebellion by the tribal peoples. An amnesty was offered to the armed rebels, and after its various extensions it was said to have led to the surrender of several thousand rebels. This figure is in dispute. The central government also promised to study the re-introduction of provisions for some local autonomy, but at the time of writing these promises have not led to decisive governmental action. Secret talks between the two sides were apparently held in the mid-1980s, but again these led nowhere. By the late 1980s violence was on the increase.<sup>24</sup>

Hence the creation of the state of Bangladesh in 1971 did not resolve the problem of the status of the Chittagong Hill Tracts. Indeed, some two decades after that event all parties seemed locked into a 'no-win situation'.<sup>25</sup> Conditions for the tribal peoples were similar to those under Pakistani sovereignty, with numerous violations of human rights by the governmental side.

The tribal peoples have repeatedly been uprooted from their ancestral lands. For example, at least 54 000 acres of cultivated land were lost by the Chakma tribe when the government in 1957 began the Karnaphuli hydro-electric project. Although some compensation was paid, a way of life for these people was disrupted.<sup>26</sup>

Repeatedly, the problem of immigration of non-tribals into the

area has become a major irritant. Back in the early 1950s tribals accounted for over 90 per cent of the local population. By 1974, even with changed laws under Bangladeshi control, non-tribals were only 11 per cent of the population. By the 1980s this figure had grown to almost 35 per cent. At the time of writing some observers estimated the two groups to be about equal in numbers.

Likewise, the creation of Bangladesh in 1971 led to denials of the right to privacy, to freedom from political detention, to freedom from torture and mistreatment, to freedom from political killing. The first Bangladeshi government carried out a 'combing' operation which led to a number of serious violations of personal integrity and civil rights. These events gave further cause to the armed rebellion in the Tract area. While repression of tribal peoples has ebbed and flowed with changing policies on the part of the central government, to some degree it has been a constant in the overall picture.

## CONCLUSION

Abstract reasoning about the concept of self-determination might provide a solution for the problem of the Chittagong Hill Tracts—in the best of all possible worlds. A reasonable and just central government in Dacca could theoretically move to grant local autonomy to the Chittagong, motivated by a sense of legal obligation.

One could go further than abstract legal reasoning under the principle of self-determination. One could note numerous federal states around the world which have in fact encouraged national stability by granting differing degrees of local autonomy. Furthermore, in international history there have been protectorates, dependent states, areas with home rule, and all sorts of other legal arrangements providing local choice in political and economic affairs, while maintaining the legal and political superiority of some other power centre.

What has been lacking in Bangladesh is the political will on the part of the Bengali-dominated central government to make use of these legal principles and legal examples. Naturally enough, that central government has been more interested in the improvement of the Bengali majority than in the preservation of the Chittagong minority. In 1983 in Geneva an official from Dacca said that all of the people of Bangladesh had to share scarce resources, and that it was contrary to the constitution to prohibit citizens from buying and settling land in

any part of the country.<sup>27</sup> Yet it can be questioned whether repression and the provoking of armed resistance is really in the overall interest of Bangladesh as a nation.

It is ironic that the Bangladesh élite, whose own right to self-determination was obtained in armed struggle against Pakistani/Punjabi repression, should fail to respond in some conciliatory way toward Chittagong claims. But after all, élites elsewhere, once in charge of governments, have forgotten their own struggles and have used the tools of repression borrowed from their former adversaries. Both the Jordanians and the Israelis have used the laws of the British colonialists to repress unwanted sentiment and action in areas under their control. The same is true of the élites of Zimbabwe who, having been imprisoned and abused by their colonial masters, carry on the same practices against their current opponents.

Legal principles and legal examples are indeed relevant to the problem of the Chittagong in Bangladesh. But it will take references to either self-determination or other parts of the international law of human rights by outside parties to have an impact on the situation. United Nations agencies, foreign governments, transnational private organisations, and others such as the international media will have to focus more than in the past on the situation. Only then will the central government feel the need to strike some balance between the wants and needs of the majority, and the demand for local autonomy by the peoples of the Chittagong Hill Tracts.

## NOTES

1. Report on the UN Working Group on Indigenous Populations, Special Rapporteur José R. Martínez Cabo. Thirteen chapters (out of 20) of the final report have been published as UN Documents: UN E/CN-4/Sub 2/M76 and Add. 1-6, and E/CN H/Sub 2/1982/2 and Add. 1-7, 1982. The seven remaining chapters as well as the conclusions, proposals and recommendations were submitted to the Sub-Commission at its 36th meeting in 1983.
2. Part I, Article 2 (b); Convention No. 107; see *International Labour Conventions and Recommendations 1919-1981* (Geneva: ILO, 1982). See also W. Sweepston, 'ILO Activity with Regard to Indigenous Tribal Populations', paper presented at the First Round Table on Racial Discrimination and the Rights of Indigenous Peoples, International Institute of Human Rights, Strasbourg, France, February 1982, pp. 12-13. Also see 'Indigenous Peoples: Living and Working Conditions of Aboriginal Populations in Independent Countries', Studies and Reports, New no. 35 (Geneva: ILO, 1953).



3. See the report of the 2nd General Assembly of the World Council of Indigenous Peoples held at Kruna, Samiland, in Sweden, 24–27 August 1977. See also Roxanne Dunbar Ortiz, *Indians of the Americas and Human Rights and Self-Determination* (London: Zed Books, 1984) pp. 52–4.
4. See generally Yoram Dinstein, 'Collective Human Rights of People and Minorities', 25, *International and Comparative Law Quarterly*, part 1, 4th series (January 1976) pp. 102–05.
5. Woodrow Wilson was well known for his commitment to self-determination.
6. Op. cit., note 4.
7. See League of Nations, *Official Journal*, Special Supplement, (1920) p. 9. Also see Rosalyn Higgins, *The Development of International Law Through the Political Organs of the United Nations* (London and New York: Oxford University Press, 1963).
8. 1970 P. C. I. J. Ser. B. No. 17, 21. See also John Howard Clinebell and James Thomson, 'Sovereignty and Self-determination: The Right of Native Americans under International Law', *Buffalo Law Review*, 2, 47 (Autumn 1978) p. 707.
9. Generally see Articles 55–6 of the UN Charter.
10. See generally Dinstein, op. cit.
11. See generally Higgins, op. cit.
12. See Common Articles 1 and 3 of The International Covenants of Human Rights.
13. Op. cit., note 5.
14. See Amnesty International, 'Unlawful Killing in Chittagong Hill Tracts' (London: AI, 1986) pp. 3–7. Also see 'The Chittagong Hill Tracts: Militarization, Oppression and the Hill Tribes', *Survival International Review*, no. 43.
15. See 'Genocide in Bangladesh', *Survival International Review*, No. 43.
16. 'Unlawful Killing in Chittagong Hill Tracts', op. cit.
17. Op. cit.
18. Ibid.
19. Ibid.
20. Ibid.
21. Ibid.
22. Ibid.
23. Ibid.
24. See Simon Winchester Reports, *The Sunday Times* (London) 14 October 1984, p. 6.
25. See Amnesty International Annual Reports.
26. Ibid.
27. Ibid.

# **Part IV**

## **Analytic Overviews**

# 18 Repression and Development: The Political Contingency of Human Rights Trade-offs

JACK DONNELLY

Conventional wisdom holds that short- and medium-run sacrifices of human rights are required to achieve rapid development. In the sixties in particular, the necessity of (temporarily) sacrificing both civil and political and economic and social rights was the reigning orthodoxy.<sup>1</sup> In the seventies a growing concern in development economics for issues of distribution and basic human needs blunted some of the enthusiasm for trade-off arguments, but authoritarian repression was still widely viewed as useful or even essential for development.<sup>2</sup> Furthermore, leading theoretical paradigms of the seventies, such as dependency/world systems theory and the bureaucratic-authoritarian model, despite their explicit opposition to modernisation theory, still argued for the developmental necessity of massive human rights trade-offs—at least for capitalist development in the contemporary Third World.<sup>3</sup> Even today developmental arguments for repression continue to receive remarkably sympathetic consideration.

What is preeminent in Cuba and in other areas of the third world is the necessity of development that supersedes all other legitimate claims and prior rights.<sup>4</sup>

The fact of the matter is that industrial takeoff in the mid-twentieth century has some supremely painful human consequences . . . [I]mpressive economic performance . . . in the modern period has depended upon massive poverty and political repression, and it would not have been possible under democratic governments pursuing egalitarian policies.<sup>5</sup>

The tough political systems associated with successes [in satisfying basic needs] of the socialist and capitalist types have not so far had a good record in terms of liberal virtues. This may not be accidental: a more liberal political system may be incapable of producing and sustaining the reorientation in the economy necessary for these types of success.<sup>6</sup>

The best one can ask for then, I suppose, is a set of institutions or attitudes that permit a country or a government to back off after it has scored its initial gains or goals.<sup>7</sup>

This chapter suggests, however, that human rights trade-offs, except at the very early stages of the move from a 'traditional' to a 'modern' economy, are not required by the imperatives of development.<sup>8</sup> Rather they are contingent political choices, undertaken for largely political not technical, economic reasons.<sup>9</sup>

## GROWTH AND EQUITY

In talking about trade-offs between human rights and development, we must begin with definitions. Human rights is perhaps the easier of the two because at the international level there is a clear normative consensus, expressed in the Universal Declaration of Human Rights (1948) and the International Human Rights Covenants (1966), often referred to collectively as the International Bill of Human Rights.<sup>10</sup> We still encounter occasional arguments, especially from the far right in the US, that economic and social rights are not really human rights.<sup>11</sup> Some equally dogmatic leftist ideologues still dismiss civil and political rights as bourgeois ideology. Such arguments, however, have little theoretical basis<sup>12</sup> and have been explicitly rejected by most of the world's governments.

What is the 'development' for which human rights allegedly must be sacrificed? Development is widely seen to involve the social creation of the physical and human resources required to produce the goods and services needed to satisfy basic human needs and desires. At the minimum this requires growth in production (usually measured by increased per capita GNP), which in turn requires, if it is to be sustained, structural transformation of the economy (the rise to predominance of industrial sectors, followed by a continuing process of industrial deepening). Furthermore most non-economists, and many

economists as well, argue that development also involves an element of distributional equity; that is, the increasing diffusion of the benefits of growth to the mass of the population. In the catchphrase of the seventies, development involves 'growth with equity'—at least in the long run.

In the short- and medium-run, however, strategic choices must be made. 'Growth first' was the conventional logic of modernisation theory and the policy of most Third World countries in the 1950s and 1960s, especially in Latin America. 'Equity first' strategies have been relatively rare, but Sri Lanka in the sixties and early seventies and Tanzania after the 1967 Arusha Declaration both chose to pursue equity—immediate basic needs satisfaction and/or greater socio-economic equality—as their strategic priority. The 'East Asian model' of Korea and Taiwan in the sixties and seventies gave high immediate priority to both growth and equity.

Each strategy, however—and this is the central point for our purposes here—implies very different human rights trade-offs in the name of development. And certain strategies imply no apparent trade-off of economic and social rights at all.

For example, Sri Lanka in the 1960s pursued an equity-first strategy that produced dramatic progress in basic needs satisfaction. By the mid-1970s, Sri Lankan performance on such standard indicators as literacy, infant mortality and nutrition were significantly better than virtually all other countries with similar per capita GNPs. Growth rates were, admittedly, low, and in the last decade growth has received much greater emphasis in Sri Lanka. Nonetheless, by the mid-1980s Sri Lanka's growth rate over the preceding two decades was comparable to that of the average low income country, or even the average middle income country. Its literacy, life expectancy, infant mortality and nutrition figures were much better than the low income average and matched or bettered the average for the lower middle income group.<sup>13</sup>

Korea has pursued a growth with equity strategy with even more striking success. Over the last 20 years, its 6.6 per cent average annual growth in per capita GNP surpasses all but two or three countries in the world.<sup>14</sup> Such growth, however, has been achieved without a sacrifice of basic needs satisfaction—while maintaining an income distribution roughly comparable to that of the United States. Literacy is nearly universal, life expectancy is a respectable 69 years, per capita food production has increased over the last decade, and per capita calorie supply was 118 per cent of the minimum requirement

in 1983.<sup>15</sup> The figures for Taiwan, which has pursued a similar development strategy, are comparable or better.<sup>16</sup>

Of course, some countries have sacrificed economic and social rights in their pursuit of development. A growth-first strategy implies the short-run sacrifice of basic needs satisfaction, in order to shift resources from consumption to investment. Considerable income inequality is accepted, or even encouraged, to increase savings and provide incentives for superior economic performance.

Brazil is an example of a country that has sacrificed needs and equality with a vengeance in the pursuit of growth. In the sixties and seventies Brazil's average annual increase in per capita GNP was close to 5 per cent, and in the 'miracle' years of 1969–73 close to 10 per cent. Even with serious difficulties in the eighties, over the last 20 years its average real per capita growth rate of 4.3 per cent per year is much better than average.<sup>17</sup> Equity issues, however, have been largely ignored. As a result, in Brazil the top fifth of the population receives half again as large a share of national income as in Korea, while the share of the bottom fifth in Brazil is roughly 40 per cent of the bottom fifth in Korea<sup>18</sup>; over half of national income goes to the top tenth of the population in Brazil.<sup>19</sup> In Brazil, less than two-fifths of the appropriate age group is enrolled in secondary school (as compared to over 90 per cent in Korea), infant mortality is 67 per thousand live births (two and a half times the level in Korea and almost twice the level of Sri Lanka), and the per capita calorie supply of 106 per cent of minimum implies serious malnutrition, given Brazil's grossly unequal distribution of income.<sup>20</sup>

Elsewhere, I have examined the economic contrast between South Korea and Brazil in some detail.<sup>21</sup> The essential point for my purposes here is simply the obvious contingency of the sacrifice of basic needs satisfaction and socio-economic equality. In at least some circumstances, development simply does not require a growth-first strategy, with its attendant sacrifice of social and economic rights.

Brazil's disregard for issue needs satisfaction and income equality, which required the military government forcing such trade-offs on the country, especially on labour and the poor,<sup>22</sup> was 'required' only in order to pursue a particular strategy and policies. And these policies, although the preferred choices of dominant military and civilian politicians and entrepreneurs, and thus perhaps *politically* 'necessary', simply were *not* required by any general, transhistorical development imperative.

Whatever necessity attaches to the sacrifice of needs satisfaction

and equality is socio-political, not economic in a technical sense of that term. Such trade-offs rest on political decisions arising from historically conditioned distributions of power and resources; they are linked not so much to the pursuit of the long-term goal of development (growth with equity, or even just growth alone) but rather to the more proximate, and contingent, choices of means (development strategies and policies).

## INCLUSION, EXCLUSION AND DEVELOPMENT STRATEGIES

Political exclusion of the masses, through the denial of civil and political rights, is also regularly argued to be necessary for development. The exercise of civil and political rights may threaten even the best-laid development plans. Therefore, it is argued, they must be temporarily suspended, so that policy-makers are not subject to extraneous political pressures and so that the exercise of civil liberties does not interfere with the maintenance of maximum social commitment to the development effort.

Political exclusion usually requires 'repression', that is, direct state action that systematically violates basic civil and political rights. Repression is the norm in developing countries, largely irrespective of development strategy or type of social system. State socialist strategies clearly rest on the elimination, or at least forcible neutralisation, of 'reactionary' elements and class enemies. Most accounts of successful state capitalist growth give no less central a role to repression, whether it be to manage and protect the process of capital accumulation both locally and on a world scale, defend class rule and privilege, manage the crises of peripheral development, assure purpose to development planning, guarantee labour discipline, force savings and investment, and so on. The record of civil and political rights in states pursuing other intermediate or mixed strategies is not all that much better. Nonetheless, I will argue that the denial of civil and political rights, no less than the sacrifice of economic and social rights, is largely a function of contingent choices of a particular style or strategy of development.

For the purpose of considering human rights trade-offs we can characterise regimes and their associated development strategies as exclusionary or inclusionary both economically and politically. The result is the typology in Figure 18.1.

		POLITICAL	
		EXCLUSION	INCLUSION
E C O N O M I C	EXCLUSION	<i>Exclusionary</i>	(?)
	INCLUSION	<i>Paternalistic</i>	<i>Participatory</i>

Figure 18.1 *Regime Types and Development Strategies*

In principle these two dimensions of exclusion may be unconnected, but in practice they are likely to be linked. For example, the economic exclusion implied by growth-first strategies may be theoretically possible in a variety of political systems, but in practice economic exclusion usually must be enforced by political exclusion (repression). This familiar pattern of a growth-first economic strategy coupled with the systematic denial of civil and political rights I have called in Figure 18.1 an 'exclusionary' regime or development strategy.

The need to maintain economic exclusion is a standard explanation of the need for repression and the breakdown of democratic regimes, especially in Latin America.<sup>23</sup> Bureaucratic-authoritarian rule requires repression to demobilise—if necessary eliminate—populist and radical forces, exclude major segments of the population from participating in and enjoying the benefits of development, and thus protect economic inequality and élite privilege. But repression is 'required' not by 'development' *per se* but in order to establish, sustain or cope with the contradictions of, a particular (exclusionary) *style* of development.

By a similar logic, the upper right hand corner of Figure 18.1 is likely to have few if any empirical referents. Not only does economic exclusion require political exclusion, but political *inclusion* seems to lead unavoidably to greater economic inclusion, as civil and political rights are exercised to further popular economic and social interests. In fact, it is often precisely the fear of such an exercise of civil and political rights that triggers repression.

Political exclusion, however, is compatible with both economic



inclusion and economic exclusion. South Korea, for example, illustrates the possibility of a highly repressive military dictatorship pursuing an economically inclusionary strategy. Cuba represents a somewhat different version of such a paternalistic strategy or regime.

For our purposes it is essential to emphasise not only the political contingency of repression—it is required principally to protect or realise a particular strategy or style of development—but also the fact that the victims of repression are no less politically contingent. Who is to be repressed, and how, are not determined by transhistorical forces but by political choices; the victims of repression are *chosen* by those who control the repressive apparatus of the state.

In a doubly exclusionary strategy such as Brazil's, the victims usually have been peasants, workers, slum-dwellers, native peoples and leftists. In the Marxist–Leninist version of a 'paternalistic' strategy (economic inclusion with political exclusion), capitalists, 'kulaks' and freethinkers (dissidents) of various types have been the principal victims of repression; the repression here is required not to enforce economic exclusion but rather to enforce a particular substantive model of economic *inclusion*. In the state-capitalist variant of a paternalistic strategy, as practised in Korea and Taiwan, the principal victims have been labour, particularly those who have tried to organise, and autonomous political organisations, especially of the left and liberal centre. This repression, in other words, is largely to enforce another model of economic inclusion.

In addition, of course, repression also is required to enforce political exclusion in all politically exclusionary strategies. Here, too, the particular form and targets will differ from strategy to strategy, as well as in response to particular local conditions. Such repression is especially clearly contingent.

All repression, of course, is not developmental. Some regimes, such as Mobutu's Zaire, are pursuing no plausible development strategy of any sort; two decades of negative growth, dismal basic needs performance, and the alleged plunder of literally billions of dollars conclusively unmask such bankrupt claims. In Zaire and many other personalist dictatorships, so-called development strategies are largely a cover for official theft.

Much repression in the contemporary Third World is either ideological or associated with intra-élite struggles. For example, even at its outset in April 1964, the Brazilian military gave national security equal billing with development as a justification for repression and by the late sixties, especially after December 1968, 'national

security' was the principal argument for Brazilian state terrorism.<sup>24</sup> Likewise, in South Korea the security threat from the North has always been at least as important as development in government justifications for repression. Furthermore, most repression, whatever else it does, aims to protect or acquire class or élite privilege.

Nonetheless, in what follows I usually will assume that allegedly developmental repression is in fact intended to speed or otherwise further national economic development. If the argument for repression can be refuted even if we allow this (overly) generous interpretation of the motives of dictators and despots, the conventional wisdom will have been decisively defeated.

## DEVELOPMENT AND REPRESSION

Despite the contingency of most human rights tradeoffs, repression of some sort is likely to be difficult to avoid in pursuit of the *structural task* of removing existing institutional and social barriers to development, and in pursuit of the *policy task* of assuring conformity to development plans.

All development strategies face the *structural task* of radical social transformation to remove established institutions incompatible with modernisation and development. Capitalist strategies require the suppression of pre-capitalist institutions, practices and ways of thinking. Socialist strategies require in addition the subordination of capitalism. Such radical social transformations rarely occur peacefully; they usually have involved considerable violence on the part of the state along with widespread violations of most civil and political rights—or at least the rights of those economically or politically excluded by the regime.

As is well known, capitalist development, whether in the core or the periphery, has in all notably successful cases involved massive violence and repression directed against established pre-capitalist institutions. And much of the same structural tasks face even Marxist–Leninist regimes, given that most (all those not directly imposed by the Red Army?) arose in pre-capitalist countries (such as China or Angola) or at best in countries in the very early stages of capitalism (such as Russia). In addition, they face the further structural tasks of overcoming whatever capitalist or proto-capitalist institutions and practices have been established. However unpalatable we find it, the simple fact is that development—growth with

equity or even just growth or equity—has in few if any major instances been achieved without considerable resort to repression.

The reasons for this are not far to seek. The state has always been involved in the process of economic development in the modern world. As the repression of labour in nineteenth-century Europe and North America clearly indicates, even the nightwatchman state was more than willing to become directly involved and to smash heads in order to further a particular style of development. And, when the state becomes involved, it tends to act in favour of certain classes or social groups, and against others, even when (as is *not* always the case) it is also acting in some plausible sense to further 'the national interest'.

States are not neutral instruments of technocratic economic management but rather the instruments, direct or indirect, of class or élite rule. All states tend to pursue development policies with a class bias, which almost always will involve a certain amount of repression—although in some instances direct repression will be rare. Furthermore, rulers are likely to be strongly tempted to resort to allegedly developmental repression for reasons that in fact rest on class, group or personal interests of the government.

Given these political realities, repression is likely to be at least temporarily unavoidable, especially given the high priority assigned to development by virtually all states. The distinction between repression being (politically) *unavoidable*, as opposed to the conventional argument that it is *necessary*, however, is absolutely essential.

Moderate, humane and enlightened ruling élites could, if they chose to do so, avoid much, probably most, perhaps even nearly all developmental repression. But we have little or no historical experience of such élite rule. Repression may thus be held to be necessary, in a strict sense of the term, regardless of development strategy. But this necessity is rooted in 'human nature' or the character of ruling élites, not the technical economic imperatives of development. Most of the 'necessity' of developmental repression lies in the realm of politics, not economics.

The distinction between necessity and unavoidability is especially important when we address not the general theoretical question of whether development without repression is possible but the central *political* question of whether development in country x at time y requires repression of type z. The question usually asked—'Is non-repressive development possible?'—is *not* the central issue. Instead we must ask, 'Is development possible *here* while avoiding

*these* kinds of repression?’ Some repression may be unavoidable in any development strategy, but that does not in itself make any particular repressive act or policy necessary. Even if repression of some sort may be unavoidable, the intensity and the targets of repression are largely matters of political choice.

Furthermore, because civil and political rights have an important inherent value, governments stand under a strong (moral and political) obligation to minimise developmental repression. This opens up all repressive acts to evaluation in terms of both their necessity and their benefits. And once we do this, we have forced the discussion back to the question of *trade-offs*, which must be instrumentally justified according to the familiar canons of cost–benefit analysis. Whatever its drawbacks, cost–benefit analysis is certainly preferable to the (almost always) general, abstract and at best vaguely justified assertions of the need to sacrifice human rights that tend to pass for ‘trade-off arguments’.

One might argue, though, that even economically ‘superfluous’ or dysfunctional repression is a tolerable, if not exactly unavoidable, negative side-effect of consciously chosen policies. For example, it might be argued that given the need for state direction of the economy, the benefits of even repressive direction, if economically successful, are sufficient to outweigh the costs. In this view, the positive role of the state in controlling development outweighs the costs of a relatively strong state resorting to excessive repression.

Such arguments are most plausible in repressive countries such as Korea, where the chosen development path (equitable growth) has involved relatively benign socio-economic trade-offs. They are perhaps even plausible in exclusionary bureaucratic-authoritarian regimes, at least when the chosen strategy ‘works’. But in far too many instances repression is without significant economic rewards, except for a tiny predatory élite, and thus is capable of no plausible *developmental* justification.

This is clearest in extreme cases of negative growth combined with massive repression, such as Ethiopia or Zaire. In the more typical case of relative stagnation, such as the Philippines under martial law, the problem is less dramatic, but only slightly less serious. Where there has been below average growth, little structural transformation of the economy, and no redistribution of wealth or income—or, even worse, when inequality has increased—it seems easy to say that what we have is, if not outright pillage, at least a bankrupt policy in which repression is exercised out of élite self-interest or some other political objective

rather than any plausible conception of national development. Such abuses of allegedly developmental repression, however, only serve to underscore the central point of the political basis of most repression.

This is equally true of capitalist and socialist regimes. Some capitalist regimes are more exploitative than others; some use more repression than others; some produce greater growth than others. In a few cases, such as Senegal, Singapore, Botswana, Venezuela or Costa Rica, (direct) repression may even be infrequent or rare. All, however, resort to repression primarily to assure *capitalist* development, rather than development *per se*.

Repression is no less essential to socialist development strategies, and the results have not been notably better. The unsurpassed repression of revolutionary Cambodia or Ethiopia has purchased no apparent developmental benefits, no matter how development is defined; in fact, it has produced little but social and economic disaster. Mozambique, Angola and Guinea-Bissau have used repression more moderately, but their economic performance has been as disappointing as most of the rest of Africa. In Cuba, extensive repression over more than two decades has brought undoubted improvements, but even here recent performance has been disappointingly mixed.<sup>25</sup> In all cases of socialist development, the bulk of the repression, both in the revolutionary phase and after the government has been firmly established, is to assure *socialist* development. Much the same can be said of mixed strategies.

Although you can't make an omelette without breaking eggs, just breaking eggs does not make an omelette. And it makes a great deal of difference whether one has to break three, four, five or a dozen eggs to end up with a three-egg omelette. The omelette can be burned, runny, or properly cooked. Once the omelettes have been made and we sit down to eat there may or may not be enough to feed everyone. And even if there is enough for all, some still may get a disproportionately large share while others go hungry. In other words, even if we are to grant that some repression in most circumstances is politically unavoidable, the real issue remains '*What* repression for *what* development?'

## REPRESSION AND 'STAGES' OF DEVELOPMENT

Over a period of time, success in the structural task should be associated with an increasing prominence of policy issues 'requiring'

repression that is relatively unambiguously political in its basis. This suggests that repression is likely to be linked not only with strategic choices based on power and politics but also with the 'stage' or 'phase' of development already achieved.

Stage theories of development are justly notorious: in the mechanistic way they have often been advanced, they represent a gross, distorting over-simplification. Nonetheless, for the purposes of considering the relationship between repression and development, they are useful. We can distinguish three broad phases in typical development processes.

(1) *Modernisation*: creation of the institutions of capitalist (or socialist or mixed) development, such as private (or state or mixed) ownership of the means of production, commodity production, market (or administered) exchange, and national economic integration. In the NICs this process usually began during the colonial period and drew to a close, depending on the country, as early as the 1930s, but no later than the late 1950s or early 1960s.<sup>26</sup>

(2) *Industrialisation*: the rise of the modern, urban industrial sector to a position of economic predominance, including at least some significant heavy industrial development. In the NICs this phase began no later than the 1960s (and usually decades earlier) and had reached a fairly high degree of development by the early 1970s.

(3) *Graduation*: further relative decline of agriculture, emerging predominance of heavy over light industry, further industrial deepening in many sectors, and the beginnings of the development of indigenous advanced technological capacity; roughly, the transition ('graduation') from developing to developed economy. By the late 1970s or early 1980s the leading NICs were clearly entering this phase, along the lines of what Japan experienced about a generation earlier.

There is nothing inevitable about movement through these particular phases, and success at one does not necessarily guarantee success at, or even a move to, the next higher stage. Nonetheless all countries that have achieved sustained successful development in any plausible sense of the term—the US, Western Europe, Japan, East Germany, the Soviet Union, and now the NICs—have followed this rough pattern. And this pattern has important implications for assessing the relationship between repression and development.

The repression characteristic of modernisation was discussed

above as being associated with the structural task of removing established social structures and practices that impede development. Resistance, which usually will be met by repression, is certain to come from the dominant groups that the modernisers are seeking to displace—large landowners, aristocrats, chiefs, priests, mullahs, and so on. Such opponents might be co-opted; this seems to have occurred, for example, with traditional chiefs in Ghana<sup>27</sup> and priests (marabouts) in Senegal.<sup>28</sup> They may even voluntarily acquiesce in the rise of new élites and sources of power. Or dominant groups may attempt to make accommodations that minimise repression, for example, as in the case of the Chittagong Tract Peoples. But this is the exception rather than the rule: repression at this stage seems to be extremely difficult to avoid; modernisers are likely to be ‘forced’ to resort to repression by traditional leaders who choose to resist modernisation.

Clearly the details will vary—often dramatically—from country to country depending on such factors as the nature of the traditional social system, colonial history, and resource base, not to mention even more variable and contingent factors such as leadership personalities and political ideology. Such factors will also interact with and help to determine decisions concerning development strategies, which, as we saw above, also will shape the nature of modernising repression.

Nonetheless, modernisation, and the apparent unavoidability of repression in its pursuit, would seem to be essential to any successful development strategy.<sup>29</sup> This is why arguments about the necessity of repression in development will never leave us: there is a certain (limited) truth to them.

But we must keep in mind that the claim that repression is essential to development is true *only* in a very limited sense. And even ‘necessary’ repression, like all political action, is subject to such standard criteria as efficiency and proportionality; a mere claim of necessity by the government is not enough.

Repression is at best a means to a desired end, not a goal in itself; it is obviously *undesirable* in itself. Therefore, even modernising repression must be evaluated according to its contributions to the end of modernisation, and the human and economic costs of repression must never be overlooked. Furthermore, we must be sure that arguments for modernising repression are not used once the stage of modernisation has been passed. This is especially important because often the repression we are concerned with—the practices of

dictators such as Park, Pinochet, Geisel or Castro—takes place well after the stage of modernisation has been passed.

Repression ought to be less necessary in pursuit of what I have called industrialisation if only because of the foundation for change laid during modernisation. In contrast to the essentially revolutionary struggle between old and new that dominates the phase of modernisation, we would expect industrialising repression to be associated with disputes over the intermediate ends sought and the means used in a particular development strategy as the structural task gives way to more clearly policy tasks, with their greater contingency.

Repression is especially likely to be used in this phase in order to enforce a particular distribution of the benefits and burdens of development. 'As tensions and conflicts over economic growth become aggravated, the different social groups change from defense of a *rate* of economic growth to a defense of a *pattern* of economic growth'.<sup>30</sup> And even the way that similar patterns are defended repressively may differ markedly, as a comparison between Brazil and Mexico makes clear.<sup>31</sup> Industrialising repression thus is much more open to critical evaluation.

Furthermore, with traditional forces subordinated and modern economic institutions established, the need for state intervention ought to be focused more closely on a relatively small set of strategic sectors, bottlenecks or opportunities. This may not necessarily imply less of a need for repression—consider the Brazilian or Argentine justification for repression in the need for targeted intervention to produce industrial deepening—but such repression is quite obviously tied to the demands of a particular strategy.

## GRADUATION, REPRESSION AND LEGITIMACY

The NICs in both Latin America and Asia, however, raise the most interesting questions with respect to repression. They are now moving into graduation, where we begin to see clearly the transition from 'developing' to 'developed' country (whether or not the transformation is in the end successfully achieved). At this stage, arguments for the developmental necessity of repression are particularly weak and controversial.

Arguments for repression based on the need for central economic direction are likely to be especially dubious. Physical and human capital and economic infrastructure should by this stage be developed



to such a point that heroic efforts to mobilise resources should no longer be necessary. Administrators should be sufficiently experienced to be able to manage state participation in the economy without heavy reliance on coercion and violence. Most markets, to the extent that they are central to the economy, should be fairly well established and capable of functioning with modest levels of direct state involvement, and entrepreneurs should be sufficiently skilled to operate successfully within the confines of a reasonably regulated market. In a non-market strategy, administration should begin to be replacing political/state coercion. And so forth. Certainly we cannot expect the state to remove itself from the economy altogether, even in a capitalist strategy, but prior development successes should have greatly reduced the need for further repression in the name of central economic direction.

We may even be able to consider the persistence of developmental arguments for repression once the stage of graduation has been reached as evidence for the failure of previous efforts or strategies. In its early stages, development may not be self-perpetuating—for example, until some critical mass is reached, or simply because of the structural incompleteness inherent in the early phases of anything. But if development has not become relatively self-sustaining by the graduation phase, then it is hard to see when it will. By the stage of graduation, allegedly developmental repression is almost certain to be based not on the demands of development but rather on the need to maintain an unpopular development strategy, or, more precisely, an increasingly unpopular and politically intolerable distribution of economic and political benefits, burdens and opportunities.

This reference to unpopularity raises the issue of legitimacy. So far, we have focused on the perspective of those at the top who are deciding to ‘trade off’ someone else’s rights. The other side of the picture is how these sacrifices are perceived and responded to by those whose rights are infringed. Whether people see themselves as *making* sacrifices or *being* sacrificed is no less important to the evaluation of developmental repression.

By the stage of graduation the population is likely to be significantly less willing to accept repression—political exclusion—whether the strategy pursued is economically inclusionary (as with Korea, Cuba or Taiwan) or exclusionary (as with Brazil or Chile), and whether it is capitalist or socialist. If this proves to be true, development is likely to be retarded as a result of reduced popular commitment and an increased diversion of social resources into developmentally superfluous

repression. 'Developmental' repression may then even become part of a destructive feedback process.

At earlier stages of development, the lure of material gain may be perceived as sufficient compensation for repression, especially if the promised gains prove forthcoming. One may argue that the bulk of the population is willing at least to tolerate the liberty trade-off at early stages of development, if the promised material benefits are delivered in a reasonable time. But even in an economically inclusionary (paternalistic) authoritarian regime, whether capitalist (such as Taiwan) or socialist (such as Cuba), material progress is increasingly unlikely to be seen as sufficient once the economy has grown to a point at which the material needs of the bulk of the population are regularly being satisfied.

In *some* circumstances the mass of the population *may* be willing to trade off civil and political rights for more rapid development—although such acquiescence is probably much more rare than dictators would like us to believe,<sup>32</sup> as the electoral defeat of even the extremely popular Indira Gandhi after the Emergency indicates. It is one of the paradoxes of developmental repression, however, that the repression itself makes it virtually impossible to confirm the popular acquiescence that is claimed. This alone should render such claims extremely suspect.

Furthermore, arguments of popular acquiescence to repression are morally suspect. Just as the popularity of, say, racial or sexual discrimination is usually held to be irrelevant—discrimination is wrong no matter how popular it is—so the popularity of beating, arresting, torturing or killing 'radicals', 'troublemakers', 'deviants' or 'counter-revolutionaries' ought to be morally irrelevant. In fact, if we take human rights seriously, they are *most* important precisely when there is popular support for their violation.<sup>33</sup>

But even if some civil and political rights may be more or less willingly sacrificed for material gain by poor people, rarely will they be willingly sacrificed for incremental (or no) material gain by those who have modest means or less.

Many people want a say in the political direction of their lives and an opportunity to pursue personal or group interests free of the coercive guidance of the state. Once such higher 'needs' have come to the fore, willingness to sacrifice civil and political rights—that is, willingness to tolerate repression and political exclusion—for further increments of material progress is likely to erode. South Korea provides a striking example of this. Even if earlier acquiescence to

repression were simply a reflection of fear, it would seem that this fear is easier to overcome once a certain amount of material comfort has been achieved; people are less likely to be willing to be denied civil and political rights once their basic material needs are tolerably well satisfied.

In exclusionary regimes such as Brazil popular opposition is likely to be especially strong. Those who have benefited materially are likely to desire greater liberty for the reasons already discussed above, while the masses of the population, who have not shared in the benefits of growth, are likely to be reaching the point at which they are no longer willing to be excluded, no longer willing to wait for the benefits to trickle down, no longer willing to entrust their interests to a government in which they have no say. Even in an economically inclusionary regime, excluded or repressed elements—such as labour in Korea—are likely to come to similar conclusions, with similar consequences for the development of more active resistance to repression.

## RESPONDING TO THE CRISIS OF LEGITIMACY

The upshot of such developments is likely to be a crisis of legitimacy: either growth continues, but is rejected as no longer enough, or growth slows or even stops, in which case a central underlying economic rationale for repression is removed. Faced with such a crisis, a regime is likely to be forced to choose between democratisation, or at least liberalisation, which means reducing repression; and further repression, which simply cannot reach the causes of the crisis even should it prove capable of controlling the symptoms.

(The international illegitimacy of repressive regimes under international human rights standards further intensifies the dilemma. This apparently was an important, if secondary, factor in the democratisation of Spain, and may be a constraint on re-exclusion in countries such as Argentina and Brazil. It also may be part of the explanation of the apparent liberalisation now promised in Korea.)

The return of civilian governments to Argentina and Uruguay, renewed opposition to Pinochet, and regional electoral problems for the PRI in Mexico point to the seeming generality of such crises of legitimacy. In fact, this may be part of a more general phenomenon of limited, long-run, popular tolerance for repression. Consider, for example, the fall of Marcos and of Somoza, continued opposition to

Suharto in Indonesia, and the general long-term instability of most military regimes in Africa and Latin America. The argument that the legitimacy of repression declines with development success, however, suggests that any such general problems should be especially serious in the NICs.

In the broadest terms, we would expect the course of legitimacy crises, insofar as they are tied to economic performance, to be closely linked to the character of the particular strategy pursued, the resources available to the state, and the nature and extent of its autonomy. The state's resources are especially crucial to its ability to succeed with a strategy of increased repression.

By Third World standards, though, the NICs have available to them relatively substantial institutional, administrative and technical resources that might be turned to repression. In fact, developmental success is likely to have contributed greatly to the acquisition and improved exercise of such resources. Therefore, on this ground at least, the NICs have greater than average flexibility when it comes to responding to a legitimacy crisis with further, or even increased, repression.

Repressive responses, however, run the risk of simply intensifying the crisis. In an exclusionary regime, further repression will make increasingly obvious the fact that élite privilege rather than development is the reason for mass deprivation and political exclusion. Such a strategy is unlikely to be stable.<sup>34</sup>

Paternalistic regimes may be more likely to assure stability by further repression, particularly where the apparatus of the state is highly developed. Sluggish economic performance, however, would seem to be the cost of such stability. And here, too, such a strategy is likely to underscore the fact that repression is for particular social and political purposes, a particular style of development—and one that is not very popular with its alleged beneficiaries.

Democratisation offers a solution that might very well prove compatible with future growth and development at a rapid pace. Repression, having served its avowed purpose of bringing the country to the point of graduation, can be *relatively* easily relaxed, the past record of economic inclusion providing a base for a move towards political inclusion. But this, of course, requires that the ruling class or élites are 'willing'—usually, have come to feel themselves forced by popular resistance—to allow liberalisation leading to democratisation. Such 'enlightened self-interest' cannot always, or even often, be counted on.

Democratisation, however, is not without its pitfalls. The most obvious threat lies in reactionary efforts to return to political exclusion. Should the newly ascendant political groups mismanage the economy—or pose what is perceived to be an excessive and intolerable threat to the prior political and economic élite—a return to authoritarianism is a real possibility. Should that occur, though, we can expect another legitimation crisis to emerge not too far down the road.<sup>35</sup>

All of these problems of democratisation will be especially serious where the development strategy has been exclusionary, for here the ruling class is likely to be even less willing to relinquish power, the masses are likely to lack political experience, and the economic and social pressures for change are likely to be stronger, having been even more pent-up during the preceding stages, and thus harder to keep within what the old élite considers tolerable bounds. Those who have pursued an exclusionary strategy probably will be even more resistant to democratisation (political inclusion) and thus will opt for it only after all else fails—hardly a propitious time for democratic success.

In other words, authoritarian failure may provide a honeymoon for a new democratic regime, but it hardly guarantees success. Political legitimacy ultimately must be earned by positive action, which usually will involve a degree of economic success. Unless the new regime can build on its initial foundation of popular support by restoring growth and development, it is likely to be faced with its own crisis of economic legitimacy. Economic success or failure, however, may not be entirely under the control of the government.

If support for the overthrow of authoritarianism came in large measure because of an economic crisis beyond the control of the old regime, a new democratic regime will be unlikely to be able to turn the economy around, and thus will be subject to the same sort of delegitimising failure that brought it into power. One might plausibly argue that the recent wave of redemocratisation in South America fits this pattern, suggesting considerable instability facing the new civilian governments. Likewise, if authoritarian failure arose from the fact that economic or political élites refused to allow the government to implement a successful development strategy, a new democratic regime will face the spectre of a disaffected former ruling class waiting in the wings to reassert (authoritarian) control.

We can go from country to country and see the same sort of *contingency* in the presence or absence, and particularly the character, of repression. Repression is an instrument of a particular policy

much more than a general requisite of development, especially once the stage of modernisation has been passed.

The contingency of repression receives further confirmation when we, more realistically, relax the assumption that repression has (only) a developmental rationale. Repression for the self-aggrandisement of the ruling élites simply underscores the contingent character of repression in the struggle for development. The billions acquired by dictators like Mobutu, Marcos, Duvalier and Somoza, and the repression required to protect the pillaging of the public coffers, have no plausible economic or moral justification. Such policies are purely political choices of predatory élites. Unfortunately, those who wield repressive power far too often—almost certainly more often than not—use it, at least indirectly, for self-enrichment. Rarely does it reach the level of a Marcos or Mobutu, but that is a relative difference only.

National security arguments, and other non-economic sources of legitimacy, however, often complicate the picture painted above. For example, the threat from the north in South Korea gives the military a rationale for continued control largely absent in Brazil, Uruguay or Argentina, where now there is not even an internal communist threat that can be summoned. Likewise, the new 1986 state of siege in Chile may have been made to appear more palatable to some elements of the centre and right by what the government presented as a major resurgence of urban terrorism. 'Charismatic' legitimacy adds similar complications, although the inability of Peron to transfer it illustrated the long-run fragility of such power; unless it is institutionalised—and charisma by definition is personal, not institutional—it is unlikely to persist. The special legitimacy of the military, as an allegedly apolitical source of order, vision, and technical-bureaucratic expertise, also can be an important factor, and clearly has been in countries such as Brazil and Korea. Electoral legitimacy should not be overlooked either, not only because countries like Mexico underscore its significance throughout the development process, but because it is likely to be crucial to successful and sustained transitions to democracy. For example, Lamounier suggests that the relatively strong roots of electoral politics (although not particular parties) in Brazil have been crucial to political decompression there.<sup>36</sup>

Multiple factors, including multiple sources of legitimacy, thus greatly complicate the simple scenarios presented above. Again, though, the complications underscore the central theme of this chapter, namely, contingency of repression in the process of development.

## CONCLUSION

Some repression almost certainly is unavoidable. Much repression is undoubtedly functional for a *particular* development strategy. But the familiar general claim that development requires repression is at best grossly misleading.

Of course, if repression is a contingent political response to particular opportunities, problems and challenges, what is really needed is not a general theoretical argument of the type developed here, but case study analysis—particularly if we want to understand the *causes* of repression. Nevertheless, my argument about the contingency of repression still needs to be made. Given the current state of the discussion, the first step in understanding the causes of repression and the links between repression and development is to recognise that these causes simply do not lie in any *general* developmental imperative. My principal goal here has been to take this essential first step.

## NOTES

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2. See, for example, Samuel P. Huntington and Joan M. Nelson, *No Easy Choice: Political Participation in Developing Countries* (Cambridge: Harvard University Press, 1976) pp. 168–9; and Georges-André Fiechter, *Brazil since 1964: Modernisation under a Military Regime* (London: Macmillan, 1975) p. 207.
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6. Frances Stewart, *Basic Needs in Developing Countries* (Baltimore: Johns Hopkins University Press, 1985) p. 212.
7. Marius B. Jansen, 'Democracy vs. Centralism (Panel Discussion)', in Michio Nagai (ed.), *Development in the Non-Western World* (Tokyo: United Nations, 1984) p. 229.
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18. Donnelly, 'Human Rights and Development', *op. cit.*, Table I.
19. Hewlett, *The Cruel Dilemmas of Development*, *op. cit.*, Table 13.
20. World Bank, *op. cit.*, for 1986, p. 235; for 1987, pp. 258–9, 263.
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  32. Howard, 'The Full-Belly Thesis', op. cit.
  33. Compare Donnelly, *The Concept of Human Rights*, op. cit., chap. 3.
  34. Compare William Canak, 'The Peripheral State Debate: State Capitalist and Bureaucratic-Authoritarian Regimes in Latin America', *Latin American Research Review*, 19, 1 (1984) p. 24.
  35. Gordon Richards, 'Stabilization Crises and the Breakdown of Military Authoritarianism in Latin America', *Comparative Political Studies*, 18 (January 1986) pp. 451-61.
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# 19 Human Rights and Development: Theory and Data

KATHLEEN PRITCHARD

## INTRODUCTION

It is a tenet of faith among politicians, financiers, and academicians that economic development enhances human rights conditions. This common assertion, however, masks a great deal of debate regarding the precise relationship between development and human rights. In fact, there is lack of agreement about which particular rights are affected by economic development and even whether human rights are to be considered the cause or the effect of the relationship. The debate stems from different ideological perspectives, academic propensities and definitions of concepts.

Initially common in political science was the argument that political and civil rights are prerequisite for economic development.<sup>1</sup> This belief was based on the assumption that political and social conditions play a decisive role in assisting or impeding advances in per capita income. Conversely, economic development has been viewed as both a means of obtaining, and an excuse for repressing, civil and political rights. More widely accepted today, however, is the belief that economic and political systems are interdependent and that human rights conditions are often the result of this interaction.<sup>2</sup>

Still, arguments remain about precisely which rights are affected by this interaction. Perhaps the most commonly asserted position is that economic development affects only those rights that have come to be known as 'positive', socio-economic rights. From this perspective, some human rights (such as the rights of peaceful assembly and association) are expected to be independent of economic considerations, while other human rights (such as the right to protection against unemployment and the right to social security) are expected to depend on the level of economic development. The implication is that only positive rights put a burden on government resources and that the provision of socio-economic rights is differentially related to economic development.<sup>3</sup>

Gaining ground today, however, are those who assert that economic development is a process designed to create conditions in which people can enjoy, exercise and utilise all their human rights, whether economic, social, cultural, civil or political. This position is based on the premise that the positive/negative distinction between types of rights is somewhat artificial, or at least semantic, and a growing acknowledgement of the correctness of international instruments which declare all rights indivisible and interdependent, with none ranking in priority over others.<sup>4</sup> From a theoretical perspective this position is in consonance with recent work on the concept of human rights asserting that rights imply complex relationships between the rightholder and obligee, and that governments are the units obliged in the case of human rights.<sup>5</sup> An extension of this argument is that *all* rights imply correlative duties and that these obligations require the availability of resources to provide for rights.

In addition to the difficulty of specifying the precise nature of the connection between economic development and human rights conditions, attempts to test the relationship empirically have been limited. In part this is due to the difficulty of measuring human rights conditions in general, but it is also a reflection of the lack of agreement about the precise nature of the expected linkage. With few exceptions, the existing empirical work tests the impact of economic development on socio-economic rights only, and ignores its potential influence on civil and political rights.<sup>6</sup>

The usual approach has been to employ gross national product (GNP) as an indicator of economic development and the Physical Quality of Life Index (PQLI) to measure socio-economic rights conditions. The general suspicion that higher levels of economic development are related to better socio-economic rights conditions is confirmed by these studies, but many deviant cases suggest it is not a sufficient explanation. A high GNP, in itself, is not a guarantee of high levels of socio-economic rights conditions, and, conversely, high levels of socio-economic rights can be obtained in nations without a high GNP per capita. Further, these studies tell us very little about the relationship of economic development to civil and political rights.

## A REVIEW AND EXPANSION OF THE USUAL APPROACH

Adhering to the broader expectation that economic development has an impact on all types of human rights, this study began by exploring

the relationship between per capita GNP as a measure of economic development and indicators of civil, political, and socio-economic rights. To some there may be something offensive about discussing human rights in terms of statistics. Reducing the rights of human beings to numerical rankings and correlations may mask the meaning of both the enjoyment and repression of human rights. Nevertheless, the field of human rights is characterised by random observations and subjective opinions, and because the very words 'human rights' provoke such an emotional response, quantification is desirable.

This study includes 133 independent nation states. The time period under consideration is generalised to the early 1970s due, in part, to the availability of data. Assessments of political and civil rights are those of Gastil.<sup>7</sup> Data are for 1974 and represent an assessment of the rights of the population as a whole. Although the Gastil data are not without criticism, even the critics view the data as providing useful quantitative information regarding civil and political rights conditions over a relatively large sample.<sup>8</sup> The measure of socio-economic rights comes from Morris' Physical Quality of Life Index which is based on indicators of literacy, infant mortality and life expectancy. It was developed for the Overseas Development Council and is considered to be a relatively straightforward way to quantify the extent to which the most basic human needs are being met.<sup>9</sup>

For this research, each indicator was initially converted to a seven-point scale, with one being the lowest and seven the highest. Interestingly, the correlations among the three types of rights are positive and statistically significant, indicating substantial relationships among the different types of rights.<sup>10</sup> Nations that score high on civil rights conditions are likely to score high on political rights and, to a lesser degree, on socio-economic rights as well.

In addition to the measures of the individual types of rights, a seven-point composite index of overall human rights conditions<sup>11</sup> was also calculated by averaging the three summary indicators, giving equal weight to each of them. Equal weighting is conceptually consistent with the idea that human rights are indivisible and interdependent, and also provides the advantage of limiting the influence on any one indicator. The median ranking of the nations on the overall human rights index is 3.4. Fifty nations (38 per cent) are classified on the lowest end of the human rights scale (1 and 2), while only 30 nations (22 per cent) are rated at the highest range of the scale (6 and 7).

Since the scores are relative, some caution is advised in their

TABLE 19.1 *Country ratings on overall human rights conditions*

<i>Lowest</i>	<i>Lower Middle</i>	<i>Upper Middle</i>	<i>Highest</i>
Afghanistan	Albania	Argentina	Australia
Burundi	Algeria	Hungary	Austria
Cent. Afr. R.	Bulgaria	Bahrain	Bahamas
Chad	Burma	Bolivia	Barbados
Zaire Rep.	Cameroon	Botswana	Belgium
Dahomey	Chile	Brazil	Canada
Eq. Guinea	China	Taiwan	Columbia
Ethiopia	Cuba	Cyprus	Costa Rica
Gabon	Congo	Dominican R.	Denmark
Ghana	Czechoslovakia	El Salvador	Finland
Guinea	Ecuador	Gambia	France
Haiti	E. Germany	Guatemala	W. Germany
Iraq	Guyana	Honduras	Greece
Ivory Coast	Indonesia	India	Iceland
Libya	Iran	Korean Rep.	Israel
Malawi	Jordan	Kuwait	Italy
Mali	Khmer Rep.	Malaysia	Jamaica
Mauritania	Kenya	Mauritius	Japan
Nepal	Laos	Mexico	Lebanon
Niger	Lesotho	Pakistan	Malta
Nigeria	Liberia	Paraguay	Netherlands
Qatar	Morocco	Philippines	New Zealand
Rwanda	Nicaragua	Poland	Norway
Saudi Arabia	Bangladesh	Portugal	Sri Lanka (Ceylon)
Senegal	Panama	Singapore	Sweden
Sierra Leone	Peru	S. Africa	Switzerland
Somali Rep.	Romania	Spain	Trinidad
South Yemen	Swaziland	Thailand	United Kingdom
Sudan	Tunisia	Turkey	United States
Syria	Egypt	USSR	Fiji
Tanzania	Yemen	Tonga	Venezuela
Togo	Yugoslavia	Uruguay	
Uganda	Zambia	W. Samoa	
UAE			
Upper Volta			

interpretation. Extremes are neither surprising nor difficult to interpret. Countries scoring highest on the scale score high on all aspects of human rights, while those rated low on the overall human rights index scored low on all measures of human rights. The middle ranges of the overall index are, of course, more difficult to interpret since these include nations which may have relatively high scores in some areas and low scores in others, as well as nations that score in

TABLE 19.2 *Per capita GNP and human rights conditions*

	\$0-300	\$301-699	\$700-1999	over \$2000
<i>Pol. Rts.*</i>				
lowest	18 (34.0)	3 (10.3)	5 (20.8)	3 (11.5)
lower mid	17 (32.1)	10 (34.5)	3 (12.5)	3 (11.5)
upper mid	13 (24.5)	11 (37.9)	7 (29.2)	1 ( 3.8)
highest	5 ( 9.4)	5 (17.2)	9 (37.5)	19 (73.1)
<i>Civ. Rts.*</i>				
lowest	22 (41.5)	12 (41.4)	7 (29.2)	4 (15.4)
lower mid	13 (24.5)	4 (13.8)	5 (20.8)	2 ( 7.7)
upper mid	17 (32.1)	6 (20.7)	5 (20.8)	1 ( 3.8)
highest	1 ( 1.9)	7 (24.1)	7 (29.2)	19 (73.1)
<i>S.E. Rts.*</i>				
lowest	22 (52.8)	5 (17.2)	0	1 ( 3.8)
lower mid	18 (34.0)	10 (34.5)	2 ( 8.3)	2 ( 7.7)
upper mid	7 (13.2)	12 (41.4)	12 (50.0)	2 ( 7.7)
highest	0	2 ( 6.9)	10 (41.7)	21 (80.8)
<i>H.R. Index*</i>				
lowest	33 (62.3)	13 (44.8)	1 ( 4.2)	3 (11.5)
lower mid	13 (24.5)	3 (10.3)	8 (33.3)	3 (11.5)
upper mid	7 (13.2)	10 (34.5)	7 (29.2)	1 ( 3.8)
highest	0	3 (10.3)	8 (33.3)	19 (73.1)

\* = statistically significant at the .05 level.

N = 132

1973 GNP per capita at market prices.

Economic data come from Arthur Banks, *Political Handbook of the World* (New York: McGraw Hill, 1976) and G. Kurian, *Book of World Rankings Facts on File*, 1979).

the middle ranges on all three indicators. Still, a contemporary definition of human rights implies that there is no necessary reason to place great emphasis on one or the other types of rights in constructing an overall index.

Table 19.1 displays the ranking of the countries on the human rights index. Here, data are presented in quartiles to reflect the actual range and distribution of nations. The use of quartiles also acknowledge the importance of considering these as relative and not absolute measures.

Table 19.2 permits an initial look at the relationship between development (using the standard measure of GNP per capita) and the indicators of the individual types of rights as well as the overall index.

The data on the relationship between economic development and socio-economic rights are not empirically surprising and support the work of others in this area. Eighty per cent of the nations with high per capita GNP score highest on socio-economic rights conditions. None of the lowest-income countries score high. Although seven nations in this group (13 per cent) do manage to score in the upper-middle quartile on socio-economic rights conditions (Sri Lanka [Ceylon], Korean Republic, Paraguay, Thailand, China, Ecuador and El Salvador), the majority of the lowest-income nations ranks in the lowest quartile. Only one nation in the highest income range scores lowest on the socio-economic rights conditions (Qatar).

Of the 52 countries in the lowest-income group, 34 per cent score in the lowest quartile on political rights conditions, while almost three-quarters of the high-income nations score high on political rights. Higher levels of economic development do, in fact, appear to be associated with better performance on political rights, although five countries (Botswana, Sri Lanka [Ceylon], El Salvador, India and Gambia) that score low on GNP do score high on political rights conditions (a reminder that these are data from the early 1970s is appropriate here). Conversely, three countries with high GNP score low on political rights (Libya, Czechoslovakia and East Germany). Despite these exceptions, the relationship between per capita GNP and political rights enjoyment is statistically significant.

As indicated in the table, almost three-quarters of the high income nations are in the highest range on civil rights conditions. Forty-one per cent of the lowest-income nations score lowest on civil rights. Again, the relationship is statistically significant and suggests that an increase in per capita GNP is associated with increased civil rights conditions. And again, there are exceptions to the general pattern; one nation with a low GNP scores high on civil rights (Gambia) while four with high GNPs score low on civil rights (East Germany, Czechoslovakia, Libya and Poland).

On the overall human rights index the pattern in the data is the same: low-income countries tend to score poorly while higher-income countries score on the higher end of the human rights scale. Note that no nation in the lowest GNP category scores high on the overall human rights index.

Correlations between GNP per capita and the individual types of rights are all positive and statistically significant. And, as might be expected, the correlation between GNP and socio-economic rights conditions is highest (.39), but the correlations for political and civil



rights conditions (.33 and .32 respectively) do not suggest the need to distinguish between different types of human rights when discussing the relationship between development and human rights. In brief, while these data confirm earlier studies which investigate the relationship between GNP and socio-economic rights, they also suggest that political and civil rights conditions are associated with a nation's overall level of wealth. Finally, these correlations, which are moderate at best, suggest the need for an improved measure for assessing the relationship between economic development and human rights conditions.

### IN SEARCH OF A BETTER MEASURE

I have previously noted that the more promising work on the concept of human rights argues that all rights imply a complex relationship between the right-holder and the obligee and, in the case of human rights, it is the government that is obliged. Since obligations require resources, the availability of economic resources affects government's ability to provide for all types of rights. Assuming that a government's role in promoting (or repressing) human rights depends not so much on gross national product, but more on the extent to which these resources are accessible and available to the government, this suggests that per capita national government revenue better describes the government's *capacity* to affect human rights conditions.

National government revenue figures include receipts from: (1) taxes; (2) fees and income from state property and enterprises; (3) administrative fees, fines and forfeitures; (4) proceeds from the sale of state property, and (5) grants from other governments and international institutions. (Receipts which result from borrowing or money creation are not included.) By far, the major sources of national government revenue is taxes. Tax revenue includes receipts from: taxes on net income and profit (corporate and individual); social security contributions; payroll and property tax; domestic taxes on goods and services (that is, general sales tax, turnover, value-added, selective excise taxes and license taxes); taxes on international trade (that is, import and export duties and exchange taxes and profits); and miscellaneous taxes such as poll and stamp taxes. The primary purpose of taxation is to divert control of economic resources to the state for its own use or to transfer to others. Obviously, a nation's tax capacity depends both on the people's ability to pay and

the government's ability to collect taxes. National tax effort can thus reflect overall state strength or the degree to which the state can control the activities of its population.<sup>12</sup>

Fees and incomes from state property and enterprises are sizeable in many countries, particularly oil-producing countries with nationalised petroleum industries, and many socialist nations. Grants from other governments and international institutions make up a large portion of receipts in a few countries. Particularly for its reflection of national tax effort and grants (which would not be reflected in GNP), per capita National Government Revenue provides a measure which could help to assess more accurately the government's capacity to influence human rights conditions.

The correlation between per capita gross national product and per capita national government revenue is .62, suggesting a relatively strong, positive relationship between the two economic measures. The obvious expectation, then, is that low income (GNP) nations are also those with the lowest national government revenue, while wealthy nations are those with the highest government revenue. And, in general, this is the case.

Despite this general pattern, however, there are some interesting exceptions. The most common exceptions to the general rule are countries with the lowest GNP having slightly higher than expected government revenues. Examples are reflected in Table 19.3 and include Bolivia, Botswana, Ecuador, Gambia, Ghana, Honduras, Liberia, Mauritania, Morocco, Paraguay, Sri Lanka (Ceylon), Thailand and Togo. Zambia has a particularly high government revenue in comparison to its GNP.

Similarly, several nations having a per capita GNP of \$301–699 have government revenues higher than might be expected. These include Brazil, Taiwan, Iran, Iraq, Jamaica, Malaysia, Mexico, Peru and Turkey. In this category, Saudi Arabia and Malta reflect the most extreme differences, displaying exceptionally high government revenue in relation to GNP. Nations having a per capita GNP of \$700–1999 again reflect the usual pattern, with the relatively common exception of nations such as Israel, Romania, the Soviet Union, Bulgaria and Venezuela having national government revenues slightly higher than expected.

Exceptions, in most cases, can be explained by factors included in the composition of national government revenue. For example, the following nations are considered to have a high tax effort in relation to their income; Cameroon, Ghana, Korea, Morocco, Sierra Leone,

TABLE 19.3 *National Government Revenue per capita*

<i>Under \$20</i>	<i>\$20-60</i>	<i>\$66-291</i>	<i>Over \$290</i>
Bahrain	Bahamas	Qatar	
Swaziland	Chile	Poland	
Afghanistan	Albania	Argentina	Australia
Algeria	Colombia	Barbados	Austria
Burma	Dom. Rep.	Congo	Hungary
Burundi	El Salvador	Cyprus	Belgium
Khmer Rep.	Guatemala	Gabon	Canada
Chad	Guinea	Greece	Czechoslovakia
Zaire	Ivory Coast	Guyana	Denmark
Dahomey	Jordan	Lebanon	E. Germany
Ethiopia	Nicaragua	Mauritius	Finland
Haiti	Philippines	Panama	France
India	Senegal	Portugal	Iceland
Indonesia	Tunisia	S. Africa	Italy
Kenya	Tonga	Spain	Japan
Laos	W. Somoa	Trinidad	Kuwait
Lesotho		Singapore	Libya
Malawi	Bolivia (2)	Egypt	Netherlands
Mali	Botswana	Fiji	New Zealand
Nepal	Cameroon (3)	Uruguay	Norway
Niger	Cent. Afr. R.	Yugoslavia	Sweden
Nigeria	Gambia (3)		Switzerland
Pakistan	Ghana (1)	Brazil (1)	United Kingdom
Bangladesh	Honduras	Taiwan (3)	UAE
Rwanda	Korean Rep. (1)	Costa Rica (3)	Ireland
Somali Rep.	Liberia	Iran (2)	United States
Sudan	Mauritania (2)	Iraq (1)	W. Germany
Tanzania	Morocco (1)	Jamaica (1)	
S. Yemen	Paraguay	Malaysia (1)	Bulgaria
Uganda	Sierra Leone (1)	Mexico	Israel (2)
Upper Volta	Sri Lanka (Ceylon)	Peru (1)	Malta
Yemen	Thailand (1)	Syria (2)	Romania
	Togo	Turkey (3)	Saudi Arabia
	Ecuador (2)		USSR
	Zambia (3)		Venezuela (2)

..... = Lower than expected Gov. Rev. based on GNP

□ = Higher than expected Gov. Rev. based on GNP

(1) = high tax effort

(2) = substantial foreign economic assistance

(3) = both

1973 national government revenue per capita in US dollar equivalents from Banks, *Political Handbook of the World*, and G. Kurian, *Book of World Rankings*.

Data are missing for Cuba, China and Equatorial Guinea

Thailand, Zambia, Brazil, Taiwan, Costa Rica, Iraq, Jamaica, Malaysia, Peru and Turkey.<sup>13</sup> Tax effort, it has been noted, depends in part upon the government's ability to collect taxes. It reflects both administrative effectiveness (for example, the numbers, skill and dedication of the revenue staff) and the co-operation of taxpayers. Further, tax ratios are generally higher in developed countries than in less developed countries.<sup>14</sup>

In several cases, the general exception might be explained by the influx of foreign or international grants or economic assistance. This is suggested by the fact that many of these nations (such as Bolivia, Ecuador, Ghana, Mauritania, Zambia, Taiwan, Iran, Syria, Turkey, Israel and Venezuela) received substantial economic assistance from either the United States, China, the Soviet Union, or the Eastern European bloc during the time period under consideration.<sup>15</sup>

Finally, exceptions may reflect incomes and fees from state property and enterprises expected to be higher than average in oil-producing and socialist countries, and several examples are apparent in the table.

While the expected pattern is reflected in the data, and the usual exception is a slightly higher national government revenue in comparison to GNP, there are some cases in which this pattern is reversed. That is, there are a few nations in which per capita national government revenue is lower than might be expected based on per capita GNP. These include Chile, Poland, Qatar, Swaziland, Bahrain and the Bahamas.

## WHY EXPECT A POSITIVE EFFECT?

Having noted the definition and described the distribution of nations on national government revenue, it is appropriate to specify *why* nations with greater government resources (revenue) are expected to reflect better human rights conditions. The nature of the state's command over resources is sufficient to make it a formidable force in shaping human rights conditions, and the extent to which the state can effectively raise human rights conditions depends on its resource capacity. But why expect a positive effect?

Theory from the field of public administration suggests that the state, through the behaviour of bureaucracies, will seek the common interest through the rational logic of the technician.<sup>16</sup> A similar explanation, coming from an economic perspective, is offered in what

are defined as the 'economic objectives of the state'. Theoretically, the government seeks to provide collective goods and services that correspond to the traditional functions of the state (such as national defence, the administration of justice, and institutions which provide for public goods), while promoting growth, development, and stability. Economic objectives, of course, are subject to interpretation and have meaning only when given specific content reflected in policies. The determination of these policies is a basic function of the political system. But almost all policies require some government spending, and government spending necessarily requires government revenue.

It might be argued that increased government revenue might lead to better human rights conditions only in democratic governments, where there is a check on the government's economic objectives or, as much of economic theory assumes, in governments run by a philosopher king. History, however, suggests that even apparent absolute rulers in authoritarian governments cannot disregard the pressure exerted by interest groups, party élites, the military, and spending agencies. As Goode points out, 'any intelligent leader of any government, whether he gained office by the ballot box or coup, will wish to make the best use of the limited resources he can command, best being defined as most efficient in advancing objectives he considers important'—the objectives of the state, as well as the state leader's own continuation in office.<sup>17</sup>

Further, there is empirical evidence that countries in the highest stages of development have the greatest opportunity to adapt their tax systems to their political preferences, while in earlier stages of development governments are constrained by the size of alternative tax bases and their administrative capabilities.<sup>18</sup> Since we expect nations with the greatest economic capacity to be most effective in advancing government objectives, and since the desire for continuation in office requires consideration of human rights, we expect nations with the highest economic capacity to be rated highest on human rights conditions.

Table 19.4 depicts the relationship between per capita national government revenue and each of the measures of human rights conditions. On political rights only one country (India) in the category of lowest government revenue scores high. The greatest percentage (38 per cent) of low-revenue nations scores in the lowest quartile on political rights conditions. Of those nations having the highest per capita government revenue, almost 70 per cent score in

TABLE 19.4 *Per capita national government revenue and human rights*

	<i>Government Revenue</i>			
	<i>under \$20</i>	<i>\$20-60</i>	<i>\$66-290</i>	<i>over \$290</i>
<i>Pol. Rts.*</i>				
lowest	12 (37.5)	7 (21.2)	3 ( 9.1)	5 (15.6)
lower mid	11 (34.4)	9 (27.3)	8 (24.2)	4 (12.5)
upper mid	8 (25.0)	11 (33.3)	13 (39.4)	1 ( 3.1)
highest	1 ( 3.1)	6 (18.2)	9 (27.3)	22 (68.8)
<i>Civ. Rts.*</i>				
lowest	16 (50.0)	8 (24.2)	10 (30.3)	8 (25.0)
lower mid	7 (21.9)	10 (30.3)	6 (18.2)	1 ( 3.1)
upper mid	9 (28.1)	10 (30.3)	9 (27.3)	2 ( 6.3)
highest	0	5 (15.2)	8 (24.2)	21 (65.6)
<i>S.E. Rts.*</i>				
lowest	18 (56.3)	10 (30.3)	4 (12.1)	1 ( 3.1)
lower mid	14 (43.8)	10 (30.3)	7 (21.2)	2 ( 6.3)
upper mid	0	13 (39.4)	16 (48.5)	2 ( 6.3)
highest	0	0	6 (18.2)	27 (84.4)
<i>H.R. Index*</i>				
lowest	24 (75.0)	13 (39.4)	7 (21.2)	3 ( 9.4)
lower mid	6 (18.8)	9 (27.3)	7 (21.2)	6 (18.8)
upper mid	2 ( 6.3)	10 (30.3)	12 (35.4)	1 ( 3.1)
highest	0	1 ( 3.0)	7 (21.2)	22 (68.8)

\* = statistically significant at the .05 level.

N = 130

the highest quartile on political rights conditions, although five nations (Bulgaria, Czechoslovakia, East Germany, Libya and Romania) in this category score low.

No nation scoring lowest on government revenue ranks highest on civil rights conditions. In fact, half of these score in the lowest quartile. By contrast, of the nations in the highest per capita government revenue grouping, two-thirds score high on civil rights. However, eight of the nations in this group (25 per cent) do score lowest on civil rights (Bulgaria, Czechoslovakia, East Germany, Libya, Romania, Saudi Arabia, the Soviet Union and Hungary).

The pattern is similar but more apparent on socio-economic rights conditions. Of those nations with a per capita national government revenue of less than \$20, 100 per cent score in the lowest half of the measure rating socio-economic rights conditions. Countries having a per capita government revenue in the lower-middle category (\$20-

TABLE 19.5 *Correlations between economic variables and human rights conditions*

	<i>Per Capita GNP</i>	<i>Per Capita Nat. Gov. Rev.</i>
Pol. Rts.	.3276	.5221
Civ. Rts.	.3168	.4754
S.E. Rts.	.3909	.5887
Human Rts. Index	.4001	.6172

All correlations are statistically significant at .000

60) are distributed about equally in the lower three quartiles of socio-economic rights. None of these scores high. By contrast, almost 85 per cent of the nations having the highest per capita government revenue are ranked highest on socio-economic rights conditions. Only one of these nations (Saudi Arabia) scores low.

On the overall human rights index, low per capita government revenue is clearly associated with lower performance on human rights. Three-quarters of the nations in the lowest government revenue group score in the lowest category on human rights, none scores in the highest range. Only one country in the lower middle quartile of government revenue scores high on overall human rights. Three nations (approximately 9 per cent) of those in the highest income group still score low on the overall index, but almost 70 per cent score in the highest range.

The correlations between per capita government revenue and each of the measures of human rights conditions are positive and statistically significant, suggesting that increased government resources are associated with increased human rights performance. Table 19.5 permits comparison of the correlations between this measure and the more traditional measures of GNP per capita. In each case, the correlations between national government revenue and human rights are higher than those between GNP per capita and human rights conditions. Both theoretically and statistically, the national government revenue figures provide a better predictor of human rights conditions. Thus, while this is still an economic indicator, it emphasises the importance of the government's role and its ability to respect human rights, suggesting that it is the state that has the resource capacity to affect human rights conditions, though not beyond the constraints imposed by the availability of economic resources.

## CONCLUSION

If one uses the common measure of economic development (per capita gross national product), all types of human rights, whether political, civil or socio-economic, were found in this study to be related to economic conditions, although perhaps not at the level commonly expected. This suggested the need for a measure which more accurately assesses the government's capacity to use these resources to affect human rights. Per capita national government revenue was found to provide an improved predictor, suggesting that increased economic resources provide greater capacity for impact. Still, economic capacity appears to be no more than a necessary condition for positive human rights performance.

Particularly disturbing are those nations that have the economic capacity to affect human rights conditions yet still reflect poor performance. Interestingly, these cases are most often lowest in *both* civil and political rights performance (Bulgaria, East Germany, Libya, Romania and Czechoslovakia). In only two cases (Hungary and the Soviet Union) are they lower in civil rights alone. And in only one case (Saudi Arabia) is a country with high government revenue low in socio-economic rights. This suggests that socio-economic rights are most likely to follow (or most difficult to repress) in developed economies. The data also confirm the obvious suspicion that socio-economic rights are most difficult to obtain in countries with low government revenue.

This analysis also points out the possibility of identifying nations where governments could be expected to do more to increase government revenue and, thus, potentially do more to improve human rights conditions. Additionally, there are several nations in the lower-middle quartile of national government revenue which did manage to score reasonably well on civil and political rights conditions, providing encouragement for nations with little hope of substantially increasing government revenue.

Substantively, the analysis indicates that performance on human rights conditions is associated with national government revenue to a greater degree than gross economic resources. This applies particularly to socio-economic rights, but is also true in the case of political and, to a lesser extent, civil rights. This finding has implications for government leaders and policy-makers of concerned countries as well as foreign governments, intergovernmental organisations, NGOs and interested scholars. Other things being equal, it suggests that increas-



ing national government revenue may go a long way in improving human rights conditions. For nations with little potential for increasing government revenue, this is depressing news. Alternatively, given an awareness of the positive impact of government revenue on human rights conditions, it could be used to inform internal budgeting, foreign assistance and international aid processes and priorities, potentially resulting in improved human rights conditions.

Since taxes represent the largest portion of national government revenue, tax administration, structuring and reform could be potentially fruitful areas of scholarly interest and technical assistance for those concerned with improving human rights conditions. This is not to deny that taxation itself can be a form of repression, but rather to suggest its potential positive impact in the progressive implementation of human rights. Similarly, it has been noted that in several nations, international aid plays a significant role in raising a nation's government revenue above what might be expected based on GNP. For the most part, assessments of the effectiveness of foreign and international aid in the development process have suggested less than favourable results. But to the extent that increased government resources are associated with improved human rights conditions, perhaps this assessment is excessively pessimistic. Interestingly, with the exception of Mauritania, no nation identified as receiving substantial foreign economic assistance scores lowest on human rights conditions. And many of the nations receiving substantial foreign economic assistance are also those noted for having a high tax effort in relation to GNP. Finally, the study points to the need for continued interest in and research on the relationship between development and human rights.

## NOTES

1. See, for example, Lucian Pye, 'The Concept of Political Development', *The Annals of the American Academy of Political and Social Science* (1965); and Leonard Binder *et al.*, *Crises and Sequences of Political Development* (Princeton: Princeton University Press, 1971).
2. Samuel Huntington and Joan Nelson, *No Easy Choice: Political Participation in Developing Countries* (Cambridge: Harvard University Press, 1976); George Shepard and Ved Nanda, *Human Rights and Third World Development* (Westport, Connecticut: Greenwood Press, 1985).

3. Richard Claude (ed.), *Comparative Human Rights* (Baltimore: Johns Hopkins Press, 1976); United Nations Commission on Human Rights, 'Social Welfare and the Level of Socio-economic Development', 1968, *Proceedings of the 14th International Conference on Social Welfare*.
4. See Henry Shue, *Basic Rights* (Princeton: Princeton University Press, 1980), particularly Chapter 1; and Paul Sieghart, 'Economic Development, Human Rights and The Omelette Thesis', in *Development Policy Review*, 1, 1 (May 1983); *Development, Human Rights and the Rule of Law: Report of a Conference held in the Hague, 27 April-1 May 1981*, convened by the International Commission of Jurists (Oxford: Pergamon Press, 1982) and UN Resolution 32/130.
5. Jack Donnelly, *What are Human Rights: An Historical and Conceptual Analysis* (PhD dissertation, Berkeley, 1982).
6. For examples see M. D. Morris, *Measuring the Conditions of the World's Poor: The Physical Quality of Life Index* (New York: Pergamon Press; Overseas Development Council, 1979); and Bruce E. Moon and William Dixon, 'Politics, the State, and Basic Human Needs: A Cross National Study', *American Journal of Political Science*, 29 (1985). Noted exceptions are Sieghart, op. cit., in research he himself calls 'more provocative than rigorously scientific', who does some tests correlating per capita product with indicators of human rights, using the PQLI and the Freedom House Index; and James C. Strouse and Richard P. Claude, 'Empirical Comparative Rights Research: Some Preliminary Tests of Development Hypotheses', in Claude (ed.), *Comparative Human Rights*, op. cit., who use some indicators of economic development rates.
7. Raymond Gastil, *Freedom in the World: Political Rights and Civil Liberties* (New York: Freedom House, 1978). Data here are for 1974.
8. J. Dominguez, *Enhancing Global Human Rights* (New York: McGraw Hill, 1979); and J. McCamant, 'A Critique of Present Measures of Human Rights Development and an Alternative' in V., Nanda and G. Shepard (eds), *Global Human Rights, Public Policies, Comparative Measures and NGO Strategies* (Boulder: Westview Press, 1984).
9. Morris, op. cit. See also Shue, op. cit., for a similar discussion.
10. The correlation between civil and political rights is highest (.87), followed by socio-economic and political rights (.55) and civil and socio-economic rights (.49).
11. Before constructing the multi-item scale, coefficient alpha were computed as a reliability check. Cronbach's Alpha (.85) provides good reason to assume that the scale is reliable.
12. Richard Rubinson, 'Dependence, Government Revenue and Economic Growth', in *Studies in Comparative International Development* 12. (1977) pp. 3-28.
13. This point is made by Rubinson, op. cit.
14. Richard Goode, *Government Finance in Developing Countries* (Washington, DC: Brookings, 1984).
15. Central Intelligence Agency, *Handbook of Economic Statistics* (Washington, DC: GPO, 1976) pp. 66-72.

16. Moon and Dixon, *op. cit.*, for example, in response to a similar question, cite Weber's work on the bureaucracy.
17. Goode, *Government Finance in Developing Countries*, *op. cit.*
18. A. Hinrichs, *General Theory of Tax Structure Change During Economic Development* (Cambridge, Mass.: Harvard University Law School, 1966); and Musgrave, *Fiscal Systems* (New Haven: Yale University Press, 1969).

# **Part V**

## **Conclusion**

# 20 Human Rights and Development: A Concluding View

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## INTRODUCTION

We students of human rights should not be afraid to acknowledge that there is a lot we do not know about the subject. If an economist will admit that there is much unknown about economics,<sup>1</sup> and a political economist will admit that one cannot prove very much about foreign assistance and economic growth,<sup>2</sup> and a democratic theorist will admit that no one knows much about the creation of democratic polities,<sup>3</sup> surely we can admit that the fate of human rights in the developing world is a matter of great complexity.

There might even be an inverse relationship between the amount of rhetoric spent on human rights and development, and knowledge on that subject. (One could hope that this volume does not simply maintain that ratio!) Certainly the United Nations has adopted vast numbers of resolutions, declarations, and conventions on many aspects of human rights, including not a few on human rights and development, as Theo van Boven has made clear in his chapter. Just on the latter subject there is much to criticise about UN formulations, and Rhoda Howard has already indicated that some of the UN language falls into the utopian category by declaring that all persons and peoples have a right to development of the perfect psyche. By the late 1980s the UN had reached an interesting point: having adopted a resolution endorsing the human right to development, it then found itself in the position of trying to decide just what it meant.<sup>4</sup>

Despite the quantity of rhetoric on human rights and development it is clear that many public authorities have not made serious efforts to link the two subjects. Even the UN itself, as van Boven persuasively argued, has considered economic development to be an essentially economic subject separate from questions of civil freedom, political participation, and socio-economic equity. Wolfgang Heinz has shown

that human rights and development have not been carefully scrutinised by West German officials. While the situation is somewhat different in some other western states, as Peter Baehr has indicated with regard to the Netherlands (and as one could show with regard to Norway), it is broadly true that human rights concerns have not been deeply integrated with bilateral or multilateral foreign assistance programmes (defined to include the World Bank and the International Monetary Fund) run by the developed states, as has been pointed out in the editor's chapter.

Against this background of much loose rhetoric but few efforts at serious understanding, this volume, in its totality and for the most part, makes an argument on behalf of the importance of ideas and policy choices as determinants of internationally recognised human rights in the developing world. It therefore largely rejects arguments which stress the dominance of economic factors, certainly in any simplified form, in governing the fate of human rights. Rather than emphasising the level of macro-national economic growth, or the rate of that growth, or the impact of the world economy on each nation, or class conflict understood in economic and deterministic terms, this volume largely argues for primary attention to political choice. While not ignoring certain economic factors which contribute to the fate of human rights, the thrust of the sum total of the arguments in the preceding pages suggests that the key variable in the mix of factors affecting human rights is the 'political space' in which decisions are made about who participates in policy decisions and who benefits from socio-economic development.

This work, therefore, does not fit so well with that body of literature which stresses the need for a large, urban middle class as a prerequisite for the sustained implementation of civil and political rights—a literature most closely identified with Seymour Martin Lipset. The volume implicitly challenges Marxist, and neo-Marxist, interpretations such as dependency theory, which attribute a crudely determining influence to economic factors. And most authors herein are not supportive of other, economically oriented explanations such as the bureaucratic-authoritarian model of development linked to stage of economic growth. The chapters by Barnett Rubin, Jack Donnelly, Adamantia Pollis, and Howard review a good deal of this literature. Rather, this work is closer to that literature which stresses, among many relevant variables, the key role of political culture, or the sum total of a people's—especially an élite's—attitude toward

the authoritative allocation of values. Policy choice, affected by political culture, still occurs of course in a framework influenced by economic conditions. Pollis, for example, stresses international dependence along with élite values in Turkey.

It is evident that this book does not aspire to a theory or model of human rights implementation in the Third World. In fact, it suggests implicitly that the fundamental dynamics of protecting human rights may be the same in all countries, at least at a general level of analysis, while acknowledging that some special factors, including economic ones, may be at work in the Third World. The collective wisdom, such as it is, of the authors assembled concentrates largely on the theme of the importance of political space for human rights values, in the face of competing values, for an understanding of the fate of human rights in the developing world. The aim of these concluding comments is to provide a synthetic overview; it does not purport to provide detailed supporting evidence or exhaustive discussion for each point.

#### SOME CLARIFICATIONS

It is important to clarify what is meant by development. These concluding comments follow the line used by Howard in conceiving of economic development as meaning in practice economic growth. This is in keeping with much common usage which equates economic development with the creation of sustained improvements in gross national product (which in turn implies structural transformation). It is also in keeping with the thrust of Pollis's meaning, but not her exact wording, when she, along with Donnelly, argues strongly and persuasively that when nations pursue economic growth they make decisions about who will benefit, or be excluded, from the growth. Most élites within nations pursue economic development understood to mean growth. The question then becomes, who shapes these crucial policy decisions, and who benefits from them.

This conception of development is at variance with much language employed by UN agencies. The latter tend to adopt the undefined notion that development is much broader than economic growth, entailing both socio-economic and civil-political factors as well. But this makes the two ideas of development and human rights confused and redundant. If development implies inherently minimum standards

of socio-economic and civil-political behaviour, then one cannot speak clearly about development and human rights. Human rights is already incorporated into development. While this combination, this incorporation, may be an agreed-upon outcome, analysis is aided by keeping the notion of growth separate from other things in the process of study. Simply put, it aids thinking to conceive of development as economic growth, then to raise the question of its relation to rights standards. Or, economic development means economic growth, and national development refers to economic growth combined with internationally recognised human rights. Thus national development refers to economic growth with equity, freedom, and participation.

Modernisation, by contrast, refers to the economic process in which the pursuit of economic development (growth) is based increasingly on industrial and technological factors. Donnelly refers to this process as one of deepening.

Socio-economic rights, as internationally endorsed, refer to an entitlement of persons to socio-economic goods and services. Internationally recognised civil rights refer to an entitlement of persons to a non-arbitrary and equitable civil society, while political rights refer to an entitlement to participate in governmental decisions. The sum total of internationally recognised human rights refers to the entitlement of all persons everywhere to a minimum amount of human dignity. Human rights, as a means to the end of minimum human dignity, sets a floor beneath which no human being should be allowed to exist. The reverse side of the coin is that the concern for human rights is a concern for minimal standards of good (humane) governance.<sup>5</sup>

The central focus of this volume, in terms of the above, is whether the economic condition of the lesser-developed (poorer) states requires the abandonment in the short term, or at least the delay, of some of these minimal standards of acceptable behaviour by governments. Do economic factors, principally the need to set in motion a process of hopefully sustained economic growth, require at least temporary violations of human rights?

Understood thus, the central concern of this study is about economics and rights, but in a way that does not exclude historical, social and cultural factors. Indeed, as should be evident by now, but as will be clarified further below, historical, social and cultural factors are intertwined both with economics and with politics—and the latter two notions are themselves intertwined.



## SOME BASIC ARGUMENTS

At first glance it would seem that the chapter by Kathleen Pritchard lends support to the hoary argument that the less developed countries are not able to implement internationally recognised human rights because they lack the economic resources to do so. The argument is most frequently applied to socio-economic rights, where the common-sense proposition obtains that if the nation, or more precisely the state, lacks necessary funds it cannot provide a minimum standard of nutrition, shelter, and medical care in the short run or the infrastructure to guarantee education and other socio-economic goods and services over time.

The same argument could be equally applied to the civil and political realm as well, since the state must expend funds for a well-run criminal justice system, prison reform, electoral systems, and the parliamentary process. The so-called negative or blocking human rights of the civil-political domain, requiring that government refrain from doing specified things, also require that government do certain positive things in order to create, supervise, and otherwise implement the barriers. Pritchard finds a significant correlation between high per capita GNP, and especially high governmental revenue, on the one hand, and high scores on what she terms 'human rights conditions'.

Further reflection about Pritchard's chapter is stimulating. Apart from the conceptual point that when she writes of 'socio-economic human rights conditions' she may not be writing about rights at all but simply about socio-economic conditions,<sup>6</sup> her overall point may be that there is usually some 'trickle-down' effect from a relatively affluent condition. The more revenue that states have, the more the population may benefit both socio-economically and civil-politically. Of course this general conclusion skips the chicken-and-egg problem: was it the commitment to rights that produced the relative affluence, rather than the other way around?

Yet if one looks closely at her data, and adds other data, the picture is far from clear. If one looks at the 31 nations that have the highest ratings in her Table 19.1 on 'Overall human rights conditions', a simple correlation on the basis of GNP would indicate that 11 of them should not be in that category. That is to say, if relative poverty blocks the implementation of many rights, then these 11 states (Bahamas, Barbados, Sri Lanka (Ceylon), Columbia, Costa Rica, Israel, Jamaica, Lebanon, Malta, Trinidad and Fiji) should not,

on the basis of the poverty theory, be in that category of highest scores on 'human rights' broadly conceived. Adjusting for governmental revenue rather than GNP makes no fundamental difference. Likewise in her second category of 'upper middle' scores for human rights, of the 33 nations 16 should not be there according to the poverty theory.

If we go beyond Pritchard's chapter and look at a list of nations that have been able to implement civil and political rights over time despite relative poverty, that list is not so short. One source lists: India, Sri Lanka, Venezuela, Colombia, Malaysia, Jamaica, Trinidad, Papua New Guinea, the Bahamas, Barbados, Botswana, Nauru, Gambia, Mauritius, and Fiji (until recently).<sup>7</sup> To this list one could add states that have considerable experience with democratic rights, despite some poverty and some military periods: Nigeria, Turkey, the Philippines, Argentina, Brazil, Uruguay, the Dominican Republic, and perhaps others. Then there are the states, some mentioned by Donnelly, that were able to implement growth with equity, or in other words to implement policies meeting socio-economic rights standards, despite relative poverty—states like Sri Lanka and South Korea, *inter alia*.

Especially when one notes that the relative affluence of the industrialised communist states of Eastern Europe has not, in general, led to high human rights scores (overall scores being lowered by civil and political rights records), it becomes even more likely that it is not per capita GNP, or even per capita governmental revenue, that explains socio-economic equity and civil freedom plus political participation. It is probably most fundamentally a commitment by élites to use the resources available for equitable benefits, and to allow popular freedom and participation. It seems it is an élite commitment to human rights values, in terms of growth with equity and freedom and participation, or some variable combination of these, that explains overall human rights performance. It may be the case, as Howard urges, that this élite commitment was produced through demands by non-élites; there will be more about this later.

Thus, as a starting-point for substantive analysis, it would appear that relative GNP or governmental revenue explains somewhat less than first meets the eye. While relative affluence seems to help in meeting in some way standards drawn from internationally recognised human rights, such affluence is not always and entirely necessary (India, Sri Lanka) and is certainly not sufficient (East Germany, the Soviet Union) for a high human rights score. And

some states (the US) may wind up with a high overall score, and even a high score on 'socio-economic human rights conditions', without even recognising that category of rights. This takes us full circle to the point that the Pritchard chapter sheds light on socio-economic conditions, which may be the result of benefits derived from socio-economic goods and services, but says rather less about *entitlements* to those goods and services.<sup>8</sup> Providing benefits for whatever reason (self-interest, *noblesse oblige*) is not the same as being obligated to implement rights, a point crucial for any discussion of human rights.

Her central point might be reformulated as follows: where there is élite commitment to growth with equity, plus freedom and participation, the higher the government's revenue, the better will be the overall human rights condition. It remains true, however, as Donnelly has shown, that a relatively poor state can implement socio-economic rights, or at least equitable socio-economic benefits (Sri Lanka, South Korea). Also, a relatively poor state can implement civil and political rights (India, Botswana), despite both low GNP and low governmental revenues. And saying that a government's revenue was higher than expected does not change the fact that the revenue in absolute terms was still low.

A second basic economic argument, not addressed in detail in this volume beyond brief mention in Rubin's chapter, can be dispensed with quickly. One cannot substantiate the argument that it is the *rate* of economic growth that affects especially political rights. One cannot prove that a rapid rate of economic growth correlates negatively with political rights. In fact, according to the World Bank, from 1964–84 the per capita GNP growth rate was not very different among the different categories of countries: poorest, 2.8 per cent; lower middle, 3.0 per cent; upper middle, 3.3 per cent; high, non-oil exporting, 2.4 per cent.<sup>9</sup> There was great variation in political rights across these similar growth rates, and great political variation within the same category of income and growth rate.

A third basic argument has been addressed, directly and indirectly, in this study and it bears some emphasis here. Particularly the chapter by Donnelly makes clear that many violations of human rights have nothing to do with development as defined. In so far as the core argument is repeated that economic growth for the poorer countries demands delay in implementing rights, one must specify the exact relationship between violation and growth. Frequently violation is for the convenience of the élite and not for national growth at all. A Mobutu in Zaire, and Duvalier in Haiti, a Marcos in the Philippines,

a Somoza in Nicaragua, may be acting more for corruption, cronyism, and personal enrichment than for national economic development. Denial of both socio-economic and civil-political rights, pursued for the comfort and enrichment of élites, may actually be counter-productive to sustained economic growth for the nation overall.

Relatedly, the chapter by K. Medhi on India in the mid-1970s showed persuasively that Indira Gandhi, when she sought to rule by emergency decrees, was more interested in personal and family power than in development for the nation. Likewise, the chapter by K. Prah on the Sudan showed well that many forms of repression in that country were practised in order to entrench the Arabised Northern élite and to subjugate the African southern peoples, rather than to provide an overall national development programme. In fact, this type of repression and oppression, this type of dominant policy without attention to equity, freedom or participation, can prove counter-productive to national economic growth since it can produce resistance up to and including civil war.

It should now be very clear that one needs to proceed with great care in evaluating the argument that the economic condition of the developing countries negates a concern for many, if not all, human rights. There are poor countries with a relatively good record on civil and political rights. There are poor countries which have achieved a respectable record on growth and a respectable record of socio-economic equity. There are poor countries whose torture, mistreatment, political detention, and denial of socio-economic goods and services has more to do with élite privilege than with national development however defined. The next section lays out the argument that, to scrutinise how rights are related to development, one should focus on political culture as derived from social history.

## SOME REFINEMENTS

In her chapter Rhoda Howard writes of the 'universe of obligation' within and between nations. This is a central point, and it is about the importance and power of an idea. It could be said that the one simple notion behind internationally recognised human rights is that the state is not a toy for the enrichment and comfort of the élite, but rather is a tool to be used for the maximum good of the nation as a whole. At a minimum the élite is obligated to the rest of the nation to

rule for the nation; the people have a right to implementation of that idea. In larger perspective, under the notion of *universal* human rights all élites have presumably an obligation to give some assistance to realise the recognised rights.

Perhaps it bears repeating that, apart from considerations of self-interest, one can understand much of the movement for internationally recognised human rights as a movement to make the 'universe of obligation' as large as possible. In the first stage the movement insists that national authorities are *obligated*, because of the rights of persons, to rule for citizens' well-being. In the second stage the argument is that this 'universe of obligation' is universal or transnational—that is, that public authorities are obligated to respond to rights internationally.

Perhaps the core problem for the realisation of human rights in the developing world is that this 'universe of obligation' on the part of ruling élites is all too frequently exceedingly narrow. As Howard wrote, national politics is seen as a zero-sum game in which gains are for the family or at most the dominant ethnic group; losses are to be taken from the out-group(s). Other authors, such as Donnelly and Pollis, not thinking quite so much of the African scene, would emphasise the narrow obligation recognised by an élite usually made up of the military, industrialists and high bureaucrats. In all these formulations, there is not an accepted obligation by the élite to rule for the good of all. Policies which would, in sum, be considered a fair composite for popular well-being are frequently not implemented in any broad sense, either in the socio-economic or civil-political domain.

In Donnelly's terms, the élite takes the decision to *exclude* certain sectors of the nation either economically or politically or both. As he makes clear, in South Korea there was economic inclusion of many but also political exclusion of many. In Brazil by contrast, there was, under military rule, both economic and political exclusion of most. Pollis writes something very similar about Turkey. The Turkish élite used the state (*étatisme*) to direct a plan for economic growth that excluded benefits (and rights) to many on the bottom rungs of society; when economic crises arose, the army moved in to add political exclusion to economic exclusion. Prah's analysis of the Sudan is consistent with this line of analysis. The élite of the Arabised north felt no obligation to allow equity or equal freedom and participation to the southerners, but rather looked upon them as an out-group to be exploited and subjected. In all these cases, and in

others not covered in this work, the key variable for the fate of human rights seems the attitude of élites and the narrowness of their view as to who is to benefit and participate.

Pollis and Prah are the only authors to address directly the source of this narrow conception of who is to participate and benefit. In Turkey, as elsewhere, it is to be found in the socio-political history of the nation. In countries not sympathetic to a broad range of rights, at an early stage a small group of leaders implemented a development plan that was largely of an exclusionary nature economically or politically. This became the norm, with perhaps periodic variation, at least until different socio-political forces emerged. In most of the poorer countries, both before colonialism and during, the model of economic development was elitist or exclusionary, whichever term one prefers. Some argue that only British colonialism provided the necessary (but not sufficient) influences for a movement toward broad-based, inclusive development, while others can cite former French colonies such as Senegal or Lebanon (for a time) as being relatively inclusive. It does appear that few former colonies other than British ones have maintained both democratic decision-making and growth with equity. The fundamental point remains that it is the socio-political history of a nation that greatly influences the scope of the universe of obligation for the élite. (It should be noted in passing that historical forces may not have such a simple effect on policy as appears to be the case retrospectively. National history contains a variety of traditions to which élites can appeal, or avoid. The subject is much too large for full discussion here.)

These historical forces leading to the development of an identifiable political culture are not set in stone, although the pull of the past certainly remains strong. Just as the history of the West shows an evolution of rights, probably in a dialectic involving demands by non-élites and concessions by élites, so Donnelly argues that in a nation like South Korea the granting of socio-economic equity can lead to demands for further civil and political rights. And it is certainly the case that a traumatic defeat in war can lead to a rapid change in political culture, especially via occupation, as history shows clearly in West Germany, Japan, Italy and perhaps Argentina.

Yet in various regions of the Third World it still seems true that one can understand much about the élite's commitment to rule for the well-being of citizens by understanding historical forces. In much of Latin America, for example, an Iberian political culture emphasizing the military as guardian of the security state, and emphasizing the

preferred position of the aristocracy and the church, deprecated the position of other groups and classes—especially the indigenous Indians. In Africa it has almost become a cliché to observe the absence of commitment to the nation as a whole, and the strength of identification with the extended family and tribe/ethnic group.

Against the background of this discussion, Donnelly's argument is provocative that the more one moves away from the early stages of subsistence economics, the less economic justification there is for violations of rights. The first part of his argument seems sound historically speaking. In almost all societies those who resisted change away from subsistence agriculture and a local, barter economy were coerced into a larger, more growth-oriented economy based on currency exchange. If there is to be sustained national economic growth this seems a necessary component.

The only way, apparently, that one can respect human rights at this stage is to accept that there will be protected pockets for indigenous or tribal peoples. As Akram Chowdhury has written with regard to the Chittagong Hill Tract Peoples within Bangladesh, the conflict there is one between demands of the central government for economic development for all Bangladeshis (who happen to be predominantly Bengali), and demands by the tribal peoples of the Hill Tracts for local autonomy. So far the central government has not seen fit to follow the practice of the British colonialists, and at least some of the precedents from the Pakistani period, by allowing the Chittagong Hill Tracts to be protected areas and thereby exempt from national development plans. The result has been denial of some rights for the indigenous peoples in the name of national economic development, and armed resistance by some of the tribals.

Indeed, most states acted as the US did *vis-à-vis* Native Americans, or the USSR did *vis-à-vis* private farmers, as Tanzania did *vis-à-vis* those resisting agricultural cooperatives. Coercion was employed against those seen as blocking an essential first step in national economic development. Nevertheless, respect for the cultural rights of indigenous peoples is now formally part of internationally recognised human rights, and implementing this right seems the only way out of the dilemma identified by Donnelly: how to start economic growth for the ultimate benefit of the nation as a whole, without violating the recognised rights of those who have a different view of economics and culture. The same drama is being played out in Brazil and other societies with sizeable indigenous populations. Rights do at times conflict, and élites must make a judgement about the well-being

of the majority versus a minority. Ironically, at least for those who read the American press, one of the élites most criticised for violations of human rights, the Sandinistas in Nicaragua, at the time of writing seem in the process of granting substantial local autonomy to the Miskito Indians on the Atlantic coast and thereby exempting them from national development plans.

The second part of Donnelly's argument is important also. He appears to suggest that as economic development proceeds, there is less *economic* justification for denial of rights; denials become more clearly *political*. This fits with Pollis' analysis of the fate of human rights in Turkey. There does not seem to be any reason to expect less denial of human rights in later phases of pursuit of development if élite commitment to equity and participation has not been there all along. Indeed, especially the army may intervene to ensure continued privilege for itself and associated élites, and continued exclusion or denial of rights to non-élites. Thus while denial of some rights may be almost inevitable during the 'take-off' stage of economic development even at the hands of progressive élites (that is, élites genuinely interested in improving the well-being of most of the citizens), it seems rather clear that probabilities of further denials will not be reduced simply because one moves further toward modernisation. It is not economic process which determines, but policy choice.

Especially when economic crises arise because of debt burdens, falling export prices, rising import costs and so on, the key variable would seem to remain the desire of the élite to meet the problems with a continuing commitment (sense of obligation) to minimum standards of socio-economic equity, civil freedom and political participation. Where that sense of obligation is absent, as in Turkey, denials of rights are likely to increase under the impact of economic crises, whatever the stage of modernisation.

When the International Monetary Fund demands, as part of its package of conditions for reform leading to a grant of drawing rights, that states export more and import less, it is certainly tempting for élites to reduce wages and subsidies for those on the lower rungs of society's ladder. It is convenient to do so when such elements are excluded from the decision-making process, when they are denied civil rights to protect themselves from repression, and when they are seen as not entitled to socio-economic equality. In this regard one could make an illustrative comparison of authoritarian Chile and democratic Argentina, as each struggles with economic crises in the 1980s.



One could also draw, in broader perspective, a comparison between, say, Romania and the US. While economic crises arise in both, only in the US are adjustments made within the bounds of fundamental standards of political and civil rights; and probably it can be said that *minimal* standards of socio-economic equity remain in place via the welfare state. (At least this seems true since the 1930s, even though there is still a pronounced tendency on the part of élites to shift adjustment burdens to the poor and politically less involved. At least in the industrialised democracies the less well off have the political and civil rights with which to fight for an equitable sharing of adjustment burdens.)<sup>10</sup>

A related argument by Howard is also provocative. When the politics of the universe of obligation is extended beyond the nation-state, the we–they dichotomy (in-group and out-group) becomes a formidable barrier to international, especially bilateral, action on human rights. Given that most citizens, in so far as they identify with a nation-state, do so much more strongly than they do toward a foreign or international institution, it is no wonder that national foreign policies have not historically made human rights abroad a major concern. Even the most extreme violations of human rights, such as genocide in Nazi Germany and auto-genocide in Pol Pot's Cambodia, went unopposed by most outsiders.

Howard is critical of Canadian foreign policy for engaging in only cosmetic, symbolic gestures against apartheid in the Republic of South Africa and suggests that Canada's reputation as manifesting a progressive, rights-oriented foreign policy is at least partly undeserved. Pollis notes that US foreign policy toward Turkey was more oriented toward stability in the southern flank of NATO than to implementation of rights within Turkey. The editor likewise has noted the small role of human rights considerations in a US foreign assistance policy dominated by competition with the USSR.

Peter Baehr, however, has suggested that Dutch foreign policy, at least in some cases such as Surinam, has paid serious attention to issues of rights—especially when prodded by a citizens' panel working in conjunction not only with the national parliament, but also with transnational human rights groups. His chapter in particular suggests the wisdom of other states creating a similar citizens' advisory committee on foreign policy, a panel which might urge further attention to human rights in foreign policy. Such panels definitely would encounter the persistent view that a state's foreign policy should be overwhelmingly oriented toward the nation's

expedient interests (such as power and wealth) and that the state did not have much, if any, moral or legal obligation to concern itself with the rights of foreigners. Human rights as universal rights challenges the notion that concern for individual well-being stops at national boundaries. The latter notion has been difficult to overcome across the centuries.<sup>11</sup>

This point in the analysis takes us back to a central observation about the struggle to get an obligation to the well-being of persons accepted and implemented by élites.

### THE CRUX OF THE ISSUE?

Given the repressive nature of many élites in the developing world, in large part as a product of their national histories, and given the apparent weakness of foreign public action, bilateral and multi-lateral, in urging them toward a broader interest in the well-being of their peoples, it seems that the future of human rights in developing countries rests to a great extent with action in the private, that is, non-governmental sector. In Howard's formulation, those below must wrest greater attention to rights from those above. The first part of this volume focused precisely on the private sector and raised important questions.

One of the significant points brought out in the chapter by Marieclaire Acosta about women's movements in Central America is that the stimulus to the movement was massive violations of human rights in places like El Salvador. It is possible that, in the current state of world history which is characterised in part by so much rhetoric on human rights, traumatic violations of human rights can and will serve as a trigger for mobilisation of individuals and private groups working for rights. Previously apolitical women throughout Latin America, when confronted with the detention, murder or disappearance of family members, have become mobilised against future violations, and have formed groups for mutual support and political action. They are a new political force on the scene in the Western hemisphere, and there are transnational linkages of support including financial ones from the more affluent nations.

An equally significant point is brought out in the chapter by Richard Claude. There has been formed recently an international private network concerned with human rights and the medical profession. Through this network there has been pressure, through

public exposure, on members of the health profession who participate in torture, mistreatment and political murder in its various forms. Here again we see, for example in the Philippines, private action in support of various rights (civil and social) which is linked to important circles of knowledge, communication and finance in the developed world.

Likewise one reads about private, international teams of forensic experts who seek to oppose violations of civil and political rights by identifying the remains of victims of political violence and introducing evidence into courts which makes possible the punishment of those who torture and kill on behalf of the state, as in Argentina.<sup>12</sup>

In broader perspective one should observe a number of medical and/or health networks which exist of a private, transnational nature. If it turns out, in retrospect, that the Soviet Union does reduce or eliminate the practice of political psychiatry, in which political dissidents are labelled insane and then given painful and even destructive treatments, some credit should go to the World Psychiatric Association and its criticism of Soviet practices. Gorbachev has at least seen to the legal transfer of the special psychiatric hospitals from the Ministry of the Interior to the Ministry of Health, and it is at least possible that some further ameliorative changes might occur. While this example is not drawn from the developing world, it indicates the probable impact that private pressures can have on élite policy.

It is certainly possible, although problematical, that trade unions could be a potent private channel for action on behalf of rights, as the chapters by Ines Vargas and Adebayo Okunade indicate. The potential is enormous, as trade union action in the Republic of South Africa has demonstrated during the 1980s, for labour action to alter not just violations of labour rights but other rights as well. And in a number of developing countries labour has tried to play this role, and has thereby suffered repression from ruling élites, as Howard noted. Once again we should note, along with Vargas, the international network in support of labour groups, a network partly public (the ILO) as well as private.

But here, with Okunade, we should note some of the problems. In some cases the labour leadership has seemed more interested in getting part of élite spoils than in working for a broad version of human rights. Then there is, in Africa especially, the problem of ethnic friction. As Okunade has observed, the ethnic divisions which plagued Nigeria also plagued the labour movement; some trade associations seemed more interested in promoting ethnic causes than

in working for rights within a stable and prosperous unified nation. In these situations labour unions constitute part of the basic problem rather than an important part of the solution. Labour, no less than the ruling élite, must display a commitment to the well-being of all, while it acts for its own rights and interests.

Especially with labour groups, but with other private groups as well, there is something of a chicken-and-egg problem in analysing private work for human rights. It seems that there must be some tolerance on the part of élites for private action in the first place in order for private action to be effective. This is perhaps demonstrated most clearly with regard to labour and Poland (is Poland a developing country?). Solidarity could only be effective, or could only possess the possibility of being effective, if it were allowed to exist apart from élite control. Once the Polish authorities decided to eliminate that part of civil society in Poland and bring all labour groups back under party-state control, Solidarity ceased to be an important force for rights (except as a truncated, underground, largely symbolic group). Likewise in the Soviet Union, there cannot be important private actors for human rights unless the Gorbachev reforms do in fact reduce totalitarianism to the extent where a true civil society does exist in some measure apart from the public sector. The fact that at the time of writing a limited civil society does seem to be emerging in the Soviet Union has relevance to the developing countries, especially for those who follow the Soviet model of development—or something akin to it.

By contrast, most Third World societies are not totalitarian; there is a private sector, and there are labour movements which exist as independent actors. Their impact on human rights comes down to political judgments about: how much can they wisely seek from management and public authorities in a given economic situation; how can they press for improvements in social and economic rights at a minimum while showing public authorities that they are also interested in the overall welfare of the nation; at what point should they strike a bargain as to what is equitable in context while accepting something far short of equality or maximum demand. And, even less easily defined, how should they act if the ruling élites have chosen a plan of economic development which largely excludes them from both real participation and equitable benefits? There are no scientific answers to these questions, but only reasoned estimations in context. The role for organised labour is especially difficult, as Vargas reminds us, when there is much surplus labour and when much

work occurs beyond organised labour and even beyond the official economy.

A similar analysis could be applied to the role of churches in working for human rights in developing countries; important studies could be made throughout Latin America, South Africa, the Philippines, South Korea, and elsewhere. And Kenneth Thompson has shown in his chapter that there is a transnational private network interested in helping to implement the right to education.

One of the most important aspects of private action for human rights is not treated in this volume, and that is whether some socialisation effort could be undertaken on behalf of rights *vis-à-vis* the military. It is, after all, the military which usually terminates civil and political rights, and makes possible the persistent denial of those and other rights by supporting repressive regimes.<sup>13</sup> Pollis has provided a sharp analysis along these lines in Turkey, without, however, indicating whether there, or in other countries, it is possible to sensitise the military to greater respect for rights. (It can be noted in passing that some militaries are more abusive of rights than others.) There is some limited attention to inculcating into the military at least some respect for human rights in armed conflict, largely carried out by the quasi-private International Red Cross Movement.<sup>14</sup>

It is perhaps appropriate to conclude this section on the importance of private action human rights by recalling the chapters on India. Barnett Rubin reminds us that it was Mrs. Gandhi's massive violations of human rights during the emergency of the mid-1970s which gave birth to a more active private human rights movement. This dovetails with Acosta's treatment of Central America; traumatic events can have somewhat positive outcomes. And Rubin, along with Medhi, conveys clearly the point that it was not established state organs like parliament and the court system qua institution which stood up to the executive's grab for unchecked power, but rather extra-state agencies such as bar associations, student and other academic groups, and newly formed human rights organisations. It was these private groups which spearheaded the opposition to the rights violations, which were undertaken under the guise of steps for national unity and security. The Indian emergency had little to do directly with economic development.

It complicates the analysis, but must be recalled, that especially Medhi's chapter indicates that part of the resolution of that crisis was the Prime Minister's willingness first to call, then abide by the

outcome of, elections. Hence we see in the resolution of this challenge to Indian democracy both an active private sector and an élite still somewhat committed to human rights values. As Medhi writes, in the last analysis Mrs Gandhi was unwilling to become a Stalin and to abrogate all commitment to democratic rights. Thus it is probably in the interplay of élite values and an active private sector agitating for human rights that one best understands the fate of human rights in India.

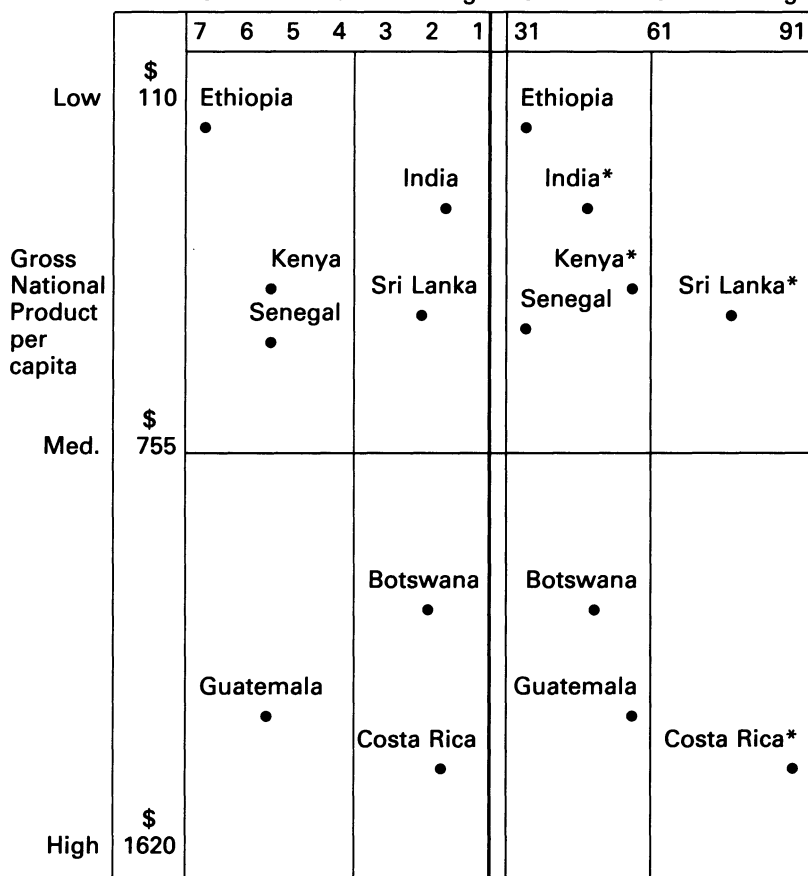
We should further note that perhaps one of the reasons foreign influences, both public and private, were so weak during Indian events was that much of the Indian scene, including some human rights organisation, is influenced by Hindu conceptions of human rights which are somewhat at variance with the International Bill of Rights as it now exists. Both Smitu Kothari and Rubin note that some Indian conceptions of human rights are rooted in a more mythical conception of a human relationship with nature, and more opposed to a state-directed economic development which involves a modernisation process inherently damaging to the environment. This point not only underlines the weakness of foreign or international action for human rights in India, but also suggests that the last word has not been written on the subject of the proper conception of universal human rights and its relationship to a Western-style development process.

## FINAL THOUGHTS

It may turn out to be, upon further study and reflection, that the fate of human rights in the developing world is dependent upon the same political process that affects rights everywhere. We may have assumed erroneously that because we are dealing with nations possessing certain distinctive traits, chief among which is a low gross national product per capita, that the fate of human rights requires distinctive analysis. This volume strongly suggests that the former rather than the latter approach is correct.

If the above is true, we might still want to acknowledge characteristics prevalent among the developing nations which impede the implementation of certain types of rights. Chief among these might be the historical absence of a sense of obligation on the part of the ruling élite to govern for the well-being of all, rather than for the interests of family, class, ethnic group, or religious fraternity. Cer-

TABLE 20.1 Composite human rights, LDCs  
 Civil-political rights      Socio-economic equity  
 Low      Med.      High      Low      Med.      High



NOTES

Gross national product, per capita: figures taken from the World Bank, Lower and Middle Income Countries only.

Civil and political rights: figures taken from Freedom House, annual survey; civil and political scores averaged.

Socio-economic equity: figures taken from the Overseas Development Council Physical Quality of Life Index.

Asterisk: indicates formal adherence to UN Covenant on Economic, Social, and Cultural Rights.

Observation: the chart is constructed for one hypothetical year. One could also do a similar chart measuring progress over time for each category measured. The amount of change in GNP, rights, and equity could thus be plotted for a given time period.

tainly we could note the absence of a tradition of human *rights* in most non-Western cultures.<sup>15</sup>

Within this emphasis on a political, historical and cultural process influencing human rights, there is room for attention to important economic factors. The stage of economic development, whether early or late; the extent of economic crises, whether international, domestic or intermestic; the economic resources at the disposal of the government are all relevant factors. Yet most authors in this volume would concur that it is policy choice, influenced by a historically produced political culture, that is the most important factor in explaining how economic subjects are treated.

Finally, it might be possible to formulate some overview of human rights in the developing world through use of a basic prism, to which further refinements could be added. Table 20.1 gives such a basic prism, with a few nations positioned as examples. One could substitute Governmental Revenue for per capita Gross National Product. One could also separate civil and political rights and economic and social rights. One could chart trends rather than static positions in a given year. On the basis of such overviews, studies of particular nations could seek to explain a nation's position in the tables, based on national political culture combined with other particular and possibly unique factors.

This approach would seem to give us an indication of which élites in the developing world were ruling for the well-being of their peoples, or at least trying to do so, and as such which élites were legitimate according to international standards. This, in the final analysis, is what the subject of internationally recognised human rights is all about.

## NOTES

1. Albert Bressand, 'Mastering the "World Economy"', *Foreign Affairs*, 61, 4 (Spring 1983) p. 748.
2. Donald E. Wood, *From Marshall Plan to Debt Crisis: Foreign Aid and Development Choices in the World Economy* (Berkeley: University of California Press, 1986), pp. 2-3.
3. Myron Weiner, 'Empirical Democratic Theory and the Transition from Authoritarianism to Democracy', *PS*, 20, 4 (Autumn 1987) pp. 861-5.
4. UN ECOSOC/CN. 4/1987/10, *Report of Working Group of Governmental Experts on the Right to Development*, 29 January 1987. Compare Edgar Owens, *The Future of Freedom* (Elmsford, New York:



- Pergamon Books, 1987) for the thesis that real economic development requires political reform and that efforts at economic development will not work if conceived only in economic terms. His argument is that under most current planning, the poor neither participate in policy-making nor share in benefits.
5. See further David P. Forsythe, *Human Rights and World Politics* (Lincoln: University of Nebraska Press, 1983); and Claude E. Welch, Jr. and Ronald Meltzer (eds), *Human Rights and Development in Africa* (Albany: State University of New York Press, 1984). It is possible to have human dignity without human rights, but the concern for human *rights* seeks to guarantee dignity, not trusting other means such as paternalism, cultural traditions, *noblesse oblige*, and so on.
  6. What needs to be added to Pritchard's analysis is a discussion of whether a particular government has accepted to be bound by the obligation to implement socio-economic rights, either in national or international law. Otherwise, one has no knowledge of whether socio-economic conditions are related to rights.
  7. See Weiner, *op.cit.*
  8. See *op.cit.*, n. 6. Socio-economic conditions could result from *élite* self-interest pure and simple, or paternalism; neither would involve the concept of rights.
  9. Figures taken from *Global Development Report* (Autumn 1987), starting at p. 62. Figures were originally compiled by the World Bank.
  10. Compare Jack Donnelly and Rhoda Howard (eds), *International Handbook of Human Rights* (Westport, Connecticut: Greenwood Press, 1987) for a slightly different view.
  11. For a new discussion of what is national self-interest and what is moral foreign policy, see Bruce Nichols and Gil Loescher (eds), *The Moral Nation: Humanitarianism and US Foreign Policy Today* (South Bend: Notre Dame Press, 1988). Several chapters make the point that most national foreign policy is narrowly expediential in fact, rather than oriented toward the needs of foreign nationals, whatever it 'should be' in terms of moral theory.
  12. Stephen G. Michaud, 'Identifying Argentina's "Disappeared"', *New York Times Magazine*, 27 December 1987, starting at p. 18.
  13. Weiner, *op.cit.*
  14. See David P. Forsythe, *Humanitarian Politics: The International Committee of the Red Cross* (Baltimore and London: The Johns Hopkins University Press, 1977).
  15. See Jack Donnelly, 'Human Rights and Human Dignity', in *American Political Science Review*, 76, 2 (June 1982) pp. 303–15.