

PRM 28

Dr. Tuchman

THE DEPUTY SECRETARY OF STATE
WASHINGTON

July 8, 1977

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MEMORANDUM TO:	✓ NSC	Dr. Jessica Tuchman
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	OMB	Mr. Edward Sanders
	DOD	Dr. Brenda Forman
	DOD	Dr. Richard Darilek
	Treasury	Mr. Arnold Nachmanoff
	Justice	Mr. Terrence B. Adamson
	Commerce	Mr. Gregory Good
	State	Ms. Ann Holloway - UNA
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	CIA	Mr. Jack Davis
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	State	Ms. Patt Derian - D/HA
	State	Mr. Mark Schneider, D/HA
	State	Ms. Sandy Vogelgesang - S/P

SUBJECT: PRM on Human Rights

Enclosed is a revised draft of the PRM on human rights, in which we have attempted to reflect the many thoughtful comments we have received. I believe this draft brings us much closer to a final paper.

We will welcome your comments on the draft. To that end, I invite you to attend a meeting of our group on Wednesday, July 13, at 10:30 a.m., in the Secretary of State's Conference Room, on the 7th Floor of the Department of State.

Warren

Warren Christopher

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PRESIDENTIAL REVIEW MEMORANDUM/NSC-28: HUMAN RIGHTS

Introduction

This memorandum is submitted in response to the NSC memorandum of May 20, 1977, requesting a review of U.S. foreign policy with respect to human rights.

I. Definition of U.S. objectives in the area of human rights.

A. Over-all Objective.

The over-all objective of our human rights policy is to encourage the respect that governments accord to human rights.

1. Definition of Human Rights.

The most useful generally recognized expression of these rights is included in the Universal Declaration of Human Rights, adopted by the United Nations in 1948. To maximize our effectiveness our policy should be directed to the most fundamental and important human rights:

First, the right to be free from governmental violations of the integrity of the person: such violations include torture; cruel, inhuman or degrading treatment and punishment; arbitrary arrest or imprisonment; denial of fair public trial; and invasion of the home ("the first group").

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Second, economic and social rights: the right to be free from government action or inaction which either obstructs an individual's efforts to fulfill his vital needs for food, shelter, health care and education or fails adequately to support the individual in meeting basic needs ("the second group").

Third, the right to enjoy civil and political liberties: freedom of thought, of religion, of assembly, of speech, of the press; freedom of movement both within and outside one's own country; freedom to take part in government ("the third group").

No one questions that the first group ought to be included. Although there has been considerable discussion about the inclusion of the second and third groups, the President and Secretary of State have expressly included them within the general purview of the Administration's human rights initiative.

The fulfillment of economic and social rights depends, in part, on a nation's economic and social circumstances and

traditions. Inclusion of this second group of rights within the coverage of our policy has particular implications for its application to the Third World. A policy which subordinated these rights would not only be inconsistent with our humanitarian ideals and efforts, but would also be unacceptable in the Third World where the tendency is to view basic economic and social rights as the most important human rights of all.

As for the third group -- civil and political rights -- a policy that ignored them would be untrue to our heritage and basic values. We do not accept the charge leveled by some that by promoting these rights we seek to impose eighteenth century, Western ideas on non-Western societies where they have no roots or relevance. These rights have been formally espoused by virtually all governments and are of worldwide significance as a matter of practice. There is no necessary inconsistency between political and civil rights on the one hand and economic development on the other.

In the final analysis, reliable and lasting protection against violations of the first and second group can only come with the development of institutions that protect civil and political liberties: to stop the torture of one person or to alleviate hunger in one family is important; to build institutions that safeguard against torture and promote an equitable distribution

of resources is, in the long run, more important.

In promoting the third group of rights, there is a particular need, however, for caution to avoid giving our policy a parochial cast that appears to export American-style democracy. Our goal is the enhancement of basic human rights in diverse societies; we do not seek to change governments or remake societies. Our experience in Vietnam and elsewhere have taught us the limits of our power to influence the internal workings of other nations.

Recognizing that there are these three groups of rights that are covered by our policy, we face an important issue whether to establish a priority among them. The only real options would appear to be (a) to give top priority to the first group or (b) to give equal weight to all three groups.

One reason for giving priority attention to the first group is that such violations tend to be the most egregious and horrible of abuses of authority and thus deserve our most urgent attention. Another reason is that such a priority would help direct and concentrate our efforts. Also, since violations of the first group are subject to immediate curtailment -- whereas violations of the second and third groups generally require more time to remedy -- the opportunity to achieve tangible results in the short

run may be greater with respect to the first group. Further, by focusing more heavily on the first group, we may be able to avoid some of the controversies discussed above that inhere in efforts to promote the second and third groups. In a sense, this is to say that the rights in the first group have greater recognition, at least domestically, than the rights in the second and third groups. There is a practical reason to establish this priority -- it is somewhat easier to use the leverage we have to achieve a reduced level of violations with respect to the first group than to make meaningful improvements in the second or third groups.

On the other hand, there are serious arguments for according equal status to the three groups. First, if a priority is established it would represent a judgment that violations of the second and third groups are not as serious as those of the first group. In many parts of the world, such a judgment would be difficult to justify. In addition, it would quickly become known that we had established a priority for the first group and other governments might well have less incentive to face up to the basic economic, social and political issues represented by the second and third groups. Accepting equal importance of the three groups does not mean that, as a practical matter, they will be

pursued in the same way or over the same time span.

In countries where the first group of rights is denied or threatened, the protection of those rights has obvious priority, since human life and fundamental human dignity is threatened. In countries where the first group of rights is generally observed, but political and civil rights are abridged or non-existent, our policy should emphasize the promotion of those rights. Promotion of economic rights is, for the US, primarily a matter of cooperation with and contribution to bilateral and multilateral foreign assistance efforts. We should do our share.

Options:

Either

Accord priority attention to governmental violations of the integrity of the person.

Yes No

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Or

Accord equal importance to all three groups of rights.

Yes No

2. Evolutionary Improvements.

In seeking greater respect for all these rights, we must keep in mind the limits of our power. Our ability to change human rights practices in other societies is limited, even if we were to exert substantial efforts. Thus, our expectations must be realistic, and we must concentrate on encouraging the maximum possible evolutionary improvement. It may be that from such improvements major long-term changes may result or even, as in Portugal, Spain and Greece, dramatic improvements in the short run. There will, of course, be certain exceptional circumstances in which we will affirmatively seek dramatic improvements, e.g., our efforts to promote majority rule in Rhodesia. Success in achieving these results is not assured, however, and our policy should not be judged a failure if such violations persist, or are reduced in intensity or frequency very slowly or unevenly despite our best efforts.

3. Timeframe.

By its very nature our over-all objective is one to be pursued over the long term. Indeed, in this sense its pursuit is not different from the search for peace: they are both effectively unending. Nevertheless, we believe it is realistic to expect that within the next few years our efforts will render

many governments increasingly conscious of human rights consideration to the extent that they will, in a meaningful way, take such considerations into account in their policies, at home and abroad. A number of governments have already begun to do so.

Realistic timeframes will differ by country and by the type of human rights violation involved. The timeframes within which to expect improvements in group one rights should, in general, be considerably shorter than those in groups two and three.

B. Reasons for Pursuing the Over-All Objective.

There are sound reasons, based in national interest as well as our moral tradition and legal obligation, for encouraging an increase in the respect that governments accord to human rights. Pursuit of this objective:

(a) helps fulfill a moral obligation that we have incurred by virtue of our heritage and values;

(b) strengthens the rule of law and respect for agreements by, inter alia, promoting the authority of the obligations embodied in the United Nations Charter, the Universal Declaration of Human Rights, the Helsinki Final Act and other international agreements and furthering the goal contained in U.S. laws authorizing foreign assistance that our foreign policy promote increased

observance of internationally recognized human rights by all countries;

(c) substitutes, in our dealing with non-communist countries, a standard based on governmental behavior toward people for an increasingly outmoded Marxist-non-Marxist standard, thus;

(d) promotes a cooperative relationship with the Congress and strengthens domestic support for our foreign policy by permitting the moral and ethical values of our people to be reflected in that policy;

(e) promotes the fundamental long-term American interest in a world of nations whose systems of government and societies reflect individual freedom and dignity and thus reject totalitarianism; in particular, supports the growth in the Soviet Union and Eastern Europe of democratic forces which may in time contribute to the development of more open societies;

(f) assists in the philosophical debate with the Soviet Union as to the type of society worth developing, thus helping us in those European states with competitive communist parties and in much of the Third World.

C. Broad Intermediate Objectives.

In order to attain the over-all objective set forth above, we should seek to achieve the following broad intermediate objectives:

(a) heighten international and national awareness of human rights concerns;

(b) steadily increase the norms of acceptability in the human rights field, thus making our human rights policy a dynamic one;

(c) maintain U.S. leadership of the human rights movement;

(d) demonstrate that countries which violate basic human rights do so at a cost and, conversely, that countries with positive records or improving performance benefit tangibly and intangibly from their efforts;

(e) attract international support for our efforts;

(f) promote and strengthen the efforts of international institutions as well as non-governmental organizations to protect human rights;

(g) increase our identification with countries where there is a trend toward greater respect for human rights;

(h) lessen U.S. identification with governments that commit or tolerate gross human rights violations and whose conduct demonstrates a trend away from respect for human rights;

(i) ensure that our own conduct measures up to the same standards we apply to others;

(j) seek a rapid end to patterns of gross governmental violations of the person;

(k) increase the level of humanitarian relief of refugees throughout the world;

(l) ensure coordination of Executive Branch efforts in behalf of human rights, as well as integration of U.S. human rights policy within our over-all foreign policy.

D. Specific Objectives.

Our efforts to achieve the over-all objective and the broad intermediate objectives set forth above will consist of the pursuit of certain specific objectives related to particular countries and international institutions. The identification of such objectives requires detailed analysis of the human rights situation, as well as other relevant factors, in other countries and of the possibilities for international action, and this effort is presently underway at both the Department of State and posts abroad. While certain specific objectives are already apparent -- such as an end to the state of seige in Chile, the release of the Myongdong defendants in Korea, majority rule in Rhodesia, increased emigration from Eastern Europe -- others will only emerge after additional analysis. Certain specific human rights objectives, such as majority rule in Rhodesia and implementation of the Helsinki Final Act, will also serve to enhance political and other policy goals. Human rights objectives cannot be viewed in the abstract, and it should be obvious that pursuing them can be useful in achieving

other broad or particular goals, such as greater credibility in the Third World.

E. Costs of a Human Rights Policy and Its Relation to Other Foreign Policy Objectives.

While the promotion of human rights is a fundamental tenet of our foreign policy, raising it to a higher level of priority brings certain costs. There are clearly other major objectives of U.S. foreign policy that are of equal -- and in some situations greater -- importance. They would include our fundamental objective to protect and advance U.S. national security, as well as such more specific objectives as, for example, NATO strength and solidarity; strategic arms limitations and other aspects of detente; peacekeeping in the Middle East; control of nuclear proliferation; and normalization of relations with the PRC. While there is no necessary inconsistency among any of these objectives, they will, on occasion, compete for primacy. Resolution of the conflict will depend on the facts of the situation at hand. There will clearly be situations in which efforts to achieve our human rights goals will have to be modified, delayed or curtailed in deference to other important objectives. It should be stressed, however, that the clear implication of making the promotion of human rights a fundamental tenet of our foreign policy is that there will henceforth be fewer

instances when promotion of human rights will be viewed as a marginal objective. Even when other objectives outweigh the human rights factor, our policies should, nevertheless, be implemented in a manner that promotes human rights to the extent possible.

It is likely that adoption of a serious human rights policy will entail additional costs besides the trade-off referred to above, which are a concomitant of the adoption of any new objective.

First, our actions and statements regarding human rights objectives may involve criticism of the situation in another country, which is likely to be viewed as either offensive or threatening by the government concerned. As a result, it could strain our relations and have a negative impact on other interests. The sensitivity of the Soviet Union to our human rights initiatives represents a dramatic manifestation of the possible risks involved, in this case a strain in crucial East-West relations.

Second, our pressure for human rights improvements may prompt a greater degree of repression by a government, either because it fears our criticism will encourage dissident groups to act with more strength or because it wants to demonstrate its refusal to buckle to our demands. That pressure also

might enable the offending government to wrap a banner of national sovereignty around itself and draw additional popular support, in spite of its repressive practices.

Third, our methods may affect adversely multilateral institutions or ongoing programs, particularly in the economic area, which have their own U.S.-endorsed objectives. In particular, using our vote in international financial institutions will tend to politicize them, with possible long-term adverse effects.

Fourth, other U.S. foreign policy interests could be undermined by the alienation that the human rights policy produces in other governments. Our effort to obtain favorable results in the North-South discussions could be diminished if countries such as Brazil and Argentina were to alter their moderate position because of our human rights stance. (It must be noted, however, that the moderation of these two countries is soundly based in their own economic self-interest.) Similarly, since some other Western democracies, while supporting our general principles, do not agree with us on tactics, there is a risk that certain of our initiatives, if not properly coordinated, could lead to differences with our NATO allies. These differences could, of course, be exploited by the Soviet Union.

Fifth, potentially unavoidable inconsistencies, particularly to the public eye, will expose us to severe criticism. Allies

such as Korea, Iran and the Philippines, for instance, cannot be immune from some applicability of the policy without endangering the integrity of our policy; neither can powerful adversaries like the Soviet Union or the PRC.

Sixth, the implementation of our policy is likely to engender reciprocal criticism of our own domestic situation, not only from communist nations but also from erstwhile friends. Our response here should be to welcome criticism that is constructive, noting that our system provides ready methods for remedying social and economic ills.

Seventh, in many societies departures from generally recognized norms of human rights may be dictated by adherence to age-old social and religious traditions. Our failure to recognize cultural conflicts can damage our human rights and other objectives. We must constantly reassess our own standards to ensure that we are not confusing truly objectionable conduct with unfamiliar traditional patterns of relationship or conduct.

Eighth, to the extent that pursuit of our human rights objectives results in reduction of security assistance to, and cooperation with, offending governments, it can be expected that the general state of relations between our military establishment and the military organization of those regimes will deteriorate. In some few instances where our own defense needs are dependent on local cooperation, there may be reductions of effectiveness that adversely affect U.S. security interests.

Ninth, the human rights effort will have significant dollar costs if it is pursued seriously. This study refers to a substantial increase in economic assistance, the cost of which may itself be more than the American taxpayer will want to bear. In addition, increased refugee assistance and additional resources for USIA, the Radios, cultural affairs programs and other human rights-related activities will require increased resources, although some costs can of course be absorbed by re-programming existing activities.

Finally, there is the potential cost if we do not pursue a human rights policy -- a backlash of public cynicism and Congressional impatience and distrust, which may have an inhibiting or detrimental effect on the whole range of the Administration's foreign policy.

F. Strategies for Pursuing our Human Rights Objectives.

Our human rights objectives obviously cannot be pursued everywhere, at once, and in the same manner. As explained with greater particularity below, a case-by-case approach is required. Nevertheless, while no two countries' situations will ever be identical, there are certain logical groupings of countries which can be useful for analysis and discussion, albeit not necessarily for implementation of our policy.

1. Western Democracies.

We should support and reinforce human rights values

in the Western industrial countries (including Canada, Japan, Australia, New Zealand) and encourage these countries to support our human rights initiatives. We are now at a historic point at which all NATO and Western European countries are democracies, and a major effort should be made to reinforce democratic tendencies, particularly in countries that have only recently established or re-established democracy, such as Turkey, Greece, Portugal and Spain. This effort should include increased symbolic support as well as increased economic assistance, as appropriate, and cultural, educational and scientific exchanges. Efforts should be made to obtain the active support of these nations in our overall human rights policy.

2. Communist States.

With respect to the communist countries, our human rights effort should remain firm and consistent but non-polemical. We should recognize that major changes in communist regimes and their human rights practices will not take place in the short-term; they are only likely to occur, if at all, gradually as the basic political and social structures of these countries change. On the other hand, we believe that U.S. and world opinion and U.S. actions can positively influence trends in the long-term and encourage improvements in limited but important areas in the short-term. We should

make it clear that our commitment to human rights is a very basic part of our policy, and our ideas should be directed to the people of these countries as well as their governments. We should emphasize implementation of the Helsinki Final Act.

Because of its pivotal importance, the Soviet Union is a special case meriting a separate world. Soviet public and private responses to our emphasis on human rights have been uniformly negative and increasingly sharp, explicitly suggesting that detente is threatened by our policy. To what extent the Soviet leadership truly feels their system and their hold in Eastern Europe endangered is unclear; but their objective appears to be to bring about a significant decrease in our public advocacy of the human rights cause, thus reducing its most embarrassing aspects for them, on the pretext that a "one-sided" U.S. advocacy of human rights and respect to state sovereignty cannot co-exist.

There is no evidence that the U.S. human rights policy has yet impacted on specific Soviet bargaining positions in important negotiations, even if the atmosphere surrounding negotiations is tense. The details of our substantive arms control position has and likely will continue to determine the Soviet response on this critical issue. We believe that the Soviet Union will continue to pursue its perceived interests in arms control, trade, scientific and cultural exchanges and other areas of our bilateral relations, regardless

of our advocacy of human rights. The inevitable strain of a massive arms race, a need to take increasing consumer demands into account and potential unrest in Eastern Europe, the Soviet Union cannot easily pull away from MBFR or SALT negotiations, technological transfer agreements or commercial credit arrangements, strictly because of U.S. human rights advocacy.

The USSR is continuing efforts to cooperate with the U.S. private sector, despite the Jackson-Vanik Amendment. This indicates that the Kremlin may implicitly recognize that Soviet economic concerns will make it difficult to delay forward bilateral movement because of U.S. human rights advocacy for long periods of time.

There is no evidence pointing to the likelihood of an evolution toward greater Soviet responsiveness in human rights in the short or medium term. Yet this time frame is precisely the focus of Congress, the media and the public, whose legitimate call for active Administration involvement in Soviet Bloc treatment of peoples cannot be answered by a passive U.S. role. Congress, the public, or Western European governments and peoples will not be fully satisfied that Soviet Bloc human rights attitudes will have materially changed if a bargain is struck allowing only particular ethnic groups to emigrate, although progress here would be clearly a visible and important step.

Western concern is focused increasingly on the fundamental pattern of government behavior in matters of human dignity, often resulting in popular political pressure on Western governments to find effective means to seek greater progress on human rights on the part of the Soviet Union and its allies.

Our security interests and our human rights concerns both can be accommodated in our relations with the Soviet Union. In fact, failure to execute an appropriate human rights strategy with proper balance will detract from the political value of our human rights policy elsewhere in the world.

The potential normalization of relations with China and Cuba will place some strain on the credibility of our human rights policy, for in both cases other considerations will govern. As relations are established, we will be expected to take human rights initiatives. We should now, in the early stages of our negotiations, be examining the methods we will utilize to achieve specific human rights goals. These would probably fall, at the beginning, in the areas of family reunification and, with respect to Cuba, the treatment and disposition of political prisoners. We should recognize that with respect to human rights we will have little if any leverage or influence with the PRC at this stage in its development.

3. Third World Nations.

Efforts should be made to reinforce positive human rights and democratic tendencies in the Third World, particularly in states that already have demonstrated good or improving human rights performance. This support is particularly important with respect to countries that are vulnerable to external or internal threat, or which face severe economic problems.

Our efforts with respect to Third World nations where a human rights tradition has been disrupted (e.g., Uruguay) should seek to encourage return to former norms and to discourage the arbitrary use of power. In such societies, the populace may be quite receptive to various forms of assistance geared to support human rights values. Educational and cultural programs directed to human rights supporters might be especially effective.

In Third World nations where human rights values have never taken firm root, we should discourage the arbitrary use of power and promote a more equitable and humane social and economic order. In some cases, it will be more realistic to expect concrete achievements with respect to the first and second groups of rights than with respect to the third.

In the last two cases limited dissociation may ultimately be an appropriate US action: an important aspect of our policy should be to ensure that our relations with

countries that systematically violate human rights are correct, in keeping with our other interests, but not overly close. The tone we set in our relations is important to the credibility and thus to the success of our overall policy objectives.

With respect to all Third World nations, promotion of economic and social rights is likely to evoke the greatest immediate response from governments as well as people, and would show a responsiveness, in human rights terms, to their most immediate needs.

4. Gross Violaters of Human Rights.

Governments that have a consistent record of gross violations of human rights should be dealt with as special cases, and our policy should generally be to bring to bear international opinion and concerted action by the world community against such a regime. Obviously, this should be done only in flagrant cases after attempts to encourage evolutionary improvement have been spurned, e.g., Uganda, Cambodia. Even in such cases, however, there is no necessary reason why formal relations should not be maintained.

II. Identification of 'a consistent pattern of gross violations of internationally recognized human rights'.

The phrase, "a consistent pattern of gross violations of internationally recognized human rights" derives from terminology in Resolution 1503 of the UN Economic and Social Council, dated May 27, 1970, and has been used in Sections 116 and 502B(a)(2) of the Foreign Assistance Act of 1961, Section 28(a) of the Inter-American Development Bank Act, and Section 211(a) of the African Development Fund Act. The general purport of all these statutory provisions is that we should not provide assistance to governments that engage in such conduct.

The legislative history of these statutory provisions does not indicate the meaning Congress attached to the concept of a "consistent pattern," and there are no judicial decisions interpreting the phrase. By its terms the language excludes isolated events and incorporates the dimensions of time as well as repetition. Thus, frequently repeated actions over a relatively short period of time would appear to be covered as would somewhat less frequent but regular violations over a relatively long period of time.

While "internationally recognized human rights" would include, inter alia, all of the rights in the Universal Declaration of Human Rights, it appears from the legislative history that in using the phrase and combining it with the concept of "gross violations," Congress intended to cover mainly the right to be free from governmental violation of the integrity of the person, i.e., the first group of rights discussed above.

Once a determination is made that a country has engaged in a consistent pattern of gross violations of internationally recognized human rights, certain important questions arise. For example, is the determination binding as to future decisions with respect to that country? If that would depend on whether there had been substantial intervening events, by what standard ought those events be judged? Further, would a determination as to one country have precedential effect as to other countries?

These are not easy questions. While answers can no doubt be devised, the questions point up the limitations in the human rights context of requiring uniform actions pursuant to a statutorily-prescribed standard of conduct. There are vast differences among human rights conditions in various countries, and what may rise to the level of highly egregious conduct in one country may not be properly so characterized in the setting of another country with different circumstances and a different history. To be realistic and effective, our policy must take account of such differences. That will therefore be difficult if we are required to take the same action -- e.g., a "no" vote on an IFI loan -- with respect to different countries, even though our own best assessment of the circumstances in such countries might indicate that the mandated action would be inappropriate or that other actions should be taken instead.

In view of these considerations, we recommend (1) the Administration continue to oppose the use of this standard as a predicate of mandatory action; and (2) while complying with the law when required by its terms, make a formal determination that a country has violated the standard only in the most egregious cases (e.g., Uganda).

III. "Evaluate actions which U.S. could take to improve human rights conditions."

There is a range of actions we may take to help achieve our human rights objectives. There are, however, certain general considerations which apply to all of the possible actions examined below.

Of primary importance is the need to develop with respect to particular countries an overall evaluation that takes into account the countries overall human rights situations and considers and coordinates the various types of action at our disposal in the context of an overall foreign policy account of that country. The development of evaluations for particular countries is proceeding on a high priority basis at the State Department with assistance from posts abroad.

There are certain important factors we should consider in each instance. A first group of such factors concerns the nature of the case that confronts us and includes, for example, the following:

- (1.1) the nature of the violations;
- (1.2) the nature of the cause of the violations (e.g., to what extent is the problem historical and systemic; to what extent a willful intrusion by a particular regime; to what extent motivated by a desire to impose the will of the state on the people; to what extent a result of uneven distribution of scarce resources);
- (1.3) the extent of the violations;
- (1.4) whether there is a pattern to the violations;

- (1.5) if there is a pattern, whether there is a trend toward concern for human rights or away from it; and
- (1.6) the degree of control and responsibility of the government involved.

A second set of factors concerns the prospects that whatever action we might take would prove effective, and includes, for example, the following:

- (2.1) whether our actions will be useful in promoting the overall cause of human rights;
- (2.2) whether any proposed action on our part would actually improve the specific conditions at hand or rather be likely to make things worse (e.g., whether the offending regime regards the conduct we want changed as vital to its survival or at least its military security or its economy.)

- (2.3) whether the government involved and/or its people are receptive to our interests and efforts;
- (2.4) whether the government is willing to permit independent, outside investigation;
- (2.5) whether others will work with us, including officials and private international organizations dedicated to furthering human rights; and
- (2.6) whether our sense of values and decency demand some action on our part even though there is only a remote chance of making our influence felt.

A third set of factors concerns the importance of maintaining our sense of perspective. We must avoid self-righteousness and stridency, remembering that our own record is not unblemished. For example, the following should be considered:

- (3.1) whether we have fairly assessed the genuine security interests of the

country involved, realizing that the outbreak of armed conflict or terrorism could in itself pose a serious threat to human rights; needless to say, however, security interests cannot justify torture and other violations and they must be weighed in light of the reason for the rise of the security threat, e.g., the previous closing of avenues of legitimate dissent;

(3.2) whether we have taken full account of our other important foreign policy objectives and carefully weighed the potential positive or negative effects of the proposed action on the achievement of those objectives; and

(3.3) whether we have considered all the rights at stake so that, for example, we do not by our action penalize those, such as the hungry and the poor, who

may bear no responsibility for the abuses of their government.

It would be comforting to be able to assign weights and priorities to these criteria so that in any given situation they would be relatively easy to apply. Unfortunately, with respect to a policy that must by and large be pursued on a country-by-country basis, it is impossible to create an all-purpose formula that yields a right answer. In the end, the decision whether and how to act to promote our human rights objectives is a matter for informed and careful judgment. An evaluation of the particular types of action treated below must be made in light of, and the action must be tailored to fit, the exigencies of the particular case at hand, consistent with the aims of the overall strategy for the country involved.

Another important overall consideration with respect to actions we may take is that we can promote our objectives not simply by penalizing, or threatening to penalize, offensive conduct but also by rewarding, or offering to reward, positive human rights conduct. Just as the former approach can have an effect on either the party penalized or third parties who are deterred, so the latter approach can have

the effect of encouraging improvements not only by those rewarded but also by those who perceive the potential returns in moderating their human rights conduct. In short, we should be alert to the potential benefits of using the "carrot" as well as the "stick." Indeed, before we use the "stick." In using the "carrot", however, we must avoid encouraging a host of new demands for increased aid levels based upon good human rights performance.

A. "Diplomatic actions, public statements, and various symbolic acts."

Diplomatic actions, which could include demarches at any particular level, are a valuable tool. Through them we can ensure that our human rights policy is fully understood by other governments and give early notification or hints of the sanctions or incentives likely to flow from our policy. In this way we may give governments the opportunity to respond privately and promptly to our concerns.

In many instances we should expect that other governments will have a decided preference for keeping our efforts and their responses confidential in view of the possible embarrassment that could flow from public exposure.

Since our overall objective is improvement of human rights conditions and not the publication of our successes, we believe there is every reason to respect good faith requests for confidentiality. Of course, the assurance of confidentiality should be conditioned on fulfillment of the promises of improvement. It should be noted that public and Congressional pressures may build to reveal the substance of confidential demarches.

As a general proposition, we believe our actions with respect to the human rights conditions in any country ought to begin with a diplomatic demarche. There would appear to be no point in starting with more drastic action that would catch an offending government by surprise. There may, of course, be exceptions to this rule, especially where the offending government has a record of being unforthcoming or hostile in diplomatic contexts.

Diplomatic actions may, of course, extend beyond demarches. In flagrant cases we may find it advisable and effective to reduce the level of our diplomatic representation in a given country.

Public statements can be quite useful in promoting our human rights goals. By conveying publicly what we have previously said privately, they add the force of world opinion to our efforts. Our statements could be critical of particular violations or general attitudes or they may be commendatory of positive conduct or attitudes. Critical public statements ought to be used sparingly, or they will lose their effectiveness: a constant stream of criticism of foreign governments may cause the United States ultimately to be ignored as a tiresome and ineffective international scold. Thus, while official rhetoric is an extremely important weapon, it must be used with skill and discrimination if it is to retain its potency.

Symbolic acts can in certain circumstances be even more effective than public statements and may not present the same risks. They can be particularly useful in encouraging countries with good human rights records. Invitations to state visits, Presidential letters, goodwill missions, special visitor programs and the like are highly valued abroad. By directing them

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more so than in the past to countries with good or improving human rights records, we will send a very effective signal.

Nor need our symbols be confined to other governments. There will clearly be circumstances in which it would be advisable to use symbolic acts to identify the United States Government with representatives of human rights organizations, or with the victims of human rights records. We not only thereby demonstrate our concern and communicate our support, but we may also add an element of protection to the organizations and individuals involved. Of course, there will be circumstances in which such symbolic acts on our part would actually increase the risks which such organizations and individuals run.

B. "Changes in levels of security and economic assistance and food aid."

As a general proposition we view increases or reductions in the security and economic assistance (including food aid) that we provide as more decisive and visible measures than diplomatic actions, public statements or symbolic acts. Reductions in aid ought not, however, be considered until the less drastic actions have been tried and found wanting.

Obviously we do not write on a clear slate when we consider reductions in assistance in view of the various statutory provisions referred to above which direct us to use our assistance programs to promote human rights, and except in certain exceptional cases, to withhold assistance from those who engage in a consistent pattern of gross violations.

Our security and economic assistance is generally viewed by recipient governments as something of considerable value. There would appear to be no inherent reason why that return value could not take the form of improved conduct with respect to human rights. It should be noted, however, that in many cases aid has been given in return for other things of value, such as base rights or changes in policies, or relationships (e.g. Egypt, Sudan), and additional leverage will not easily be exacted unless the level of aid is appreciably increased.

The costs and benefits of using our security and economic assistance as sanctions and incentives with respect to human rights are considered under the separate discussions below of the two types of assistance. Certain general costs and benefits apply to the use of both types. The benefits include underscoring the seriousness and

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determination with which we are pursuing our human rights objectives; avoiding where feasible the inconsistency of providing substantial material assistance to repressive regimes; and demonstrating tangibly that it can be costly to violate human rights and valuable to respect them.

The costs include possible damage to primary U.S. Security, political and economic interests; disruption of established assistance relationships; possibly penalizing groups of individuals who bear no responsibility for the abuses of their governments; and running the risk that some recipient regimes from whom we withhold assistance may well be in a position to retaliate by withholding resources that we vitally need.

An important general consideration in determining whether a reduction in the level of assistance is a sanction in a given case is whether the offending government has a realistic alternative source of supply for the items in issue. If it does, then reductions or threats of reductions in supply by us may be less effective. If there is no readily available alternative supplier, then obviously our leverage is increased. There will be many instances, of course, where although a recipient regime has a readily available alternative source of supply, it will be highly reluctant to turn to it because it values

its assistance relationship with the U.S., and all the implications thereof, as much if not more than the aid itself. Further, even where a country has a readily available alternative source of supply, it may nevertheless make sense for the U.S. to cut off assistance in certain circumstances, either because our sense of decency demands that we dissociate ourselves from the regime in question or because we have reason to believe our actions will have a strong deterrent effect on other governments.

Subject to the exigencies of the case at hand and the availability of desired alternative sources of supply, we believe that when being used as sanctions with respect to human rights conduct, reductions in the level of security assistance usually ought to precede reductions in the level of economic assistance. Conversely, we believe that when being used as incentives or rewards for improved human rights performance, increases in the level of economic assistance ought usually to precede increases in the levels of security assistance.

Finally, when using increases in the levels of assistance as incentives or awards, particular attention should be paid to those countries that face difficult economic circumstances or internal or external threats.

1. Security Assistance. *

Our security assistance is a matter of great sensitivity both to regimes who receive it, especially military regimes, and to the American public and Congress who watch it closely as an index of priority we place on human rights objectives in relation to our other foreign policy concerns.

Moreover, under Section 502(B) of the Foreign Assistance Act of 1961, as amended, we have a legal obligation to ensure that our security assistance programs are formulated and conducted in a manner that will promote and advance human rights and avoid identification of the U.S. through such programs with governments which violate human rights.

More than any other single factor, U.S. security assistance implies U.S. support for the recipient regime.

* Unless otherwise specified, security assistance as used herein includes grant aid, FMS credit and cash sales, training assistance, military advisers, and commercial arms sales requiring an export license.

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This is the clear perception of our public and of people and governments in other countries. To be perceived as supporting a repressive regime necessarily and substantially impeaches the credibility of our human rights policy. Moreover, almost any arms we provide, finance or license can be used by a recipient regime to carry out or undergird repressive practices. While cutting off or reducing the flow of our arms will not necessarily affect such practices -- especially where there is a desired alternative supplier -- the mere fact that our arms are involved unavoidably taints our credibility. A full discussion of the criteria for providing security assistance is beyond the scope of this study. However, in view of the critical relationship between human rights and security assistance it is recommended that, as a general matter, except where it is essential for our national security that assistance be given, there be a general presumption that we should refrain from providing security assistance to any country unless the recipient country has or is clearly developing a good human rights record.

Opponents of this view believe we should retain greater flexibility to provide to any government security assistance that enhances our foreign policy objectives. This view is premised on the conviction that our first obligation is to ourselves. No one can be sure, it is argued, that what is

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essential today will not be insufficient tomorrow, and we should therefore err on the side of excess when it comes to maintaining our security.

Reduction or elimination of security assistance may have little beneficial impact on a country's human rights performance. However, when they are used as part of an overall strategy, with advance warning communicated through diplomatic channels, some improvement of human rights performance may be possible, particularly if those improvements are not viewed by the repressive regime as inimical to its overall goals.,

Moreover, the awareness that offending regimes will face reduced military support may establish long-term pressures for positive change. Governments and military forces in many regions desire close relations with the U.S., and a firm human rights policy, which demonstrates that benefits such as substantial security assistance will not be forthcoming or are placed at risk in the absence of human rights progress, will be a continuing element in their decision-making.

Security assistance can be used as sanctions or incentives to promote human rights in various different ways: altering the size or functions of our military advisory contingent; altering the level of training grants; altering the quantity of arms transfers; altering the types of arms transferred or the uses to which they may be put; giving greater emphasis to our human rights concerns in the training program (IMET) we conduct for foreign military personnel.

Perhaps the strongest signal that could be sent to offending regimes would be to alter the personal relationships that have been built up over the years between our military and the military of the other country. Reducing the size of our military advisory contingent and our training grants may be particularly effective in this regard. The proponents of this view do not believe such action would impair our security interests; indeed, they argue that we do not have legitimate security interests in many of the 82 countries to whom we provide security assistance. Many of the foreign military personnel who have undergone U.S. training have rejected democratic ideals and are now in power directing the repressive practices we are seeking to proscribe. Thus IMET, presently conducted, may have questionable utility.

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The Joint Chiefs of Staff (JCS) believe, however, that reducing the size of our military advisory contingent may actually be counter-productive because it would reduce our ability to communicate with and influence segments of the government whose policies we are trying to change. More generally, JCS believes that such action will damage our security interests.

Further, JCS opposes incorporating the direct teaching of human rights concerns into the professional-military curriculum of our training programs for foreign military personnel, on the grounds that this would cheapen our human rights ideals and be seen by foreign trainees as blatant propaganda. JCS argues that IMET's value as far as human rights are concerned rests primarily in its ability to expose foreign students to U.S. values and ideals through contact with our society and people, who should set the example. JCS would suggest that we increase the IMET program on a worldwide basis, particularly in those countries now prohibited from participating in it.

Options:

1. Consider all forms of security assistance as eligible for use as sanctions or incentives to promote human rights objectives.

Yes _____ No _____

2. Give priority to reducing the personal relationships between our military and the military of offending regimes, including by reducing the size of our military advisory contingent.

Yes _____ No _____

3. Expand IMET on a worldwide basis, particularly to those countries now prohibited from participating in it.

Yes _____ No _____

4. Use IMET for direct teaching of human rights concerns to foreign military personnel.

Yes _____ No _____

2. Bilateral Economic Assistance, Trade,
and Investment Programs.

Bilateral economic assistance includes direct humanitarian assistance (disaster relief), assistance programs geared directly to the needy, broader economic development programs, food aid given in the technical form of balance-of-payments assistance (PL 480 I), food aid given directly to the hungry (PL 480 II), and security

support assistance (direct grants to improve recipient's balance of payments).

Cuts in economic assistance programs designed to confer immediate benefits on the poor may produce internal pressure within a foreign nation for the government to change human rights policies but might also involve high costs in potential human suffering, especially in the short term. Curtailment of programs providing food, health care, education, and disaster relief directly to those in real need should therefore be used as virtually a last option, if considered at all. In general, reducing economic assistance that does not directly benefit the needy, such as security supporting assistance, is a more appropriate means to influence improvement in human rights conditions. It must be noted, however, that our resources are not sufficient to aid all the needy people in the world and that there is no inherent reason why we must devote our limited resources to the needy people of any particular country. Thus, the fact that certain assistance clearly helps the needy in the proposed recipient country is not dispositive of the issue of whether that assistance should be used as a sanction or incentive to promote our human rights objectives.

An increase in aid that directly benefits the needy can be an especially effective way to encourage positive human rights conduct. Such increases directly promote our over-all human rights objective by contributing to the fulfillment of vital human needs. In addition, assistance programs designed to encourage wider participation in the economic life of a nation can encourage creation of an underlying climate supportive of a broader observance of human rights.

In addition, AID is currently supporting certain initiatives specifically addressed to human rights concerns of which the following are examples:

(1) Programs designed to help the urban and rural poor have effective access to rights and protections accorded by law and under development programs, including arrangements for local advocacy and for non-formal education aimed at providing the poor majority with knowledge of their rights and of governmental process which affect them.

(2) Cooperative programs with leading international or regional institutions, such as the International Commission of Jurists and the Inter-American Human Rights Commission, which are specially equipped to deal with serious human rights violations.

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(3) Sponsorship of studies and conferences regarding human rights problems and their relationship to development.

(4) The planning of meetings, seminars, and conferences with experts and other interested persons at home and abroad to consider the general issue of women in development and the specific elements contained in the U.N.'s World Plan of Action for the Decade for Women; concentration on the five-year minimum goals set forth in the U.N. World Plan.

In addition to reducing or increasing bilateral economic assistance to particular countries to promote our human rights objectives, there is the broader question of the over-all level of our bilateral economic assistance. If we are serious about seeking to promote economic and social rights, as defined above, it would appear that we have an obligation to increase that level substantially. What we now give represents a smaller percentage of GNP than the assistance given by other higher industrialized nations. It would be anomalous to permit this situation to continue while simultaneously proclaiming the importance of the fulfillment of such vital needs as food, shelter, health care and education. It is therefore important to fulfill the Administration's pledges to increase substantially our foreign aid by 1982.

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Government programs supporting U.S. exports are administered by the Export-Import Bank (Ex-Im), while the Overseas Private Investment Corporation (OPIC) encourages U.S. businesses to invest in foreign countries through its guarantee and insurance programs. Ex-Im and OPIC can be distinguished from bilateral assistance programs in that one of their goals is to promote the interests of U.S. business.

Ex-Im and OPIC usually deal directly with the private sector of the country concerned. Their programs therefore normally provide less appropriate vehicles

for influencing changes in the human rights practices of governments. There may, however, be circumstances under which they can be used effectively as either sanctions or incentives.

It should also be noted that the projects facilitated by OPIC and Ex-Im typically do not involve direct assistance to the needy and thus their curtailment will not directly penalize the needy. Moreover, important sectors of the affected country's economic elite are usually involved in some way in the investments in question and they may be particularly effective in pressuring the government to improve human rights practices. Further, 80 percent of the capital flow to less developed countries currently goes to the private sector, and thus use of these instruments with their ramifications throughout the private sector is all the more likely to have a significant impact on the governments in question.

In general terms, there are two basic discretionary trade incentives at our disposal. These are the granting of most favored nation status (MFN) and eligibility for the Generalized System of Preferences (GSP).

The power of the President to use trade measures to favor or discriminate against a country on human rights grounds is limited by international and domestic legal obligations to grant non-discriminatory treatment to most nations. There are also practical limitations.

The U.S. is a strong proponent of liberalized trade, most importantly because preferential or other discriminatory arrangements established by other major trading countries generally hurt U.S. trade. Moreover, singling out of particular countries for punitive action is very difficult to accomplish "cleanly" -- other countries' trade and economic interests almost inevitably become involved, resulting in a chain reaction which may ultimately cause adverse consequences for our own economy. Only where there has been a broad consensus that the target country is guilty of egregious conduct have a sufficient number of countries coordinated their trade sanctions so as to have a significant economic impact on the offending regime.

About 100 developing countries receive preferential treatment (i.e., duty-free entry) for certain products under the GSP. The U.S. and other preference donors

consider the GSP to be a unilateral grant and, therefore, not subject to the same rights of compensation or retaliation provided in the GATT with respect to duties on "bound" items. Consequently, the President could use it as a human rights sanction or incentive without the adverse consequences described above. One case where human rights considerations have already played a role with respect to such designations is Uganda; a designation has been withheld because of that country's human rights record.

Nevertheless, our current limited experience with the granting or withholding of GSP benefits has shown that they are not sufficiently important economically to induce countries to change their policies.

Similar considerations apply to granting or withholding MFN. The Jackson-Vanik prohibition of MFN to countries with restrictive immigration policies has not produced the result sought by the authors of the legislation except perhaps in the case of Romania. This may be due in part to the limited economic benefits permitted under current limits.

As a general rule, GSP and MFN should be among the final actions taken to promote our human rights objectives with respect to a given country, and a decision to withdraw MFN treatment would be of sufficient gravity to be considered on a par with a decision to use of force against another country.

Option

Human rights factors should be considered in OPIC and ExIm decision-making.

Yes _____ No _____

C. Initiatives in international financial institutions.

U.S. concern with promoting human rights through the international financial institutions (IFI's) became explicit last spring with the passage of the Harkin Amendment to the authorizing legislation for the Inter-American Development Bank (IDB). That amendment requires that the U.S. vote "no" on any IFI loan to a country that "engages in a consistent pattern of gross violations of internationally recognized human rights . . . unless such assistance will directly benefit the needy people in such country."

It is our current policy to use our "voice and vote" in all the IFI's to promote our human rights objectives, and to support legislation to that effect. It

is also our policy to discourage extension of the Harkin Amendment to any other IFI's and to seek its repeal on the grounds that its mandatory character greatly limits our flexibility and thus makes it harder rather than easier to attain our objectives.

We believe it is essential to gain the support of other member governments and IFI managements for the concept that multilateral developmental institutions should take human rights conditions, as well as the more traditional economic elements, into account when assessing the justification for individual loan proposals. We should seek such support through contacts at all levels.

While most of the discussion to date concerning human rights and the IFI's has focused on particular loans and votes, it is also important to develop a long-term approach whereby we seek an overall reduction in IFI lending to countries that consistently violate human rights, except as to loans for the needy.

Responses to efforts we have already made to use our voice and vote in the IFI's to promote human rights have

been mixed. Recently the President of the IDB stated publicly that the majority of Latin American nations view human rights as a political problem which should not interfere in the economic deliberations of development institutions. Support from democratically-oriented nations for our position has been minimal to date: only Canada and Sweden have indicated some support. A number of leading LDC's -- including Egypt and India -- have questioned the legality of U.S. actions on human rights in the IFI's.

The latter point warrants close analysis. The articles of all the IFI's contain a provision not different in substance from the following language in the World Bank's articles:

"The Bank, its officers and employees shall not interfere in the political affairs of any member, nor shall they be influenced in their decisions by the political character of . . . (the recipient government). Only economic considerations shall be relevant to their decisions" (Art. 10, Sec. 10)

The Legal Adviser of the State Department advises that one possible view is that these strictures do not apply to the Executive Directors of the bank who are representatives of governments and not representatives of the bank or officers or employees of the bank. While there is substantial support for this view, it creates a somewhat anomalous distinction, permitting the Executive Directors to take actions individually

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which they collectively, or at least the bank as an institution, could not take.

The Legal Adviser believes that the prohibition against interference in the "political" affairs of members may be interpreted validly as not applicable to the consideration of human rights factors, which are more fundamental than "political" matters and therefore not within the scope of that term. The injunction to weigh only economic considerations in making decisions can in many, if not most cases, be satisfied by relating the human rights situation in a country to economic issues. For example, welfare and other social concerns are, broadly speaking, economic as well as human rights considerations.

It may be, however, that in a particular case relying on violations of human rights to justify a vote against a loan would raise serious questions of compatibility with an IFI charter. In such a case, it would be appropriate to examine whether disregarding human rights considerations would be compatible with the U.N. Charter. Although rules of legal construction would require that a basis for compatibility be sought, if a conflict between an IFI charter and the U.N. Charter could not be avoided, the latter would prevail by virtue of Article 103.

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We believe that our interest in promoting human rights will be best served if we adhere to the following guidelines:

-- There is a presumption that our votes in the executive boards of the IFI's in support of our human rights policy should be used sparingly and linked specifically to overall strategies we have worked out for individual countries to promote human rights.

-- When we plan to cast a non-affirmative vote or make a statement of concern for or condemnation of human rights practices in the IFI's, we should apprise other nations of the rationale for our proposed action and seek their cooperation.

-- The kind of information on human rights which the US uses to make judgments should also be available to all other IFI members.

-- In the longer run we must endeavor to develop a consensus among IFI member governments in support of our human rights policy and seek to persuade these governments that IFI managements and members should give great weight to human rights factors when assessing the suitability of proposed loan programs.

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D. Use of overseas broadcast facilities and cultural and educational programs.

International awareness of the effort to preserve and extend human rights will, in itself, contribute to the success of our policy. That awareness can be increased by appropriate use of the facilities and programs of the United States Information Service (USIA), Radio Free Europe, Radio Liberty and the State Department's cultural and educational

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programs. Domestic awareness and understanding of our policy, so essential if popular disillusionment and cynicism are to be avoided, can be promoted by the State Department's Bureau of Public Affairs.

1. USIA.

The USIA, through its radio broadcast facilities, in print and via television, can present and elaborate our human rights concerns directly to audiences abroad. Although all communications media can and should be used, radio is our primary direct channel to mass audiences. Where other media are controlled, radio is particularly important. In the early months of the new Administration, the Voice of America (VOA) has given extensive coverage (news, features and editorials) to statements by the President and other Administration officials on human rights in U.S. foreign policy. VOA and other USIA media channels are continuing this kind of coverage.

Coordinated, balanced and consistent future programming should develop the theme that human rights is a universal human aspiration, not an American idiosyncrasy, and should cover positive human rights developments, particularly outside the

U.S., as well as the record of continuing violations of human rights.

In societies which are relatively free the purpose of our programming should be to increase understanding and support for our policies and reinforce national respect for human rights. In closed societies, our purpose should be to lend moral and informational support -- without raising false hopes -- to those concerned with human rights and to reiterate to government leaders our continuing attention to this issue. The line between broadcasts that lend support and those that might be thought to promote anti-government conduct is sometimes a thin one, and it is recommended that policy guidance be obtained from the Department of State in cases that may have adverse affects on relations between the United States and other governments.

In pursuit of these objectives, VOA radio plans to broadcast interviews and panel discussions with authoritative Americans and foreigners on human rights issues; produce a "VOA Forum Series" of 20 half-hour shows, to be subsequently issued in print form, treating human rights questions in depth; and cover the activities of the non-governmental organizations in the U.S. and elsewhere which monitor the observance of human rights.

For television, USIA plant to:

-- increase coverage of official U.S. Government statements on human rights;

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-- acquire and distribute abroad well-made commercial films and video tapes and explore established commercial sources for feature films, network specials and documentaries concerning human rights;

-- increase output of current news materials on human rights subjects;

-- increase production and use of television documentaries on human rights;

-- increase human rights content in the USIA TV series shown regularly on several hundred foreign stations.

USIA anticipates that these, and related, human rights initiatives will have a budgetary impact of approximately \$_____.

2. Radio Free Europe/Radio Liberty (RFE/RL).

RFE and RL have played a key role in the rising awareness that has accompanied the burgeoning human rights movement in the Soviet Union and Eastern Europe. Human rights activists in Moscow, Warsaw and other cities frequently cite RFE/RL's extensive coverage of events suppressed by their own media as a vital source of information.

In the future, the Radios will utilize the expansion of their technical facilities which has been proposed by the President to extend their human rights coverage to larger audiences. Another priority is to augment news-gathering and

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research capabilities, especially in Western Europe, for more detailed reporting of CSCE developments. The Radios also seek to give increased attention to human rights developments affecting the non-Russian nationalities of the Soviet Union.

3. Cultural and Educational Exchange.

The international exchange of persons program administered by the State Department's Bureau of Educational and Cultural Affairs (CU) conveys a human rights message to all foreign leaders who participate in it. Experience indicates that the overwhelming impression left with most visitors to this country is that the American people do care about human rights and that the United States does seek to protect and foster them.

The CU program, whose purpose it to increase mutual understanding in order to strengthen friendly and peaceful relations between the United States and other nations, has human rights consequences which are manifested in numerous ways. Examples: American professors overseas, participating in seminars on federalism and comparative law, address human rights concerns; international visitors to this country have an opportunity to observe the extent that human rights are fundamental to interrelationships within our society. Beyond these specific and implied human rights aspects of its regular program, CU intends to give additional, more specific focus on human

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rights concerns. Objectives could include encouraging increased international activity among American non-governmental groups which have an interest in human rights, especially groups from the academic and journalistic communities, and strengthening CU relations with activities of the legal profession in international human rights endeavors.

4. Domestic Understanding.

The State Department's Bureau of Public Affairs with its mandate to reach out to the American public, can play a significant role in fostering domestic support for our human rights policy as well as in facilitating interaction with efforts abroad. Recommended actions include: a full roster of public appearances by senior Administration officials that stress human rights; specific seminars and conferences on human rights subjects (e.g., CSCE); increased cooperation with private organizations throughout the United States concerned with human rights; preparation and dissemination of material on our human rights policy to opinion leaders and groups throughout the United States; and provision of interagency coordination on the public affairs aspect of the U.S. human rights policy.

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E. Improved access to the U.S. for refugees and
dissidents.

In keeping with our overall objectives, we should demonstrate a generous, humanitarian policy of providing refuge to victims of repression.

Refugee immigration into the United States is carried out chiefly through conditional entry under Section 203(a)(7) ("the seventh preference") of the Immigration and Nationality Act (INA) and through parole pursuant to the Attorney General's discretionary authority under Section 212(d)(5) of the INA. Beyond these two avenues, a fairly considerable but undetermined number of refugees are able to obtain immigration visas each year -- without reference to their refugee status as such -- under the normal preference and non-preference provisions of the INA.

The seventh preference provides for conditional entry of "political refugees" (i.e., refugees persecuted on account of race, religion or political opinion). It provides for .

the entry of 17,400 such refugees per year, with 10,200 of these to be from the Eastern Hemisphere. Entry under the seventh preference is available only to aliens who, inter alia, have fled from any communist or communist-dominated country or area or from any country within the general area of the Middle East. Thus, the seventh preference is severely discriminatory, ruling out as it does the granting of conditional entry to victims of many rightist dictatorships in Africa, Asia and Latin America. This discriminatory feature is inconsistent with our human rights objectives and harmful to our international reputation. Accordingly, the Administration has supported provisions in pending legislation -- H.R. 7175 -- that would amend the INA to provide a non-discriminatory definition that is more in accord with the provisions of the UN Convention on the Status of Refugees.

We have also supported provisions in H.R. 7175 that would increase the authorized global limitation on the regular issuance of conditional entries under the seventh preference from 17,400 to 20,000 and admit additional refugees in emergent situations as conditional entrants, permitting them to adjust their status to that of permanent residence after two years.

We have opposed provisions in H.R. 7175 that would impose numerical limitations on the numbers of such refugees who may be admitted by the President in emergent situations under certain circumstances and the requirement that other countries must accept resettlement of their fair share of the refugees involved before the admission of such refugees into the United States.

Section 212(d)(5) of the INA authorizes the Attorney General in his discretion to parole temporarily into the United States, for emergent reasons or for reasons deemed strictly in the public interest, any alien applying for admission to the United States. Upon the recommendation of the Secretary of State, and in consultation with appropriate Congressional leaders, the Attorney General in certain instances has invoked his parole authority in behalf of refugees. Such actions have ranged from the isolated parole of one or several individual refugees to the parole of large numbers of refugees in crisis situations. Examples of the latter are the parole of some 30,000 Hungarian refugees in 1956, an estimated 500,000 or more Cuban refugees since the advent of the Castro regime, 150,000 Indochinese refugees since 1975, and some 1,000 Chileans since the 1973 coup.

We recommend a more liberal use of the parole authority with respect to individual refugees and groups of refugees who do not qualify under either the quantitative or qualitative provisions of the seventh preference and who may not readily obtain preference or non-preference visas. Specifically, we believe that the Attorney General and the INS in considering applicants for parole into the United States should be more forthcoming with respect to innocent victims of authoritarian regimes. Such a change in policy would be a concrete demonstration of the sincerity of our commitment to human rights. While the process of consulting with Congressional leaders before using the parole authority is not required by law, we would want to notify them before liberalizing our policy. There is likely to be some negative Congressional reaction to a liberalized parole policy.

Dissidents in totalitarian countries, to the extent they may be able to proceed to free countries, should generally be considered as refugees. Most such dissidents would qualify as refugees under the new definition of refugees contained in the pending legislation that we support.

F. "Substantive and procedural initiatives the U.S. could take in various international forums."

There are the following very important advantages to pursuing our human rights objectives through multilateral institutions:

(a) because of the clearly defined human rights responsibilities of multilateral organizations, examination of the human rights practices of all countries can be properly pursued; (b) since the responsibility for initiatives in multilateral bodies is shared, situations involving individual countries can be considered in a manner less likely to bring the United States into direct confrontation with the country concerned; and

(c)

increasing use of multilateral institutions will improve their capacity to deal effectively with human rights problems and enhance public support for them.

1. The United Nations.

The United Nations can be a particularly valuable forum for developing multilateral cooperation in behalf of human rights. It has the unique advantages of broad representation from the community of nations, existing

mechanisms for protection of human rights, and specific documents such as the U.N. Charter, the Universal Declaration, and the U.N. human rights conventions which express concerns and commitments in this field

Accordingly, we should expand and intensify our efforts at the U.N. in behalf of human rights. We should make more exploit in multilateral fora, particularly those concerned with aspects of the North-South dialogue, our new stress on economic and social rights. In particular, we should give careful consideration to taking the following human rights initiatives:

-- UNESCO Executive Board Session (September - October 1977). Facilitate the depoliticization of human rights questions through the establishment of an independent Expert Review Committee. This might be done in the context of the review of procedures for strengthening UNESCO's human rights machinery, although it should be noted that the chances of obtaining acceptance of this initiative is doubtful.

-- 32nd Session of the U.N. General Assembly (1977). Conduct a major effort, in close consultation with other interested governments, to secure approval for the establishment of a U.N. High Commissioner for Human Rights. Propose the establishment of a special ad hoc Expert Committee on Torture to conduct a study identifying serious instances of torture on a worldwide basis.

-- Next Session of the U.N. Commission on Human Rights (Spring 1978). Propose measures for strengthening the procedures for instituting studies of situations involving consistent patterns of gross violations of internationally-recognized human rights. In consultation with other members of the Commission, propose action on cases which may not be covered under the procedures, such as Cambodia. Seek U.S. membership on the Working Group to be established at the 1978 session to review the Commission's methods of work and press within the Working Group for positive action on a proposal for an additional annual session of the Commission, to be held at U.N. headquarters in New York.

-- ILO. Press for ratification of important human rights treaties of the International Labor Organization (ILO) presently awaiting action by the U.S. Senate, i.e., the treaties on the freedom of association, the abolition of forced labor, and employment practices.

-- Decade for Action to Combat Racism and Racial Discrimination. Continue past efforts to consult with key African delegations to help break the link between Zionism and racism. Our objective is to reach understanding on that issue before the World Conference to Combat Racism and Racial Discrimination so that the U.S. can attend that meeting, scheduled for August 1978.

2. Organization of American States.

The Inter-American Human Rights Commission, an independent agency of the OAS, is playing an increasingly central role in the struggle to defend human rights in the Western Hemisphere. As a result of President Carter's April 14 speech, Mrs. Carter's discussions in Latin America and Secretary Vance's statement at the Grenada General Assembly, attention is focused on increasing the staff and budget of the IAHRC to cope with the mounting caseload of human rights complaints. A number of democratic states have joined the campaign to strengthen the IAHRC, with Venezuela clearly in the forefront, while the Southern Cone states, with Uruguay in the lead, are working to hobble the Commission and undermine its operations.

IV. National security aspects of U.S. policies
on human rights.

A. U.S.-Soviet Detente.

A summary of our human rights approach to the Soviet Union is contained under Section 1 above. As noted there, our effort should remain firm and consistent, while recognizing that major changes will not take place in the short-term. To promote both our security interests and human rights concerns in relations with the Soviet Union, the following should be emphasized.

-- Emigration and family reunification are major human rights issues on which we have had some influence with the Soviets, who have shown some restraint and flexibility. We should continue to push for progress, relying in large part on their commitments under the Helsinki Final Act.

-- Speaking out on human rights may be more tolerable to Moscow, and we may therefore be more effective, if we maintain approximately equal emphasis on our other major interests with respect to the Soviet Union. If we are making progress in other areas, e.g., SALT, the Soviets may be more responsive to our human rights approaches. We should tell the Soviets that while we do not link human rights to other issues, progress on that front will at least be conducive of progress on other fronts. Of course, while we deny a linkage, the Soviets have it within their power to create one.

-- Generally, we should raise problems privately with the Soviets before going public in order to forewarn them of our concern and the potential reaction of our public and give them a chance to act in a more restrained way than is possible under the glare of publicity.

-- Picking carefully the cases we raise publicly can maximize our effect. We need not take a public stance on every human rights violation, but we should not hesitate to speak out on important cases when circumstances warrant, e.g., the Shcharansky case.

-- We should continue to press firmly but without polemics for maximum possible implementation by the Soviets of their commitments on specific human rights issues arising under

the Helsinki Final Act. We should press multilaterally, at the Belgrade Conference, as well as bilaterally. It is valuable to demonstrate that we take the Final Act commitments seriously and expect the Soviets to do so as well.

-- The Soviets should be given credit and encouragement publicly when they act positively, while avoiding a condescending or patronizing tone and pointing out where further progress is needed.

-- The initial focus of the Administration's human rights efforts was on the Soviets and the Czechs. In order to avoid an appearance of waging a campaign against them, which would be counterproductive, we need to make it clear to the Soviets that our criticism of their human rights performance is part of our global concern with the issue.

-- It is particularly important that we remain in step with our allies, to avoid giving the Soviets the opportunity to split the West on human rights issues. We should also encourage the European neutral countries to continue their efforts with the Soviets on human rights cases of concern to them. It would be advantageous if like-minded countries could carry the ball in this area more often, so that we are not always out in front.

-- Public and Congressional support for our policies toward the Soviet Union will be promoted by frank explanation and discussion of the realities of the human rights situation in the Soviet Union. Our cooperative relationship with the joint Legislative-Executive CSCE Commission can be useful in this regard. We need to prepare our people for painstakingly slow progress, which is the most we can expect, and to dispel any notion that our actions will bring rapid change to the Soviet system.

-- The Soviets consistently emphasize economic and social rights in speaking of human rights and claim that we are concerned only with civil and political rights. While we do not need to be overly defensive about our performance, we should publicly acknowledge the importance of economic and social rights in the context of our free enterprise system.

-- We should speak out frankly about human rights problems in our own country and publicize what we are doing to overcome them. We could, for instance, encourage the CSCE Commission to include in its report sections on human rights issues here, or we could include such sections in the President's reports to the Commission.

B. Friendly States and Allies.

These states fall into two basic categories: those in which serious human rights problems do not exist and those which have human rights problems of various kinds and degrees.

We should solicit support for our efforts from friendly nations with good human rights records. Many of these countries have demonstrated human rights concerns in the past. The Western democracies and Japan have particularly good records in this regard, as do certain less powerful states. Support from these states

in international institutions, as well as in their own bilateral relations with other states, could be extremely helpful in gaining wider and firmer support for our efforts.

In some friendly states where human rights problems do exist, we have considerable influence, especially where the regime does not feel overwhelmingly threatened by internal security problems. The bulk of these countries are in the developing world. Our efforts in these countries will offer reform-minded elements a viable alternative to communist rhetoric. It is also important to note that in many such nations our failure to express human rights concerns would give real support to the continuation of repressive regimes.

Those friendly countries which have both poor human rights records and an important bearing on our national security interests present particularly challenging problems. Considerations with respect to these, including such nations as Korea and the Philippines, are being evaluated in separate papers.

V. Actions to promote integration of human rights considerations into U.S. foreign policy.

The Executive Branch has already taken some important steps to help assure implementation of this Administration's focus on human rights, but needs to do more.

Steps taken so far include:

Interagency: Establishment of the Interagency Group on Human Rights and Foreign Assistance, pursuant to an NSC memorandum dated April 1, 1977. Chaired by the State Department, this group includes representatives from the NSC, State, Treasury, DOD and AID. Its mandate is to coordinate the development and implementation of U.S. human rights policy as it relates to bilateral and multilateral economic and security assistance programs. With respect to security assistance, the recently created interagency Arms Export Control Board, which includes representatives of the State Department's Office of the Coordinator for Human Rights and Humanitarian Affairs, will take human rights factors into

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consideration in its deliberations. When it is unable to reach a consensus on particular policies, programs or transactions because of differences concerning the effect on human rights of the proposed actions, it will refer the issue to the Interagency Group on Human Rights and Foreign Assistance. This will ensure over-all coordination of our human rights policy as it relates to foreign assistance. In important cases, decisions of this type should be brought to the President.

State Department:

- a. Expansion of the Office of the Coordinator for Human Rights and Humanitarian Affairs.
- b. Establishment of the Human Rights Coordinating Group, chaired by the Deputy Secretary of State. This Group includes Deputy Assistant Secretary or equivalent level representation from all regional and all concerned functional bureaus of the State Department, as well as from USIA and AID. Its function is to help provide balance and consistency for all aspects of U.S. policy on human rights.

c. Instruction to all U.S. mission chiefs to give their personal attention to furthering observance of human rights in their host countries, providing frequent reporting on human rights, and assuring full mission involvement in the implementation of our human rights policy.

d. Priority attention, here and at posts abroad, to the collection and analysis of comprehensive data concerning human rights conditions in all countries, as well as the development of country strategies.

e. Designation of full-time human rights officers in each of the Department's regional bureaus and full or near full-time human rights offices in each of the Department's functional bureaus. They are responsible for monitoring human rights concerns within their bureaus, coordinating with the Department's Office of Human Rights and Humanitarian Affairs, and relating bureau actions on human rights to actions taken elsewhere in the foreign affairs agencies.

CIA: With respect to countries where the Agency has a liaison relationship with foreign intelligence and security services, the CIA has an opportunity to play a positive role in supporting U.S. policy on human rights, through liaison,

liaison training programs, contacts in other spheres of government, and reporting and analysis of human rights data and trends.

Next steps could include:

a. Expansion of the mandate of the Interagency Group on Human Rights and Foreign Assistance to include all aspects of our human rights policy, not simply foreign assistance. That expanded purview would promote greater coordination of our human rights policy within the Executive Branch.

b. Reasonably regular high-level meetings to review implementation and development of our human rights policy -- e.g., meetings between the President and relevant agency heads; between some or all of them and key members of Congress; between members of the Interagency Group and representatives of concerned non-governmental organizations.

VI. A strategy to improve the Administration's relations with Congress in the human rights area.

Human rights is one of the most complex issues we face on the Hill. There is recognition across the political

spectrum of the concern of the American public for human rights. Thus, irrespective of political affiliation there are few in Congress who feel they can ignore human rights violations even in countries like Korea where U.S. security interests are plainly at stake.

In inaugurating our human rights policy we have been faced with the anomaly that the human rights advocates on the Hill who should be our greatest supporters have been frustrated because our actions fail to meet their optimistic expectations. This group has been joined by those members of Congress whose traditional aim is to reverse increased U.S. participation in international organizations and to hamper rapprochement with communist countries.

Our human rights strategy on the Hill should have two objectives: (1) to gain an understanding of and confidence in the Administration's human rights policy; and (2) to avoid restrictive legislation which mandates reductions of direct or indirect assistance to offending regimes.

Our natural allies on human rights questions in the Congress will be the center and moderate liberal wings of both parties. If we can ally with these groups, we will be able to carry,

most issues. At the same time, we should attempt to work with the more doctrinaire human rights supporters to gain their understanding of the sincerity of our efforts and the counter-effectiveness of some of their proposals.

For success on any specific human rights issue, however, we must be able to enunciate our policy clearly and firmly. There have been instances where we have been unable to do this and the result has been to confuse and weaken our Congressional support.

The human rights issues of major concern on the Hill at this time are:

- a. Continuation of security and economic assistance to offending regimes.

Insistence on military assistance for offending regimes in which we have little security interest, especially in Latin America, will bring us under increasing fire from Congress as the year goes on unless we can produce visible results. A new and realistic look at our military assistance programs should be a priority item in coming months. Congress will also demand a more thorough study to certify that AID funds

are indeed being channeled to the "needy." For this AID will need a very concrete "needy" definition.

b. Use of the IFI's to further human rights.

Our first priority here must be to break the conservative/liberal alliance which is sustaining the attacks on the IFI's structure. The only way to do this will be to satisfy the liberal's desire that we work hard to gain acceptance by other bank members and bank managements of the principle that human rights factors ought to be considered.

c. Passage of the genocide and human rights covenants.

We will be faced with the genocide treaty probably in the fall, but it is highly doubtful Byrd will find room on his calendar for the other covenants this year. However, we must get the legal spadework on the covenants out of the way as soon as possible so we can start laying the groundwork in Congress. The fight for acceptance of these treaties will not be easy.

d. CSCE policy and policy toward communist countries.

We will be faced throughout 1977 with Congressional

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efforts to use the CSCE review meeting in Belgrade as a vehicle for publicly pillorying the Soviet Union and East European countries for specific instances of human rights violations. We should hew to the policy of nonpolemical review of implementation by all signatories of the Helsinki Final Act and attempt to confine to bilateral channels Congressional expressions of discontent on individual cases.

Finally, for all substantive human rights issues Administration talking points should be devised and distributed as widely as possible. Consideration should be given to the issuance of an Administration policy statement or letter on such issues which can then be used as the basis for calls on individual Congressmen. Leaders of various interested groups on the Hill should be contacted and offered briefings on the issues at their convenience. All this activity should be carried out on a routine, on-going basis so that the policy information flow becomes normal and is not seen as a one-time "blitz" in behalf of some particular special interest. As our policy develops, it will obviously be helpful if we can bolster our explanations with examples of the positive results the policy has achieved.