

# THE ROLE OF NONGOVERNMENTAL ORGANIZATIONS IN IMPLEMENTING HUMAN RIGHTS IN LATIN AMERICA

## I. INTRODUCTION

We in the Americas must increase our international support for the principles of justice, freedom, and human dignity—for the *organized concern* of the community of nations remains one of the most potent weapons in the struggle against the degradation of human values.

— Henry Kissinger<sup>1</sup>

The occurrence of systematic violations of fundamental human rights in most Latin American nations has increased drastically within the past 15 years.<sup>2</sup> In 1975 alone, the Inter-American Commission on Human Rights examined approximately 300 communications from individuals or organizations denouncing alleged violations of the human rights<sup>3</sup> embodied in the American Declaration of the Rights and Duties of Man.<sup>4</sup> Indeed, more than 80 percent of all reported incidents of serious torture have occurred in Latin America.<sup>5</sup>

Recently several nongovernmental organizations, originally established to express this “organized concern” over such violations, have tried to implement internationally recognized human rights in Latin America. This Note will attempt to describe the primary nongovernmental organizations involved and their efforts to promote human rights in the Inter-American Commission on Human Rights, the United States Congress and the Department of State. Attention will be focused on the following organizations: International League for Human Rights, International Commission of Jurists, Amnesty International, United States Catholic Conference, National Council of Churches of Christ in the United States, and the

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<sup>1</sup> *Human Rights Issues at the Sixth Regular Session of the Organization of American States General Assembly: Hearing Before the Subcomm. on International Organizations of the House Comm. on International Relations*, 94th Cong., 2d Sess. 18 (1976) (statement by Secretary of State Kissinger) (emphasis added) [hereinafter cited as *OAS Hearing*].

<sup>2</sup> THE AMNESTY INTERNATIONAL REPORT 1975-76 83 (1976) [hereinafter cited as THE AMNESTY INTERNATIONAL REPORT 1975-76]. This report points out that the deterioration in the human rights situation in Latin America is particularly noticeable in the *cono sur* countries — Chile, Argentina, Brazil and Uruguay — which also have the highest socioeconomic and cultural standards in Latin America. Whereas less developed countries such as Paraguay, Nicaragua and Haiti, with stable autocratic regimes, had the highest number of political prisoners more than a decade ago, today the more developed countries can claim this dubious distinction.

<sup>3</sup> Inter-American Commission on Human Rights, ANNUAL REPORT, OAS Doc. OEA/ser. P/AG doc. 632/76, at 83 (1976).

<sup>4</sup> Reprinted in INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, HANDBOOK OF EXISTING RULES PERTAINING TO HUMAN RIGHTS, OAS OFF. REC., OEA/ser. L/v/II. 23, Doc. 21 (English) Rev. 2, at 15 [hereinafter cited as IACHR HANDBOOK].

<sup>5</sup> THE AMNESTY INTERNATIONAL REPORT 1975-76, *supra* note 2, at 84.

Washington Office on Latin America. To be sure, this is not an exhaustive list; rather, it represents those organizations which the authors believe to be the most active and most effective. From an examination of these a pattern of action characteristic of other involved nongovernmental organizations can be discerned.

## II. BACKGROUND

Most human rights violations in Latin America are sanctioned by military or dictatorial regimes.<sup>6</sup> In large part, the human rights problems that have arisen from the repressive methods of security forces have been reactions to the violence used by leftist revolutionary groups in the 1960's.<sup>7</sup> The military governments now in control justified the overthrow of their predecessors on the ground that basic political institutions had been infiltrated by collaborators with the revolutionary left, thus paralyzing the efforts of security forces against subversive movements.<sup>8</sup> After taking over, many Latin American governments instituted a "state of siege" and suspended many fundamental rights in order to control the activities of dissident groups. Thus, the military leaders have crippled leftist extremism, but in the process they have condoned murder, torture, arbitrary political detention and many other abuses of human rights.<sup>9</sup>

A national security state is created when the government, which faces little in the way of external threats, responds to internal disturbances.<sup>10</sup> Violence becomes institutionalized as violations of human rights are regarded as effective instruments of the maintenance of power.<sup>11</sup> When viol-

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<sup>6</sup> Of the 24 OAS members, 13 are military controlled regimes: Argentina, Bolivia, Brazil, Chile, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Panama, Paraguay, Peru and Uruguay; two more are run by civilian dictators: Haiti and Grenada. Omang, *Debate on Human Rights Dominated OAS Conference*, Wash. Post, June 20, 1976, §B, at 7, col. 6; see also *Military Regimes in Latin America*, 17 INT'L COMM'N OF JURISTS REV. 13 (1976).

<sup>7</sup> de Onis, *U.S. and Latins: Violations of Rights vs. Aid from Congress*, N.Y. Times, Oct. 4, 1976, at 2, col. 3.

<sup>8</sup> *Id.* The United States has justified military assistance to these regimes by claiming that such aid was required to promote "internal security" and "stability" which are necessary to achieve developmental progress in those countries. *Human Rights in Nicaragua, Guatemala, and El Salvador: Implications for U.S. Policy: Hearings Before the Subcomm. on International Organizations of the House Comm. on International Relations*, 94th Cong., 2d Sess. 129 (1976) (statement by Don Etchison) [hereinafter cited as *Human Rights in Central America Hearings*].

<sup>9</sup> Rosenblum, *Human Rights Fall in Latin America*, Chicago Tribune, Oct. 31, 1976, §1, at 5, col. 3 [hereinafter cited as Rosenblum].

<sup>10</sup> However, one observer recently noted the potential for armed conflict between Russian-supported Peru and Chile. The observer stated that Chile would be the underdog partly because it has found modern weapons almost impossible to buy since the United States and Great Britain have imposed tight embargoes on arms sales because of its callous record on human rights. TIME, Jan. 10, 1977, at 24.

<sup>11</sup> *Brazil's Disgrace*, Chicago Tribune, Nov. 17, 1974, §2, at 4, col.1.

ence so permeates the society, even the lifting of the "state of siege" will not assure the discontinuance of violations since upper echelon government officials may not know or may avoid knowing what is happening at the local level.<sup>12</sup> Thus, even if government policy were modified to reflect a more enlightened view of human rights, it would probably be a long time before such policy could be instituted at the local level where most violations occur.<sup>13</sup>

### III. THE NONGOVERNMENTAL ORGANIZATIONS

The first three nongovernmental organizations (hereinafter referred to as NGOs) discussed—International League for Human Rights, International Commission of Jurists and Amnesty International—represent *internationally*-based, *nonsectarian* NGOs concerned exclusively with promoting the observance of human rights standards. NGOs in the second group—United States Catholic Conference, National Council of Churches and the Washington Office on Latin America—are *nationally*-based, *church-related* organizations which represent the human rights arm of their respective denominations.<sup>14</sup>

#### A. *The International League for Human Rights*<sup>15</sup>

Founded in 1942, the International League for Human Rights (ILHR) is both the oldest and the smallest of the three international NGOs herein examined.<sup>16</sup> Operating from its New York City headquarters, it seeks to promote human rights worldwide, although it is active primarily in West-

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<sup>12</sup> Charges of gross violations of human rights in Nicaragua, for example, did not begin with the declaration of the "state of siege." *Human Rights in Central America Hearings*, *supra* note 8, at 81 (statement of Rev. William L. Wipfler, Director, Caribbean and Latin America Department, National Council of Churches); see also *Torture and Oppression in Brazil: Hearing Before the Subcomm. on International Organizations and Movements of the House Comm. on Foreign Affairs*, 93d Cong., 2d Sess. 23 (1974) [hereinafter cited as *Brazil Hearing*], where Rev. J. Ryan Hehir of the United States Catholic Conference testified that: "I personally am inclined to think that President Geisel [Brazil] is wanting to reduce at any rate the level of repression, if for no other reason than for public relations and world opinion. But I think that the monster has been created and has been given a free hand for so long it is extremely difficult to control it."

<sup>13</sup> Rosenblum, *supra* note 9, at 5.

<sup>14</sup> OAS Hearing, *supra* note 1, at 19.

<sup>15</sup> The International League for Human Rights was formerly called the International League for the Rights of Man. It was founded by civil-libertarian Roger Baldwin (who also founded the American Civil Liberties Union) initially to provide support for European refugees. For a more detailed discussion of ILHR see Wiseberg and Scoble, *Human Rights NGOs: Notes Toward Comparative Analysis*, 9 HUMAN RIGHTS J. (No. 4) (1976) [hereinafter cited as *Human Rights NGOs*]; Wiseberg and Scoble, *International League for Human Rights: The Strategy of a Human Rights NGO*, 7 GA. J. INT'L & COMP. L. 289 (1977).

<sup>16</sup> ILHR has approximately 2000 members and 31 national affiliates. See INTERNATIONAL LEAGUE FOR THE RIGHTS OF MAN ANNUAL REVIEW 1974-75 36-42 (1975) [hereinafter cited as ILHR ANNUAL REVIEW 1974-75].

ern industrialized nations.<sup>17</sup> Its 35 national *affiliates*, unlike the national *sections* of the International Commission of Jurists or Amnesty International, are independent civil libertarian organizations, such as the American Civil Liberties Union, which provide information on human rights violations. In Communist and Third World countries where no national affiliates exist, ILHR depends upon interested "correspondents" to provide this information.<sup>18</sup>

Policy decisions are made by ILHR's International Board of Directors, composed mainly of United States residents,<sup>19</sup> and by its International Advisory Committee, usually made up of nonresidents.<sup>20</sup> Administrative functions are handled by an Executive Director with a small staff assisted by volunteers.<sup>21</sup>

ILHR accepts no government funds to support its operations.<sup>22</sup> Because of this policy and the lack of support from major foundations, ILHR depends largely on membership fees and contributions to raise money for its budget.<sup>23</sup> Despite minimal resources, ILHR has contributed to the promotion of human rights in Latin America by sending investigative missions and protesting to offending governments.<sup>24</sup>

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<sup>17</sup> *Id.* Some ILHR affiliates are particularly active in Latin America, e.g. London's Anti-Slavery Society and New York City's Inter-American Association for Democracy and Freedom. These affiliates have been especially interested in the plight of Indians in Paraguay and Brazil.

<sup>18</sup> According to ILHR's Executive Director, this inability to exist stems from the fact that in Communist countries autonomous human rights groups are prohibited and in developing countries affiliates are rare because of the lack of a civil libertarian tradition and the extensiveness of authoritarian governments. *Human Rights NGOs*, *supra* note 15 at \_\_\_\_.

<sup>19</sup> E.g., Richard N. Gardner, United States Ambassador-designate to Italy and Professor of Law at Columbia, is a member of the International Board of Directors.

<sup>20</sup> E.g., Dr. Justino Jimenez de Arechaga of Uruguay, former Inter-American Commission on Human Rights member and a judge on the International Court of Justice, is a member of the International Advisory Committee. See *International Protection of Human Rights: The Work of International Organizations and the Role of U.S. Foreign Policy: Hearings Before the Subcomm. on International Organizations and Movements of the House Comm. on Foreign Affairs*, 93d Cong., 1st Sess. 409 (1974) [hereinafter cited as *International Protection of Human Rights Hearings*].

<sup>21</sup> *Id.* at 410. Because of inadequate resources to research and seek corrective action on all violations which come to its attention, ILHR joined with the Council of New York Law Associates to form the Lawyers Committee for International Human Rights. "[L]awyers can be effective researchers and negotiators in seeking to convince countries in which violations of individual human rights become known that such violations should be remedied." Boggan, *The Young Lawyer and Public Interest*, N.Y.L.J., June 30, 1975, at 1, col. 1.

<sup>22</sup> The International League for Human Rights, HUMAN RIGHTS BULLETIN 13 (Oct., 1976) [hereinafter cited as ILHR HUMAN RIGHTS BULLETIN].

<sup>23</sup> ILHR ANNUAL REVIEW 1974-75 *supra* note 16, at 1; see also *International Protection of Human Rights Hearings*, *supra* note 20, at 410; but see *Human Rights Internships Available*, 5 INT'L L. NEWS 7 (Oct. 1976).

<sup>24</sup> Since 1974, ILHR has sent investigative missions to Paraguay and Chile and protested

### B. *The International Commission of Jurists*

In 1952 the International Commission of Jurists (ICJ) was established to follow up inquiries into abuses of justice in the Warsaw Pact countries.<sup>25</sup> Recognizing, however, that a truly international NGO could not limit its concerns to a specific geographic area or political system, ICJ today seeks to promote respect for human rights worldwide through the "Rule of Law."<sup>26</sup> ICJ has more than 50 national sections of lawyers<sup>27</sup> which inform it about legal developments in their respective countries, undertake research, and in some countries play a leading role in law reform.<sup>28</sup>

The Commission consists of at most 40 distinguished jurists representing the legal systems of the noncommunist world.<sup>29</sup> Policy decisions are made by a five member executive committee.<sup>30</sup> Its Geneva-based International Secretariat accomplishes the organization's day-to-day work by relying on

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violations to the governments of Uruguay, Haiti, Brazil, Bolivia, Peru, Trinidad and Tobago. See generally *Human Rights in Uruguay and Paraguay: Hearings Before the Subcomm. on International Organizations of the House Comm. on International Relations*, 94th Cong., 2d Sess. 161 (1976) [hereinafter cited as *Uruguay and Paraguay Hearings*]; ILHR HUMAN RIGHTS BULLETIN, *supra* note 22, at 6-8; ILHR ANNUAL REVIEW 1974-75, *supra* note 16, at 23-28.

<sup>25</sup> International Commission of Jurists, OBJECTIVES, ORGANIZATIONS, ACTIVITIES 3 (1965) [hereinafter cited as ICJ OBJECTIVES].

<sup>26</sup> ICJ has defined the "Rule of Law" as:

The principles, institutions and procedures, not always identical, but broadly similar, which the experience and traditions of lawyers in different countries of the world, often having themselves varying political structures and economic background, have shown to be important to protect the individual from arbitrary government and to enable him to enjoy the dignity of man.

*Id.* at 1. ICJ, however, realizes that:

the formal observance of the rights of the individual is not enough, and that the jurist cannot ignore the material problems of his community. The Rule of Law thus emerges as a dynamic concept which should be employed out not only to safeguard and advance the civil and political rights of the individual in a free society, but also to promote the social, economic and cultural conditions under which his legitimate aspirations may be realized.

*Id.* at 3; see also *International Protection of Human Rights Hearings*, *supra* note 20, at 2.

<sup>27</sup> In 1974 ICJ had 56 national sections, 15 of which were in Latin America: Argentina, Brazil, Chile, Costa Rica, Dominican Republic, Ecuador, Guatemala, Jamaica, Mexico, Nicaragua, Peru, Puerto Rico, Trinidad/Tobago, Uruguay, Venezuela. 15 Y.B. INTERNATIONAL ORGANIZATIONS 284-85 (1974).

<sup>28</sup> ICJ OBJECTIVES, *supra* note 25, at 5.

<sup>29</sup> In 1976, for example, there were 37 commissioners from 35 countries, including jurists from Africa, Asia, Latin America as well as Western Europe, North America, Australia and New Zealand. See generally International Commission of Jurists, ANNUAL REPORT July 1975-June 1976 [hereinafter cited as ICJ ANNUAL REPORT 1976].

<sup>30</sup> ICJ OBJECTIVES, *supra* note 25, at 4; see also 15 Y.B. INTERNATIONAL ORGANIZATIONS 284-85 (1974).

a small administrative and legal staff.<sup>31</sup> The support from prominent members of the international legal community facilitates ICJ's financing and its acceptability.<sup>32</sup>

Originally ICJ's operations were financed by contributions from United States lawyers and private foundations. However, since 1970, ICJ has relied more on government grants and other special funds.<sup>33</sup> Despite its meager budget, ICJ has sent missions to various Latin American countries,<sup>34</sup> dispatched trial observers to others,<sup>35</sup> interceded privately with governments<sup>36</sup> concerning human rights conditions, published a report on asylum in Latin America,<sup>37</sup> and distributed its semiannual *Review* which discusses the human rights environment in many Latin American countries.<sup>38</sup>

### C. *Amnesty International*

Conceived in 1961 by a London attorney, Amnesty International (AI) began as a temporary public campaign to achieve amnesty for Portuguese

<sup>31</sup> In 1974, ICJ had eight paid staff members, 15 Y.B. INTERNATIONAL ORGANIZATIONS 284 (1974); see also International Commission of Jurists, BASIC FACTS 5 (1962).

<sup>32</sup> *Human Rights in Chile: Hearings Before the Subcomm. on Inter-American Affairs and on International Organizations and Movements of the House Comm. on Foreign Affairs*, 93d Cong. 75 (1975) [hereinafter cited as *Chile Hearings*, Pt. I].

<sup>33</sup> ICJ's Secretary General Niall MacDermot testified that ICJ funds from lawyers and private foundations were reduced because foundations: (1) became interested in other subjects; (2) felt general funding should not come from foundation grants; and (3) had pressures to spend less money abroad. As of 1973, ICJ received grants from 17 different countries including the United States. The government funds, however, go to the national sections, not the International Secretariat. *International Protection of Human Rights Hearings*, supra note 20, at 13-14, 812-14. In 1972, 55 percent of ICJ's budget came from government sources. However, that did not include special grants for particular purposes outside the government. Thus, under 50 percent of the budget was actually financed by governments. *Human Rights in Africa: Hearing Before Subcomm. on International Organizations and Movements of the House Comm. on Foreign Affairs*, 93d Cong., 2d Sess. 12 (1974). Special funding for ICJ's Chile mission was provided by United States Protestant church groups. *Chile Hearings*, Pt. I, supra note 32, at 75.

<sup>34</sup> Missions were sent to Argentina, REPORT OF MISSION TO ARGENTINA (1975); to Uruguay, REPORT OF MISSION TO URUGUAY WITH 1975 AND 1976 SUPPLEMENTS (1976) [hereinafter cited as AI-ICJ URUGUAY MISSION]; and to Chile, *Human Rights in Chile: Hearing Before the Subcomm. on International Organizations and Movements and on Inter-American Affairs of the House Comm. on Foreign Affairs*, 93d Cong., 2d Sess., Pt. II, at 43 (1974) [hereinafter cited as *Chile Hearing Pt. II*].

<sup>35</sup> Observers were dispatched to trials in Chile, Ecuador and Colombia. International Commission of Jurists, ANNUAL REPORT, June 1974-June 1975, at 2 (1975) [hereinafter cited as ICJ ANNUAL REPORT 1975].

<sup>36</sup> ICJ interceded with the governments of Argentina, Brazil, Chile, Paraguay, Peru, Uruguay and Trinidad and Tobago. ICJ ANNUAL REPORT 1976, supra note 29, at 10.

<sup>37</sup> *Id.* at 2.

<sup>38</sup> THE REVIEW discusses Argentina, Bolivia, Brazil, Chile, Ecuador, Paraguay, Peru and Uruguay. ICJ ANNUAL REPORT 1975, supra note 35, at 1.

university students jailed for their peaceful protest against the Salazar regime.<sup>39</sup> Today as one of the most viable and largest human rights NGOs,<sup>40</sup> AI seeks observance throughout the world of the Universal Declaration of Human Rights,<sup>41</sup> particularly articles 5, 9, 18 and 19.<sup>42</sup>

The cornerstone of AI's organization is the "adoption group," which works for the release of "Prisoners of Conscience."<sup>43</sup> The "adoption groups" are affiliated with national sections which send delegates to the annual International Council.<sup>44</sup> While each national section has considerable autonomy, it is the Council which decides AI's policy.<sup>45</sup> An eight member International Executive Committee implements the Council's decisions.<sup>46</sup> The International Secretariat in London conducts the daily affairs<sup>47</sup> of the organization by coordinating activities for national sections and "adoption groups" and researching alleged human rights violations.<sup>48</sup>

AI is funded principally by contributions from national sections.<sup>49</sup> AI-

<sup>39</sup> *Human Rights NGOs*, *supra* note 15, at \_\_\_\_; see also Wiseberg and Scoble, *Human Rights and Amnesty International*, 43 *ANNALS* 17 (1974).

<sup>40</sup> Weissbrodt, *The Role of International Nongovernmental Organizations in the Implementation of Human Rights*, 12 *TEXAS INT'L L. J.* 293, 297 (1977) [hereinafter cited as Weissbrodt]; see also *THE AMNESTY INTERNATIONAL REPORT 1975-76*, *supra* note 2, at 10.

<sup>41</sup> G.A. Res. 217, U.N. Doc. A/A10 (1948). Compliance with the Declaration is sought under the Statute of Amnesty International §1, *as amended* by the Eighth International Council Meeting, Sept. 12-14, 1975 [hereinafter cited as AI Statute].

<sup>42</sup> *International Protection of Human Rights Hearings*, *supra* note 20, at 532. Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article 9: No one shall be subjected to arbitrary arrest, detention or exile. Article 18: Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or beliefs, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance. Article 19: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

<sup>43</sup> *THE AMNESTY INTERNATIONAL REPORT 1975-76*, *supra* note 2, at 200; see *AMNESTY INTERNATIONAL, HANDBOOK FOR GROUPS* [hereinafter cited as AI HANDBOOK]. "Adoption groups" do not work for prisoners arrested by their own government in order that such groups will be less threatened by government retaliation. In addition to "adoption groups" there are "action groups" which undertake general campaigns, fund raising and publicity; "coordination groups," established to assist and support the work of "adoption groups" and to advise the national section executive on particular geographical regions or countries; and "CAT groups" (Campaign for the Abolition of Torture) which dispatch telegrams or letters to offending governments. For an explanation of "Prisoners of Conscience" and the operation of "adoption groups," see text at note 95 *infra*.

<sup>44</sup> AI Statute, *supra* note 41, at §13.

<sup>45</sup> AI HANDBOOK, *supra* note 43, at 1.

<sup>46</sup> AI Statute, *supra* note 41, at §§25-35.

<sup>47</sup> *Id.* §36.

<sup>48</sup> *THE AMNESTY INTERNATIONAL REPORT 1975-76*, *supra* note 2, at 211.

<sup>49</sup> *Id.* at 211-12. In 1976, a promotion and fund-raising campaign was initiated by AI to raise substantial funds for "Prisoners of Conscience Year" 1977. The Federal Republic of Germany

though its budget is much larger than that of either ILHR or ICJ,<sup>50</sup> it suffers from the same problem of limited financing because it also maintains a larger permanent administrative staff, particularly for research. Nevertheless, AI has sent several investigative missions to Latin America;<sup>51</sup> privately interceded for human rights victims with the governments of most Latin American countries;<sup>52</sup> has directed the Campaign for the Abolition of Torture (CAT);<sup>53</sup> and, for the first time, has actually begun a major international campaign against torture in one country—Uruguay.<sup>54</sup>

#### D. United States Catholic Conference

Since World War II, the traditionally conservative Roman Catholic

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indirectly gives funds to AI by permitting traffic fines to be paid to either AI or the government. See *Human Rights NGOs*, *supra* note 15, at \_\_\_\_; see also Kernan, *Art and Amnesty for Mutual Benefit*, Wash. Post, Dec. 11, 1976, §E, at 3, col. 1. International art sales to benefit AI were given in Washington, D.C., New York, Paris, London, Chicago, and Los Angeles.

<sup>50</sup> Ottaway, *The Growing Lobby for Human Rights*, Wash. Post, Dec. 12, 1976, §B, at 5, col. 1 [hereinafter cited as Ottaway]. AI's budget for fiscal year 1976 was about \$800,000 while ICJ's was roughly \$200,000. See also *Human Rights NGOs*, *supra* note 15, at \_\_\_\_\_. ILHR's budget for fiscal year 1975 was about \$50,000.

<sup>51</sup> Missions were sent to the Dominican Republic, Guatemala, Honduras, Mexico, Nicaragua, and El Salvador. THE AMNESTY INTERNATIONAL REPORT 1975-76, *supra* note 2, at 83-116.

<sup>52</sup> *Id.*

<sup>53</sup> Amnesty International, ANNUAL REPORT 1972-73, 23-24 (1973) [hereinafter cited as AI ANNUAL REPORT 1973]. In 1972, the International Council, concerned about the epidemic growth of torture by governments, decided to launch a worldwide Campaign for the Abolition of Torture (CAT). As part of its program to eradicate torture, a system of "urgent action campaigns" was developed, whereby hundreds of telegrams and letters could be rapidly sent to offending governments on behalf of torture victims. AMNESTY INTERNATIONAL ANNUAL REPORT 1974-75, at 18-25 (1975) [hereinafter cited as AI ANNUAL REPORT 1975].

[T]he concentration of urgent action campaigns has been on certain Latin American countries, especially Chile, Brazil, Uruguay and Argentina. The large amount of attention given to these countries is accounted for by a combination of factors. First, anyone detained there for political reasons is liable to be subjected to torture during the period immediately following arrest. Second, political persecution in these countries has continued unabated or, as in Argentina after the March 1976 military coup, has intensified. Finally, AI continues to receive reliable information about arrests there quickly enough to be able to intervene.

In addition, urgent action campaigns were initiated on behalf of victims in the Dominican Republic, Colombia, El Salvador, Nicaragua, Bolivia, Haiti and Paraguay. THE AMNESTY INTERNATIONAL REPORT 1975-76, *supra* note 2, at 25.

<sup>54</sup> Launched on February 19, 1976, with a series of news conferences in major North American and European cities, the campaign had the central theme of the widespread and systematic use of torture in a country once known as the "Switzerland of South America." A worldwide petition was circulated (over 350,000 signatures were collected) calling for an independent international investigation into allegations of torture. AI addressed the then-President Bordaberry and other officials informing them of international concern. The European Economic Community (EEC) was informed, and EEC stated it would deny Uruguay better trade terms with it. *Id.* at 27-28.



Church has become the sole surviving institution that can offer opposition to the aforementioned ideology of Latin American national security states.<sup>55</sup> The potential influence of the Church becomes increasingly dramatic when one understands that 90 percent of all Latin Americans are baptized Catholics.<sup>56</sup> In the United States the Catholic Conference (USCC), the administrative arm of the American Catholic Bishops, has become deeply involved in the human rights struggle.<sup>57</sup> Acting through its office of International Justice and Peace, the Conference's foreign policy section, USCC maintains close contact with Latin American church groups promoting human rights. In its work USCC must strike a delicate balance between two conflicting viewpoints. On the one hand USCC must proclaim and defend "the sacred dignity of the human person" in accordance with its evangelical mission.<sup>58</sup> On the other hand, it must consider the ideology of Latin American governments which value the dignity of the individual "only insofar as it contribute[s] to the so-called security of the national state."<sup>59</sup>

Although USCC is interested in church-related human rights activities throughout Latin America, it has focused on the violations in Brazil and Chile. USCC has acted in these countries by exposing and denouncing violations through its publication services,<sup>60</sup> filing complaints with the Inter-American Commission on Human Rights, and publicly supporting activist churches in its *Statement of Solidarity on Human Rights: Chile and Brazil*.<sup>61</sup> In this latter statement USCC urged the United States government "to condition its financial and military assistance to Chile upon the demonstration that human and civil rights have been restored in that country."<sup>62</sup> To facilitate the presentation of such views USCC maintains an office for government liaison which transmits official Catholic policy statements to members of Congress.<sup>63</sup> USCC has also expressed its solidarity with the Brazilian Church by endorsing and distributing such state-

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<sup>55</sup> Lernoux, *Latin Church Opposing Authoritarian Regimes*, Wash. Post, Aug. 6, 1976, §A, at 8, col. 1; Lernoux, *Latin America's Insurgent Church: Priests for the People*, NATION, May 22, 1976, at 625 [hereinafter cited as Lernoux, *Insurgent Church*].

<sup>56</sup> Lernoux, *Insurgent Church*, *supra* note 55, at 618.

<sup>57</sup> Interview with Thomas Quigley, Latin Affairs Advisor, Office of Justice and Peace, USCC, in Washington, D.C. (Dec. 10, 1976) [hereinafter cited as Quigley Interview].

<sup>58</sup> *Human Rights in Argentina: Hearings Before the Subcomm. on International Organizations of the House Comm. on International Relations*, 94th Cong., 2d Sess. 26 (1976) [hereinafter cited as *Argentina Hearings*].

<sup>59</sup> *Id.* at 27-28.

<sup>60</sup> *Id.* at 30.

<sup>61</sup> United States Catholic Conference, *Statement of Solidarity on Human Rights: Chile and Brazil* (Feb. 14, 1974) [hereinafter cited as *Statement of Solidarity*].

<sup>62</sup> *Id.* at 1.

<sup>63</sup> Quigley Interview, note 57 *supra*.

ments as the "Letter of the Brazilian Bishops" which calls for greater respect for human rights and condemns the national security state.<sup>64</sup>

E. *National Council of Churches of Christ in the United States*

The National Council of Churches of Christ in the United States (NCC) is a broadly inclusive federation of Protestant and Eastern Orthodox denominations.<sup>65</sup> Established in 1950, NCC's Governing Board directs the agency's policies and programs through which churches work together to promote social justice and understanding among people in the United States and overseas. NCC's Caribbean and Latin America Department is active in human rights affairs for that continent. NCC involvement is premised upon one of its avowed purposes "to study and to speak and act on conditions and issues in the nation and the world which involve moral, ethical, and spiritual principles inherent in the Christian gospel."<sup>66</sup>

This "purpose" has been bolstered by key policy statements which pertain to human rights. The first, which was adopted by the NCC General Assembly on December 6, 1963, broadly outlined the organization's human rights position.<sup>67</sup> This pronouncement defined certain fundamental human rights and charged both churches and the nation with responsibility for promoting them. The second, the NCC Resolution on Human Rights and United States Foreign Aid,<sup>68</sup> reaffirmed the original policy statement by declaring that "respect for human rights lies at the very heart of our Christian faith."<sup>69</sup> It also criticized the "appalling examples" of governments which violated human rights and encouraged the American Government to "suspend further military assistance and economic aid to the governments" as long as they persist in flagrant abuses.<sup>70</sup> Moreover, NCC urged its constituency "to vote their consciences in this election year by ascertaining the specific positions of candidates concerning human rights at

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<sup>64</sup> National Conference of Brazilian Bishops, Pastoral Communication to the People of God 12 (Nov. 16, 1976) [hereinafter cited as Pastoral Communications]. According to that letter, "the Nation is not synonymous with the State, neither is the State the bestower of liberty and human rights whose existence precedes the very Nation itself. . . . To place the State, the government, above the Nation means to overestimate the value of individual security." In supporting and initiating attacks on the national security state, USCC affirms its fundamental belief that peace "can come only with justice in the world." Statement by Administrative Board, U.S. Catholic Conference, *Panama-U.S. Relations* 4 (Feb. 24, 1975).

<sup>65</sup> H. PRATT, *THE LIBERALIZATION OF AMERICAN PROTESTANTISM: A CASE STUDY IN COMPLEX ORGANIZATIONS* 14 (1972) [hereinafter cited as PRATT].

<sup>66</sup> NEW CATHOLIC ENCYCLOPEDIA 235 (1967).

<sup>67</sup> *Human Rights: A Policy Statement of the National Council of Churches of Christ in the United States of America* (Dec. 6, 1963).

<sup>68</sup> *Resolution on Human Rights and United States Foreign Aid* (Oct. 13, 1974).

<sup>69</sup> *Id.* at 1.

<sup>70</sup> *Id.* at 2-3.

home and abroad."<sup>71</sup>

NCC is known for having a pronounced liberal<sup>72</sup> orientation on both domestic and foreign issues. Its primary efforts have been directed at educating both government officials and voters about human rights matters in hopes of shaping a foreign policy which is sensitive to these abuses. NCC understands that credibility in the political arena is enhanced by nonpartisanship. Thus, in striving for influence, NCC has attempted to walk the narrow line between what Latin Americans call *la politica* (partisan politics) and *lo politico* (the political realm); i.e., NCC attempts to operate subtly in the political realm (*lo politico*) without standing accused of practicing partisan politics (*la politica*).

#### F. Washington Office on Latin America

The least known of the NGOs herein considered is the Washington Office on Latin America (WOLA). WOLA is the permanent arm of the Latin American Strategy Committee (LASC) in Washington, D.C. LASC, a coalition comprised of an ecumenical group of church and academic interests, has a profound concern for political, economic and social conditions in Latin America.<sup>73</sup> With a small administrative staff<sup>74</sup> and meager budget,<sup>75</sup> WOLA functions as a "brokerage operation" which collects, evaluates and reports to its constituents matters of importance affecting Latin America.<sup>76</sup> WOLA focuses its efforts on educating the United States Congress about human rights violations by publishing *Legislative Update*, an ecumenical newsletter, and developing personal contacts with members of Congress and their staffs so that it can influence legislation which might affect human rights policy. Since beginning operation in May 1974, WOLA has become a significant force on Capitol Hill.<sup>77</sup>

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<sup>71</sup> *Id.* at 3.

<sup>72</sup> "Liberal" is used in its current American usage as indicating four attitudes: "(1) satisfaction with the economic policies and directions of the modern welfare state and acceptance of them as given; (2) affirmation of America's world responsibilities and support of international cooperation; (3) the shunning of ideological or doctrinaire commitment in either economic or political matters; and (4) belief in the First, Fifth and Fourteenth Amendments as embodiments of civil liberties essential to a free society." PRATT, *supra* note 65, at 13.

<sup>73</sup> Letter from Joe Eldridge and Bill Brown, Washington Office on Latin America [hereinafter cited as WOLA letter].

<sup>74</sup> Interview with Jo Marie Griesgraber, Washington Office on Latin America, in Washington, D.C. (Dec. 9, 1976) [hereinafter cited as Griesgraber Interview].

<sup>75</sup> WOLA Quarterly Budget (Nov. 29, 1976). The budget for the period from Sept. 21 to Nov. 30, 1976, was about \$4,000. *Id.*

<sup>76</sup> WOLA Letter, note 73, *supra*.

<sup>77</sup> Griesgraber Interview, note 74, *supra*.

## IV. NONGOVERNMENTAL ORGANIZATIONS IN ACTION

A. *Discovering and Investigating Human Rights Violations*1. *Learning about Violations*

Most NGOs rely on similar kinds of sources to acquire initial notification of human rights violations—relatives of prisoners, missionaries and church organizations, lawyers, journalists, students, refugees, press reports, doctors, labor unions and opposition groups, anonymous letters and unnamed travelers.<sup>78</sup> These NGOs maintain close contact with their informants to insure an uninterrupted flow of information. Church-related persons and organizations have shouldered much of the burden of providing information about torture practices, arbitrary arrests, physical attacks and other violations.<sup>79</sup> While it is difficult to estimate the precise number of informants, the web of personal contacts is quite extensive; for example, there are approximately 12,000 Catholic and Protestant missionaries now serving in Latin America.<sup>80</sup> Aside from personal observations, the NGOs also rely, *inter alia*, on international news services such as the London journal, *Latin America*, unclassified State Department and CIA publications and the Third World press.

2. *Evaluating Information*

While the quantity of information received is voluminous, the quality of that information is less certain. NGOs recognize that their influence and prestige depend largely on the accuracy of their information. Therefore, each has developed a rather elaborate system for verifying the "raw" information which it receives. For example, ICJ obtains a number of reports from lawyers and uses on-the-scene observers to check and cross check its information.<sup>81</sup> Amnesty International uses its own network of friends to perform a similar function and has a substantial staff allocated to corroborate the reports which it receives.<sup>82</sup> Moreover, the NGOs exchange information with one another to insure accuracy,<sup>83</sup> and they maintain informal contact with various State Department officials—including country desk

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<sup>78</sup> Ottaway, note 50 *supra*. These classes of informants also tend to be among the classes of persons who are most often subjected to the human rights violations.

<sup>79</sup> *Human Rights in Central America Hearings*, *supra* note 8, at 78.

<sup>80</sup> Lernoux, *Insurgent Church*, *supra* note 55, at 625.

<sup>81</sup> Ottaway, note 50 *supra*.

<sup>82</sup> AI has assigned 17 researchers and 20 assistants to perform this task at its London office. *Id.*

<sup>83</sup> Interview with William L. Wipfler, Director, Caribbean and Latin American Department, National Council of Churches in New York City (Dec. 14, 1976) [hereinafter cited as Wipfler Interview]. The sharing of information has increased markedly since 1973, for it was then that NGOs first recognized that cooperation among themselves could become a major asset.

officers—in an attempt to complete the verification process. This analysis of “raw” information has allowed the NGOs to develop reputations for relatively high credibility.<sup>84</sup>

### 3. Visiting Involved Countries

After reports of violations have been received and evaluated, many of the NGOs conduct *in loco* visits to the involved countries. These visits may be classified as either (1) observer or (2) investigative missions.<sup>85</sup>

(1) *Observer Missions* — Both AI<sup>86</sup> and ICJ<sup>87</sup> have sent observers to trials where the issue of human rights violations is likely to be raised by the accused. Experience has shown that the presence of these observers helps to insure a fairer hearing for the accused and to demonstrate international concern about these trials.

(2) *Investigative Missions* — When an individual NGO desires to collect more detailed information regarding the violations mentioned in preliminary reports, it will visit an offending country. For example, AI<sup>88</sup> and ICJ<sup>89</sup> have conducted separate visits to Chile, and ILHR has sent representatives to Paraguay.<sup>90</sup> Sometimes two or more NGOs will conduct a joint visitation, such as AI and ICJ's mission to Uruguay.<sup>91</sup> Occasionally an NGO will be asked to participate in an investigation being conducted by a third party. For instance, a WOLA representative accompanied several Congressmen on a fact finding trip to Chile.<sup>92</sup> During these investigative missions NGO personnel confer with leaders of the accused government, members of the local bar associations, prisoners, and other parties who have information to contribute to their study.<sup>93</sup>

### B. Dissemination of Information

After substantiating the existence of a violation, the NGO begins the process of dissemination of information. This process may take two forms—direct and/or indirect intervention.

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<sup>84</sup> To be sure, high credibility is not uniform among the various NGOs. AI, ICJ, and ILHR are recognized for providing especially reliable information. See Ottaway, *supra* note 50. The Department of State has been critical of some of the NGO information. See *Human Rights in Central America Hearings*, *supra* note 8, at 213. Furthermore, since some of the NGOs are more “activist,” their work is often of uneven quality. See Weissbrodt, *supra* note 40, at 300.

<sup>85</sup> Amnesty International, *REPORT ON TORTURE* 77 (1975).

<sup>86</sup> *AI Annual Report 1975*, *supra* note 53, at 143.

<sup>87</sup> *ICJ Annual Report 1976*, *supra* note 29, at 9.

<sup>88</sup> *International Protection of Human Rights Hearings*, *supra* note 20, at 531; *Chile Hearings*, Pt. I, *supra* note 32, at 3.

<sup>89</sup> *Chile Hearings*, Pt. I, *supra* note 32, at 52; *Chile Hearings*, Pt. II, *supra* note 34, at 3.

<sup>90</sup> ILHR, *HUMAN RIGHTS BULLETIN*, *supra* note 22, at 2.

<sup>91</sup> AI-ICJ URUGUAY MISSION, note 34 *supra*.

<sup>92</sup> Griesgraber Interview, note 74 *supra*.

<sup>93</sup> *International Protection of Human Rights Hearings*, *supra* note 20, at 533.

### 1. *Direct Intervention*

Direct intervention consists of the NGO, either through its officials or constituents, directly apprising government officials of the human rights violations. Once it is decided that such intervention is warranted,<sup>94</sup> normally a high-level NGO official contacts a high-level government official and suggests corrective action. However, at least one NGO, AI, employs its constituents to inform government officials of violations. AI's International Secretariat assigns each "adoption group" three "Prisoners of Conscience," i.e., persons imprisoned because of their political, religious or other conscientiously held beliefs, or by reason of their ethnic origin, color, or language, but who have neither used nor advocated violence.<sup>95</sup> To assure impartiality the three prisoners are balanced politically and geographically; one may be from a Communist nation, another from a Western industrialized country, the third from a developing Third World society.<sup>96</sup> The "adoption group" then writes personal letters to government officials seeking to obtain the release of the prisoners.<sup>97</sup> Use of the "adoption group" method may give AI "a rather amateurish image," but it also instills a sense of personal responsibility in its increasing number of constituents and, in the long run, may be more effective than the more professional and discreet efforts of the high-level NGO official.<sup>98</sup>

Whichever of these methods it utilizes, the NGO which intervenes directly functions as "a much needed intermediary" between human rights victims and government authorities.<sup>99</sup> Once aware of the violation and its attendant risk of embarrassment, the government official may try to amel-

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<sup>94</sup> Weissbrodt, *supra* note 40, at 300. To determine whether it would be useful to intervene in a particular situation, Professor Weissbrodt suggests the NGO may ask the following questions:

Might intervention help or hurt the victim? What sort of intervention would be most effective? Have interventions with this country or with respect to this type of problem been successful in the past? Are the personnel of the country receptive to initiatives from outsiders? Are the facts sufficiently well established to permit diplomatic intervention or publicity? What NGO would be most effective in raising the issue?

*Id.* at 301; see also Ottaway, note 50 *supra*.

<sup>95</sup> AI HANDBOOK, *supra* note 43, at 3; see also AI Statute, *supra* note 41, §1, para. a.

<sup>96</sup> AI HANDBOOK, *supra* note 43, at 2.

<sup>97</sup> *Perserverance Frees Prisoner — How AI Group Works*, MATCHBOX 13 (Fall 1976). For three years a San Francisco "adoption group" wrote letters to Chilean authorities, flew to Chile and even telephoned General Pinochet person-to-person in order to obtain the release of the Chilean administrator of economic affairs in the Allende cabinet and his family. After his release the group assisted him by providing financial assistance and finding him employment.

<sup>98</sup> Weissbrodt, *supra* note 40, at 318. Personal involvement by members may account for AI's growing constituency. See also *Human Rights NGOs*, *supra* note 15, at \_\_\_\_.

<sup>99</sup> Weissbrodt, *supra* note 40, at 302.

iorate the situation.<sup>100</sup> If no satisfactory results are obtained within a reasonable time, the NGO may then turn to more indirect forms in order to disseminate its information.

## 2. *Indirect Intervention*

In addition to direct intervention the NGO may indirectly intervene by seeking to mobilize public opinion against human rights violators on the theory that "there is no government, however authoritarian, which is not susceptible in some degree to the force of public opinion."<sup>101</sup> Publicity is a most important element in the mobilization of this opinion. One form of publicity utilized is the NGO publication, through which invaluable first-hand information on human rights violations can be provided.<sup>102</sup> The press release is also employed by the NGO but usually only in serious or urgent circumstances and with great care in order to insure a good press and maximum effectiveness.<sup>103</sup> Sometimes, however, the press releases are used more frequently, especially within the framework of worldwide campaigns against a particular type of violation, such as AI's *Campaign for the Abolition of Torture*, or against one particular country, as in AI's international campaign against torture in Uruguay.<sup>104</sup> A third form of publicity is the use of public meetings and seminars.<sup>105</sup> Public news media also use NGO-generated material for feature articles. For instance, TIME magazine's recent story on torture was derived largely from AI's Report on Torture.<sup>106</sup>

This publicity is directed primarily to what have been called the "public and private elites."<sup>107</sup> The public elites include those governmental and intergovernmental authorities who can affect both the short-term and long-range human rights environment. Private elites consist of groups such as lawyers, doctors, union leaders, or news media. Because of limited financing, NGOs must set priorities between these two elites. The primary targets of the NGOs are the public elites since they can change national and international human rights policy.<sup>108</sup> The private elites become impor-

<sup>100</sup> *Id.*

<sup>101</sup> *International Protection of Human Rights Hearings*, *supra* note 20, at 3.

<sup>102</sup> Weissbrodt, *supra* note 40, at 304-06. These publications include, but are not limited to, the following: WOLA's *LEGISLATIVE UPDATE*, ICJ's *REVIEW*, AI's *AMNESTY ACTION* and *MATCHBOX*, ILHR's *HUMAN RIGHTS BULLETIN*.

<sup>103</sup> *Human Rights NGOs*, *supra* note 15, at \_\_\_\_; see Griesgraber Interview,, note 34 *supra*; see, e.g., *Chile Junta Said Continuing Abuse of Human Rights*, Wash. Post, § A, at 26, col. 3, Sept. 3, 1976 (ICJ press release regarding Chile's expulsion of 2 Chilean lawyers, who openly criticized the junta in an open letter to OAS Assembly in Santiago in June 1976).

<sup>104</sup> *AMNESTY INTERNATIONAL REPORT 1975-76*, *supra* note 2, at 48.

<sup>105</sup> AI, ICJ and WOLA sometimes employ this publicity technique.

<sup>106</sup> AI letter to the authors (undated).

<sup>107</sup> Wiseberg and Scoble, *supra* note 39, at 18.

<sup>108</sup> *Id.* at 21.

tant to the NGO mainly insofar as they influence the public elites.<sup>109</sup> Thus, in order to promote human rights in Latin America, NGOs focus primarily on the following public elites: the Inter-American Commission on Human Rights, the United States Congress and the United States Department of State.<sup>110</sup>

## V. THE PUBLIC ELITES

### A. *The Inter-American Commission on Human Rights*

The origins of the inter-American system for the protection of human rights may be traced to the Ninth International Conference of the American States held in Bogota, Colombia in 1948.<sup>111</sup> At this conference delegates created the Organization of American States (OAS)<sup>112</sup> and adopted the American Declaration of the Rights and Duties of Man<sup>113</sup> which codifies various essential human rights. These "essential rights of man are not derived from the fact that he is a national of a certain state, but are based upon attributes of his human personality,"<sup>114</sup> a crucial point also discussed in the "Letter of the Brazilian Bishops."<sup>115</sup> The introduction to the American Declaration continued by stating that "[t]he international protection of the rights of man should be the principal guide of an evolving American law."<sup>116</sup> Despite this strong language the institutional framework to advance these rights was not established for more than a decade. Finally in 1960, in order to implement the provisions of the American Declaration, the OAS created the Inter-American Commission on Human Rights (IACHR).<sup>117</sup> For the past seventeen years NGOs have made IACHR a primary focal point for their activities in the field of Latin American human rights.

Human rights has never been a comfortable issue at the OAS.<sup>118</sup> One commentator has even gone so far as to describe IACHR as "a self-induced, benign boil on the body politic of the OAS."<sup>119</sup> To a degree this is true because OAS diplomats are disinclined to see member nations singled out for their abuses since they know that their own government

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<sup>109</sup> *Id.*

<sup>110</sup> Although the United Nations is also concerned with human rights in Latin America, its activities are beyond the scope of this note.

<sup>111</sup> T. BUERGENTHAL & J. TORNEY, *INTERNATIONAL HUMAN RIGHTS AND INTERNATIONAL EDUCATION* 71-72 (1976) [hereinafter cited as BUERGENTHAL & TORNEY].

<sup>112</sup> IACHR HANDBOOK, *supra* note 4, at 5.

<sup>113</sup> Reprinted in *id.* at 15 [hereinafter cited as AMERICAN DECLARATION].

<sup>114</sup> *Id.*

<sup>115</sup> Pastoral Communication, note 64 *supra*.

<sup>116</sup> American Declaration, note 113 *supra*.

<sup>117</sup> IACHR HANDBOOK, *supra* note 4, at 9.

<sup>118</sup> Diuguid, *Too Late*, Wash. Post, Dec. 12, 1976, Potomac § (Magazine), at 69.

<sup>119</sup> *Id.* at 60.



may be the next to stand accused.<sup>120</sup> Notwithstanding the difficulties associated with such a role, IACHR was given the function of promoting respect for human rights.<sup>121</sup> In performing this function IACHR has attempted to exploit the discrepancy between the ideals embodied in the constitutions and laws of American states and the actual conditions found in these nations.<sup>122</sup>

Originally, IACHR<sup>123</sup> was little more than an organ charged with preparing studies and promotional materials.<sup>124</sup> However, in the following years IACHR's powers were expanded to permit it to investigate charges of human rights violations by the various American states.<sup>125</sup> Its express powers and procedures, which are set forth in its Statute<sup>126</sup> and Regulations,<sup>127</sup> have been thoroughly examined in human rights literature.<sup>128</sup> Unfortunately these directives are more often breached than honored. Therefore, the remainder of this section will analyze problems encountered by NGOs as they interact with IACHR to effectuate progress in the human rights field.

Although neither IACHR's Statute nor Regulations are explicit as to who may file complaints, it can be inferred that NGOs may do so.<sup>129</sup> An NGO may present its evidence of abuses to IACHR in two ways. The most frequently used method is the filing of a written complaint pursuant to IACHR's "Model Communications."<sup>130</sup> Additionally, an NGO may send

<sup>120</sup> *Id.* at 62.

<sup>121</sup> Statute of the Inter-American Commission on Human Rights, art. 1, OAS OFF. REC., OEA/Ser. L/V/II.26, Doc. 10 (Nov. 2, 1971), reprinted in IACHR HANDBOOK, *supra* note 4, at 23 [hereinafter cited as Statute].

<sup>122</sup> A. SCHREIBER, THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS 157 (1970) [hereinafter cited as SCHREIBER].

<sup>123</sup> IACHR is composed of seven members who serve in their private capacities. It meets for a maximum of 8 weeks each year. IACHR is supported by a small Secretariat consisting of the Executive Secretary and technical and administrative personnel. The Secretariat is located in modest rented offices a few blocks away from the main OAS building in Washington, D.C. See Statute, *supra* note 121, arts. 3, 4, 11; G. DA FONSECA, HOW TO FILE COMPLAINTS OF HUMAN RIGHTS VIOLATIONS: A PRACTICAL GUIDE TO INTER-GOVERNMENTAL PROCEDURES 113 (1975) [hereinafter cited as DA FONSECA; Diuguid, note 118 *supra*].

<sup>124</sup> BUERGENTHAL & TORNEY, *supra* note 111, at 73.

<sup>125</sup> Statute, *supra* note 121, art. 9 *bis*.

<sup>126</sup> Statute, note 121 *supra*.

<sup>127</sup> Regulations of the Inter-American Commission on Human Rights, OEA/Ser.L/V/II.17, Doc. 26 (May 2, 1967), reprinted in IACHR HANDBOOK, *supra* note 4, at 29 [hereinafter cited as Regulations].

<sup>128</sup> See generally BUERGENTHAL & TORNEY, note 111 *supra*; SCHREIBER, note 122 *supra*; Buergenthal, *The Revised OAS Charter and the Protection of Human Rights*, 69 AM. J. INT'L L. 828 (1975).

<sup>129</sup> DA FONSECA, *supra* note 123, at 109.

<sup>130</sup> Model Communication, reprinted in IACHR HANDBOOK, *supra* note 4, at 42-43. During the past year AI submitted complaints regarding violations in Guatemala, Haiti, Paraguay and Uruguay. AMNESTY INTERNATIONAL REPORT 1975-76, *supra* note 2, at 45-46. ICJ has submitted reports on Chile and Argentina. ICJ ANNUAL REPORT 1976, *supra* note 29, at 12.

representatives to appear personally before IACHR.<sup>131</sup> Personal appearances are discouraged, however, because they tend to unduly increase the IACHR's heavy workload.

Once an NGO has filed a complaint it encounters difficulties with IACHR's operating procedures. One problem involves the requirement of exhaustion of internal remedies.<sup>132</sup> This requirement is based on the fact that protection of the human rights of people within each nation is one of the basic duties of the government concerned. Thus, organs of international protection, such as IACHR, are technically precluded from taking action until after the offending government has failed to discharge that duty.<sup>133</sup> This requirement is difficult for most NGOs to satisfy since they usually submit complaints cataloging multiple violations. Often the NGO which sends a complaint does not have the means to obtain specific information regarding the exhaustion of internal remedies by each individual mentioned in that communication. Moreover, even if the NGO possessed the means to verify exhaustion of remedies, the process would be too taxing on the limited resources of the NGO. In hopes of alleviating some of the difficulties attendant to the submission of multiple violation complaints, IACHR has developed an unwritten "general case" procedure. Pursuant to this procedure NGOs may submit complaints of multiple violations in the ordinary manner, but they do not have to verify first the exhaustion of remedies by each named victim. IACHR is to be commended for creating such an innovative solution to such a difficult problem; however, the availability of this procedure is not yet well known among the NGOs which frequently submit complaints. For this reason it is recommended that this procedure be codified in IACHR's Statute. Knowledge of this new method will no doubt increase the NGO's respect for IACHR because, historically, some complainants have become very frustrated by IACHR's complex procedures.

A second procedural matter which has confused certain NGOs is the meaning of "consultative status." In some intergovernmental organizations the granting of "consultative status" carries great weight. Such status may allow the designated NGO the right of petition and/or the right to have its observers present at debates.<sup>134</sup> However, "consultative status"

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<sup>131</sup> THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS: WHAT IT IS AND HOW IT FUNCTIONS 6 (1970) [hereinafter cited as IACHR PAMPHLET]. ILHR has appeared to request an immediate investigation of Paraguay's treatment of the Ache Indians. INTERNATIONAL LEAGUE FOR THE RIGHTS OF MAN ANNUAL REVIEW 1974-75, *supra* note 16, at 25. WOLA and USCC also have met with the entire IACHR or with its members individually. Griesgraber Interview, note 74 *supra*; Quigley Interview, note 57 *supra*.

<sup>132</sup> Statute, *supra* note 121, art. 9 *bis*.

<sup>133</sup> IACHR PAMPHLET, *supra* note 131, 5.

<sup>134</sup> See generally Prasad, *The Role of Non-Governmental Organizations in the New United Nations Procedures of Human Rights Complaints*, 5 DENVER J. INT'L L. & POLICY 441 (1975). Confusion has resulted from AI's claim to have such status before IACHR.

carries no weight before the Inter-American Commission on Human Rights. Anyone may submit a complaint so long as it conforms to the basic requirements set forth in IACHR's Regulations.<sup>135</sup> All complaints are processed in the order in which they are received. In this way IACHR clearly demonstrates that it places no premium on "consultative status," or for that matter, on the likelihood that an NGO complaint will be professionally drafted or more apt to be kept active through follow-up procedures. While this procedure assures essential fairness to the individual complainant, it tends to stymie NGO efforts to bring incidents of group or societal violations to the attention of IACHR. Therefore, IACHR should formulate a dual procedure for evaluation of complaints. That is, it should establish, on the one hand, priority ranking of complaints from individuals, and on the other hand, a separate priority order for communications received from NGOs. Utilizing this dual procedure, IACHR could marshal some of its resources toward achieving the greatest good for large groups without neglecting the complaints of individual victims.

In addition to these procedural problems, NGOs are now quite concerned about IACHR's future course of action, especially in light of recent personnel changes. In 1976, three commissioners announced that they would not seek re-election.<sup>136</sup> Furthermore, Dr. Luis Reque, the Executive Secretary, resigned, charging that certain OAS members wished to impede IACHR from effectively protecting human rights.<sup>137</sup> Dr. Reque was replaced by a Peruvian jurist, Dr. Emilio Castañón Pasquel;<sup>138</sup> however within a short time, he also resigned. NGOs are already becoming uneasy over these developments, and at least one NGO, AI, has voiced a fear that these events may jeopardize the serious and courageous work of IACHR.<sup>139</sup>

Unfortunately this turmoil comes just when IACHR is achieving significant progress. This progress was most evident during the Sixth Regular Session of the OAS General Assembly at Santiago, Chile, in June 1976. This was the first occasion when IACHR's reports were openly discussed by an OAS General Assembly and "not merely noted and filed away."<sup>140</sup> In addition, as the result of then Secretary of State Kissinger's address, IACHR was given hopes of an enlarged budget and staff.<sup>141</sup> With a larger

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<sup>135</sup> Regulations, *supra* note 127, art. 38.

<sup>136</sup> THE AMNESTY INTERNATIONAL REPORT 1975-76, *supra* note 2, at 47.

<sup>137</sup> *Id.* The actual reasons for Reque's resignation are as yet unclear. These may include his alienation of the Chilean delegation or perhaps questions about his moral conduct. Diuguind, *supra* note 118, at 14, 70; also, one source reported that he was influenced by threats by certain governments to kidnap his daughter. International Commission of Jurists, 16 THE REVIEW 24 (1976).

<sup>138</sup> OAS Hearing, *supra* note 1, at 15.

<sup>139</sup> THE AMNESTY INTERNATIONAL REPORT 1975-76, *supra* note 2, at 46.

<sup>140</sup> OAS Hearing, *supra* note 1, at 3.

<sup>141</sup> *Id.* at 18-21. The United States has pledged \$102,000 to assist IACHR. *Id.* at 28. The

budget and staff, IACHR could deal more competently with human rights violations. From the NGO point of view such growth is desirable. IACHR, because of its status as an intergovernmental organ of the OAS, is immune from charges that its findings are propaganda.<sup>142</sup> Consequently, Latin American governments probably respect IACHR more than any of the NGOs herein considered. By acting in concert with a more competent IACHR, NGOs could more effectively mobilize domestic and international public opinion against governments which persistently abuse internationally recognized human rights.

NGOs, sensing the need for close cooperation with IACHR, have made significant contributions. First, NGO complaints are of great informational value to IACHR. Second, the publicity which often results after the submission of these complaints has become an effective sanction against human rights violators.<sup>143</sup> Third, the efforts of the NGOs have culminated in IACHR's extension of hope—albeit possibly false hope—to many of Latin America's downtrodden people. Even false hopes of improvement in the human rights situation are preferable to desperation in such deplorable circumstances.

But the extension of hope, alone, is not enough. Both IACHR and its NGO supporters must work closely together to increase the level of *real* progress in this area. The IACHR-NGO relationship, however, has not always been a cordial one. Some NGOs have tended to become frustrated with IACHR's complex procedures and its lack of tangible results. These NGOs criticize it for its cautious approach to serious matters. While IACHR is sensitive to this criticism, it is dependent upon the constituent members of the OAS for political support. Therefore, it contends that its policy of methodical progress, marked by incremental gains, is the best way to improve the human rights climate in Latin America, or as one informed source confided, "the object is not to take a step backward."

Perhaps this goal is myopic in the face of societal abuses of human rights. Therefore, in order for IACHR and its supporting NGOs to solidify past gains and set new goals for the future, they should convene a planning conference to discuss an agenda of mutual interest. The benefits which

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recommendation to enlarge IACHR's staff and budget was initially made by Thomas Quigley of USCC during congressional hearings held in 1973. *International Protection of Human Rights Hearings*, *supra*, note 20, at 207. The Linowitz Commission has also made the recommendation that "[t]he U.S. Government should support moves to strengthen the independence, access, and staff capacity of regional mechanisms for monitoring human rights, especially of the Inter-American Commission on Human Rights, and also of the United Nations and non-governmental organizations involved in monitoring human rights violations." Commission on United States—Latin American Relations, *THE UNITED STATES AND LATIN AMERICA: NEXT STEPS* 8 (Dec. 20, 1976) [hereinafter cited as *NEXT STEPS*].

<sup>142</sup> BUERGENTHAL & TORNEY, *supra* note 111, at 75.

<sup>143</sup> DA FONSECA, *supra* note 123, at 119.

could be derived are so substantial that this meeting would be most worthwhile. Unless such an assembly is held in the near future, it is conceivable that some of the frustrated NGOs may increase their level of operations in other arenas, thereby relegating IACHR to an inferior position in the struggle for Latin American human rights.

#### B. *United States Congress*

Prior to 1973 NGOs considered the United States Congress to be apathetic toward international human rights.<sup>144</sup> Since then, however, a more cooperative relationship with Congress has developed.<sup>145</sup> Today, with the Carter Administration's emphasis on human rights, there is much human rights activity in both the House of Representatives and the Senate.<sup>146</sup>

One reason for this change in congressional attitude is the commitment to human rights of congressional staff aides, who play an important role in organizing congressional hearings. Their experience with the Vietnam War, the Peace Corps, the civil rights movement, or NGOs has made many staff aides more committed to human rights issues than the legislators.<sup>147</sup>

This commitment by staff aides, together with a general dissatisfaction with both United States and international response to human rights violations, gave impetus to a series of hearings by one of the most active subcommittees on human rights, the House Foreign Affairs Subcommittee on International Organizations.<sup>148</sup> One of the main objectives of these hearings, chaired by Representative Donald M. Fraser, D-Minnesota, is to "improve the capacity of international organizations to effectively protect internationally recognized standards of human rights."<sup>149</sup> To achieve this improved "capacity of international organizations" the Fraser Subcommittee held hearings during the 94th Congress—17 of which focused on Latin America.<sup>150</sup>

<sup>144</sup> *International Protection of Human Rights Hearings*, *supra* note 20, at 411 (statement of Jerome Shestack, ILHR Chairman).

<sup>145</sup> NGOs have also developed influential relationships with other parliaments. For example, the Venezuelan Senate and the European Economic Community (EEC) Parliament publicly condemned the human rights violations in Uruguay as a result of AI's campaign against torture in that country. *Uruguay and Paraguay Hearings*, *supra* note 24, at 41.

<sup>146</sup> See Weissbrodt, *Human Rights Legislation and U.S. Foreign Policy*, 7 GA. J. INT'L & COMP. L. 231 (1977) [hereinafter cited as Weissbrodt, *Human Rights*].

<sup>147</sup> *For the Record: The Human Rights Lobby in the U.S.A.*, 10 LATIN AMERICA 315 (1976); compare 15 Y.B. INT'L ORGANIZATIONS, *supra* note 26, at 284 with *International Protection of Human Rights Hearings*, *supra* note 19, at ii.

<sup>148</sup> *International Protection of Human Rights Hearings*, *supra* note 19, at ix. The name of the committee today is House International Relations Subcommittee on International Organizations.

<sup>149</sup> 122 CONG. REC. E5440 (daily ed. Oct. 1, 1976) (remarks of Rep. Fraser).

<sup>150</sup> *Id.* During the 94th Congress the following number of hearings were held: Uruguay, 3; Chile, 2; Argentina, 2; Paraguay, 2; El Salvador, 2; Nicaragua, 2; Guatemala, 2; Cuba, 1; Haiti, 1.

How have NGOs contributed to this congressional concern for human rights in Latin America? NGOs have primarily provided congressional staff aides with information otherwise difficult to acquire and have participated in congressional hearings. In choosing a country to focus on for organizing a hearing, staff aides use NGO information. To facilitate this congressional use of information, some NGOs foster personal contact with staff aides as well as provide them with information through their publications.<sup>151</sup> During a hearing, NGOs provide congressmen with a competent briefing system, by furnishing their officials, scholars, and other witnesses, including citizens and refugees, with reports of human rights violations in the country.<sup>152</sup>

What has been the effect of this NGO effort in Congress? NGOs have engaged in a process which has raised government's consciousness about human rights violations.<sup>153</sup> When NGOs brief congressmen during a hearing, opposing witnesses may present conflicting evidence.<sup>154</sup> During the course of the hearings, however, NGO allegations are usually corroborated.<sup>155</sup> This process of corroboration in a hearing has increased NGO credibility and consequently has enhanced NGO legitimacy.<sup>156</sup> Thus, what NGOs say has gained increasing weight with those in the United States government.<sup>157</sup>

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<sup>151</sup> Both WOLA, *see text at note 77*, and USCC, *see text at note 63*, maintain congressional liaison and have offices in Washington, D.C. AI also has a Washington, D.C. office, but its primary purpose is to act as a liaison between its International Secretariat and the Department of State, IACHR, and the World Bank, and to monitor events in Washington. ILHR and ICJ do not presently have Washington offices so they, like AI, rely on providing information through their publications rather than personal contact.

<sup>152</sup> USCC officials presented reports on Brazil and Argentina: *International Protection of Human Rights Hearings*, *supra* note 20, at 188-217; *Brazil Hearings*, note 12 *supra*; *Argentina Hearings*, *supra* note 57, at 25-31, 39-43. ILHR representatives submitted a report on Paraguay, *Uruguay and Paraguay Hearings*, *supra* note 24, at 76-108, 161-218. AI and ICJ representatives gave reports on Uruguay and Chile *id.* at 39-74; *Chile Hearings, Pt. I* *supra* note 32, at 3-33, 52-92, 64-138; *Chile Hearings, Pt. II*, *supra* note 34, at 3-16, 33-64; *International Protection of Human Rights Hearings*, *supra* note 20, at 531-56. An NCC official, using AI's research, submitted a statement on Nicaragua, El Salvador and Guatemala, *Human Rights in Central America Hearings*, *supra* note 8, at 78-88. WOLA provided the following witnesses: a Nicaraguan philosophy professor, an exiled president of the National University of El Salvador, and a Guatemalan politician. *Id.* at 10, 31, 50, 210-11.

<sup>153</sup> *International Protection of Human Rights Hearings*, *supra* note 20, at 29.

<sup>154</sup> *See, e.g., Uruguay and Paraguay Hearings*, *supra* note 24, at 109-14 (statement of Hon. Hewson A. Ryan, Deputy Assistant Secretary for Inter-American Affairs, Department of State).

<sup>155</sup> Congress evidently believed AI's report of violations in Uruguay since it cut off military assistance to that country. *See note 163 infra.*

<sup>156</sup> *See, e.g., Uruguay and Paraguay Hearings*, *supra* note 24, at 117; Weissbrodt, *Human Rights*, *supra* note 146, at 239 n.29, 244 n.48.

<sup>157</sup> An example of this raised consciousness about human rights is demonstrated by the September 3, 1976, statement signed by 102 incumbent Senators and Representatives and

Because of this heightened consciousness Congress has enacted human rights legislation. Two human rights amendments were added to the Foreign Assistance Act of 1961 — section 116, which prohibits *economic aid* to countries committing gross violations of human rights unless such aid is directly beneficial to needy people,<sup>158</sup> and section 502B which recommends denial of *military assistance* to countries committing gross violations of human rights unless there are extraordinary circumstances requiring that assistance.<sup>159</sup> Another statute conditions United States financial or technical assistance through the Inter-American Bank upon similar human rights provisions.<sup>160</sup> As a result of this legislation, economic aid to Chile was restricted,<sup>161</sup> military aid to Chile<sup>162</sup> and Uruguay<sup>163</sup> was terminated, and an Inter-American Development Bank loan to Chile was blocked by the United States.<sup>164</sup>

NGO efforts in the Congress have also facilitated the extraction of information from a sometimes secretive Department of State. Information is obtained either informally, through an exchange of letters between Congress and the Department, or formally through the mandatory annual reports or requested statements which the Department must submit to Congress as a result of section 502B.<sup>165</sup> The letters usually serve to extract information unknown at the hearing or clarify conflicting statements.<sup>166</sup>

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28 candidates in the November election urging all candidates for public office to support the idea of making human rights a priority of American foreign policy. This statement was drafted with the acknowledged help of AI. Ottaway, *supra* note 50, at § B at 5, col. 4.

<sup>158</sup> 22 U.S.C.A. §2151n(a) (Pamph. Supp. I, 1976).

<sup>159</sup> 22 U.S.C.A. § 2304 (Pamph. Supp. III, Pt. 1, 1976).

<sup>160</sup> 22 U.S.C. 283y (Supp. 1976).

<sup>161</sup> International Development and Food Assistance Act of 1975, Pub. L. No. 94-161, §320, 89 Stat. 868. Testimony by NCC was given which suggested that the Department of State and the Agency for International Development (AID) may have exceeded the Congressional restriction on economic aid in §320. See *Chile: The Status of Human Rights and its Relationship to U.S. Economic Assistance Programs: Hearings Before the Subcomm. on International Organizations of the House Comm. on International Relations*, 94th Cong., 2d Sess. 3-4 (1976) (statement of Leonard C. Meeker, Staff Attorney, Center for Law and Social Policy on Behalf of the National Council of Churches Committee on the Caribbean and Latin America).

<sup>162</sup> International Security Assistance and Arms Export Control Act of 1976, Pub. L. No. 94-329, §406, 90 Stat. 758.

<sup>163</sup> *Uruguay's Military Leaders Angry Over Congressional Cutoff on Aid for Arms*, N.Y. Times, Oct. 5, 1976, at 13, col. 1.

<sup>164</sup> Diuguid, *U.S. Vote on Chile Loan Stirs Question*, Wash. Post, July 9, 1976, at §A, at 2, col. 1. Citing IACHR Report on Chile as evidence of a consistent pattern of gross violations, the United States cast the only no vote against Chile's loan and was thus chastised by some Latin American nations for imposing political criteria on loans. However, although the United States might be instructed to vote against a loan, the loan still might be approved; the United States does not have veto power in the Inter-American Development Bank.

<sup>165</sup> 22 U.S.C.A. §2304(b),(c).

<sup>166</sup> See, e.g., *International Protection of Human Rights Hearings*, *supra* note 20, at 812-14; *Uruguay and Paraguay Hearings*, *supra* note 24, 143-44.

The reports submitted under section 502B provide pertinent information regarding human rights conditions in countries receiving aid. Although the Department recently submitted reports on Argentina, Haiti and Peru on a classified basis in order to avoid diplomatic complications, the House Committee on International Relations insisted that much of the reports be made public.<sup>167</sup>

That NGO efforts in Congress have had an effect cannot be doubted; however, it is difficult to measure their success. Often the position of the United States concerning human rights is inconsistent; therefore, the message which a Latin American country receives is unclear. For example, even though Congress restricted economic assistance to Chile, cut off military aid, and influenced the United States vote against Chile's Inter-American Development Bank loan, the United States recently supported two World Bank development loans to Chile totaling \$60 million.<sup>168</sup> However, even if the United States position on human rights were consistent, such consistency might be regarded by Latin American governments as interference with their internal affairs and could cause the reduction of American influence in that area. For instance, recent official American criticism of the way five Latin American countries treated their citizens caused those nations to reject United States military aid altogether.<sup>169</sup>

Despite this difficulty of measuring effectiveness, the authors consider it important that NGOs continue to foster personal contact with congressional aides and retain credibility with congressional committees in order to broaden the impact they have already made. By the same token, Congress must continue to encourage NGOs to provide up-to-date evaluations of human rights conditions in Latin America and strive to utilize this information in the formulation of United States foreign policy.<sup>170</sup> In addition, the authors recommend that the NGOs work with Congress to alleviate their lack of financing. The Fraser Subcommittee has already recommended that the Department of State continue funding human rights

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<sup>167</sup> *Human Rights and U.S. Policy: Argentina, Haiti, Indonesia, Iran, Peru, and the Philippines, Reports Submitted to the House Comm. on International Relations by the Department of State*, iii, v (1976) [hereinafter cited as *1976 State Department Report*].

<sup>168</sup> *What's News-World-Wide*, Wall St. J., Dec. 22, 1976, at 1, col. 3. Five European countries opposed the loans because of Chile's record on human rights but the United States voted for both.

<sup>169</sup> *What's News-World-Wide*, Wall St. J., Mar. 18, 1977, at 1, col. 3. Brazil, Argentina, Uruguay, El Salvador, and Guatemala have rejected United States aid.

<sup>170</sup> The authors endorse this recent recommendation of the Linowitz Commission:

In making its own determination of whether a government has been engaged in gross and systematic human rights violations, the United States should take into consideration reports from . . . the Inter-American Commission on Human Rights, and such private institutions as the . . . International Commission of Jurists and Amnesty International.

NEXT STEPS, *supra* note 141, at 8-9.



NGOs.<sup>171</sup> Most NGOs, however, would prefer another source of financing since there is always the danger they may become dependent upon government funding and compromise their political independence.<sup>172</sup> Such funding may also be viewed as implementation of United States policy by Latin American governments, which would throw doubt upon the political impartiality of NGOs. Latin American skepticism of either NGO political independence or impartiality would impair NGO effectiveness as advocates for the protection of human rights. A more imaginative solution is needed so that NGO financing would be unconnected with United States policy. For example, in the Federal Republic of Germany traffic violators can pay their fines either to the government or to AI.<sup>173</sup> Although such funds are funneled through the government, they reach the NGO as the result of individual choice and thus avoid being labelled as the implementation of government policy. These apparently contradictory recommendations underscore the complexity of the NGOs' task. On the one hand, NGOs must try to form close personal contact with congressmen and staff aides so that they can educate Congress and thereby influence the role of human rights in United States foreign policy. On the other hand, if the NGOs are associated too closely with the United States government their independence and impartiality may be impaired to the extent that they become ineffective in dealing with Latin American governments.

### C. *United States Department of State*

Prior to the Fraser Subcommittee hearings, an NGO could report violations to the Office of Legal Adviser or the Bureau of International Organization Affairs.<sup>174</sup> These understaffed bureaus within the Department of State were the only two with specific responsibilities for human rights.<sup>175</sup> In addition, no specific procedure existed for considering the impact of human rights on policy decisions.<sup>176</sup> During the Fraser Subcommittee hearings both AI<sup>177</sup> and ILHR<sup>178</sup> recommended the establishment of a bureau

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<sup>171</sup> *Human Rights in the World Community: A Call for U.S. Leadership, Report of the Subcomm. on International Organizations and Movements of the House Comm. on Foreign Affairs*, 93d Cong., 2d Sess. 51 (1975) [hereinafter cited as *Human Rights in the World Community Report*]. The only NGO which the authors found receiving funds from the Department of State or Agency for International Development was ICJ. See *International Protection of Human Rights Hearings*, *supra* note 20, at 814.

<sup>172</sup> *Id.*, accord, *International Protection of Human Rights Hearings*, *supra* note 20, at 394-95.

<sup>173</sup> *Human Rights NGOs*, *supra* note 15, at \_\_\_\_.

<sup>174</sup> *International Protection of Human Rights Hearings*, *supra* note 20, at 95, 506.

<sup>175</sup> *Human Rights in the World Community Report*, *supra* note 171, at 12.

<sup>176</sup> *International Protection of Human Rights Hearings*, *supra* note 20, at 817.

<sup>177</sup> *Id.* at 258.

<sup>178</sup> *Id.* at 401.

in the Department for human rights affairs — a recommendation which the Department opposed because it considered the existing structure adequate.<sup>179</sup>

As a result of these hearings, legislation was introduced<sup>180</sup> and eventually enacted, establishing the Office of Coordinator for Human Rights and Humanitarian Affairs.<sup>181</sup> This office must monitor human rights practices worldwide,<sup>182</sup> annually submit reports to Congress on over 80 countries receiving security assistance,<sup>183</sup> transmit congressionally requested statements on the human rights situation in selected countries within thirty days,<sup>184</sup> and advise the Secretary of State and the Agency for International Development on human rights issues.<sup>185</sup> In order to adequately accomplish these legislative responsibilities, the "badly understaffed" Coordinator has requested additional personnel.<sup>186</sup> Besides the Coordinator, the Department on its own initiative<sup>187</sup> has assigned at least one officer in each geographic and functional bureau to insure that human rights are given sufficient attention in the decision making process.<sup>188</sup> Thus, although it may be too early to assess the effectiveness of this new human rights structure, NGOs at least have broader opportunities to report violations to the Department.

The Department of State has characterized its relationship with NGOs as cooperative and open.<sup>189</sup> To an extent this characterization is correct. Some Department officials have cooperated informally with NGOs in the promotion of human rights.<sup>190</sup> During the Brazil Hearings, USCC publicly

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<sup>179</sup> *Id.* at 817; *contra*, *Human Rights in the World Community Report*, *supra* note 171, at 12.

<sup>180</sup> *International Protection of Human Rights Hearings*, *supra* note 20, at 594.

<sup>181</sup> International Security Assistance and Arms Export Control Act of 1976, Pub. L. No. 94-329, 90 Stat. 748, §§301(b), 624(f)(1).

<sup>182</sup> *Id.* §624(f)(2).

<sup>183</sup> *Id.*

<sup>184</sup> *Id.* §§301(a), 502B(c)(1).

<sup>185</sup> *Id.* §§301(b), 624(f)(2)(c).

<sup>186</sup> Additional Human Rights Positions (unpublished xerox of internal Department of State memo, undated). Two extra officers were requested. One would supervise the monitoring of present statutory requirements. The other would develop positive human rights programs such as exchanges between law schools.

<sup>187</sup> *International Protection of Human Rights Hearings*, *supra* note 20, at 95.

<sup>188</sup> Interview with Moncrieff J. Spear, Deputy Coordinator for Human Rights in Washington, D.C. (Dec. 9, 1976) [hereinafter cited as Spear Interview]. In the following geographic bureaus there is at least one human rights officer: Europe, East Asia, American Republics, Near East, Africa. In the following functional bureaus there is at least one human rights officer: Political-Military Affairs, Congressional Relations, Legal Adviser, International Organizations, Policy Planning. In addition, there are human rights officers in AID.

<sup>189</sup> [1975] DIGEST OF UNITED STATES PRACTICE IN INTERNATIONAL LAW 225 (1976) [hereinafter cited as 1975 DIGEST].

<sup>190</sup> Weissbrodt, *Human Rights*, *supra* note 146, at 264 n. 111.

acknowledged the cooperation of the present Assistant Legal Adviser for Human Rights.<sup>191</sup> WOLA also attests to a regular exchange and verification of information with certain Department officials.<sup>192</sup> In addition, Department of State representatives attend public NGO meetings,<sup>193</sup> subscribe to NGO publications,<sup>194</sup> and seek to follow up allegations of human rights abuses through NGOs.<sup>195</sup> Both Department and NGO officials acknowledge that NGOs usually receive information of human rights abuses before the Department does.<sup>196</sup> Thus, on the one hand, Department officials assist NGOs in verifying charges of violations. On the other hand, NGOs provide Department officials with accurate, though at times uneven, information.

In other areas, however, the State Department-NGO relationship is not as cooperative or as open as it could be. Tension exists between the Department and NGOs due to differences in goals and approaches to human rights problems. Both the Department and NGOs acknowledge the international legal responsibility to protect human rights worldwide,<sup>197</sup> not just within one's domestic jurisdiction.<sup>198</sup> However, the fundamental goal of the Department is to "promote peace and the security and welfare of the United States and its citizens,"<sup>199</sup> while the basic objective of NGOs is to promote the observance of human rights. Consequently, when incorporating human rights into foreign policy, the Department must not only consider what can be accomplished in the promotion and observance of basic human rights in other countries, but must also take into account the costs to the complicated web of United States economic, political and security interests.<sup>200</sup> The Department cannot ignore the "reality" that most countries in Latin America regard queries about human rights violations as unwarranted interference in domestic affairs and as politically unfriendly.<sup>201</sup> NGOs can ignore this "reality" since they are usually independent of political forces and thus are freer to identify and criticize human rights violations through the use of adverse international publicity.<sup>202</sup> The

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<sup>191</sup> *Brazil Hearing*, *supra* note 12, at 19.

<sup>192</sup> Griesgraber Interview, note 74 *supra*.

<sup>193</sup> *Id.*

<sup>194</sup> During interviews with Department of State personnel, copies of ICJ and AI annual and special reports were observed.

<sup>195</sup> *Human Rights in Central America Hearings*, *supra* note 8, at 210-11. The Department of State used information from AI and ICJ when submitting 1976 *State Department Report*; see, e.g., 1976 *State Department Report* at 2, 8, 21, 24, 30.

<sup>196</sup> Wipfler Interview, note 83 *supra*.

<sup>197</sup> [1974] DIGEST OF UNITED STATES PRACTICE IN INTERNATIONAL LAW 125 [hereinafter cited as 1974 DIGEST].

<sup>198</sup> *Id.* See *International Protection of Human Rights Hearings*, *supra* note 20, at 95.

<sup>199</sup> 1974 DIGEST, *supra* note 197, at 123.

<sup>200</sup> *International Protection of Human Rights Hearings*, *supra* note 20, at 201.

<sup>201</sup> *Id.* at 95.

<sup>202</sup> Weissbrodt, *supra* note 40, at 297-300.

Department, however, would prefer to use "quiet but forceful diplomacy"<sup>203</sup> in order to avoid diplomatic complications.

NGOs recognize the Department's conflict between interests of national security and a declared policy of promoting respect for human rights.<sup>204</sup> They feel, however, that sometimes this conflict may be confused with a conflict between long- and short-term interests, since a government which consistently violates human rights may in the long run be an ally of doubtful value.<sup>205</sup> Such governments may be less permanent than they appear, and eventually those Latin Americans whom the United States helped to suppress may become the future leaders of new governments.<sup>206</sup> Also, in opposition to the Department's contention that unilateral United States action might be regarded as intervention, NGOs argue that active support of military regimes in those countries is also a form of United States intervention.<sup>207</sup> Because of these conflicts NGOs many times advocate a policy contrary to that of the Department. For instance, NGO officials view sections 116<sup>208</sup> and 502B<sup>209</sup> as flexible legislation which will make "quiet diplomacy" more effective since the offending government will know that if "quiet diplomacy" fails, a decrease in United States economic or military aid may follow.<sup>210</sup> Many Department of State officials, however, complain that the legislative standard for cutting off such aid — "consistent pattern of gross violations of internationally recognized human rights"<sup>211</sup> — is unworkable and warn that reducing economic or military aid to offending nations may restrict the United States options to deal with human rights problems in those countries.<sup>212</sup>

The State Department-NGO relationship is also not as open as it should be. For example, several NGOs were unaware that there were at least two Department officials on the Policy-Planning Staff with responsibility for emphasizing human rights issues in policy decisions.<sup>213</sup> Also, many NGOs were ignorant of the existence of the Open Forum Panel, an in-house channel for new or dissenting views on United States foreign policy designed to bring such views directly to the Secretary of State.<sup>214</sup> Since its inception the Open Forum Panel has become institutionalized with its own classified

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<sup>203</sup> 1975 DIGEST, *supra* note 189, at 226.

<sup>204</sup> *United States Policy and Human Rights*, 14 REV. INT'L COMM'N OF JURISTS 25 (1975).

<sup>205</sup> *Id.*

<sup>206</sup> Weissbrodt *Human Rights*, *supra* note 146, at 253 n.77.

<sup>207</sup> *Uruguay and Paraguay Hearings*, *supra* note 24, at 8, 13.

<sup>208</sup> See note 158 *supra*.

<sup>209</sup> See note 159 *supra*.

<sup>210</sup> *International Protection of Human Rights Hearings*, *supra* note 20, at 211.

<sup>211</sup> *Uruguay and Paraguay Hearings*, *supra* note 24, at 116.

<sup>212</sup> 1975 DIGEST, note 189 *supra*.

<sup>213</sup> See note 188 *supra*.

<sup>214</sup> S. VOGELGESANG, *THE LONG DARK NIGHT OF THE SOUL* (1974) (back flap).

newsletter, and Department officials report that it is frequently used to bring human rights issues to the direct attention of the Secretary of State.

Because the necessary cooperation and openness are lacking in the State Department-NGO relationship, there is a certain amount of mistrust between the two. While some Department representatives regard NGOs as objective, others view some NGOs as hypocritical, inaccurate Communist agencies which focus only on right-wing governments.<sup>215</sup> Accordingly, while some NGOs acknowledge the cooperation of Department officials, at the same time they question the extent to which such officials can influence policy.

Because of these somewhat conflicting goals and the resulting lack of cooperation and openness, it may be more accurate to characterize the State Department-NGO relationship as one of "creative tension." The existence of tension is inherent in the pursuit of often discordant goals. The relationship, however, could become more creative. At present NGOs function as a source of information for the Department and, through the Congress, act as a prod to which the Department must react. But NGOs recognize that the Department, as the foreign policy voice of the executive branch, has a greater potential for influencing the implementation of human rights in Latin America.<sup>216</sup> For this reason, NGOs should cultivate closer associations with members of the Policy Planning Staff and the Open Forum Panel so that they could have a more direct input into United States human rights policy toward Latin America. NGOs should also tap potential State Department influence by establishing an NGO Advisory Committee on human rights with close links to the Department.<sup>217</sup> Such a committee, outside the bureaucracy, could speak out freely against human rights violations in Latin America with an impartial and independent voice and yet at the same time provide the Department with fresh initiatives. The Human Rights Working Group of the Coalition for a New Foreign and Military Policy, a Washington-based association of human rights NGOs, has the potential to become an NGO Advisory Committee, but it lacks the official representation of the more established international NGOs, such as AI, ICJ, and ILHR.<sup>218</sup> Such a link with the Department, however, needs

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<sup>215</sup> *Uruguay and Paraguay Hearings*, *supra* note 24, at 117. See *Ottaway*, *supra* note 50, at §B, at 5, col. 3.

<sup>216</sup> *United States Policy and Human Rights*, note 204 *supra*.

<sup>217</sup> *International Protection of Human Rights Hearings*, *supra* note 20, at 481, 516-18; *Human Rights in the World Community Report*, *supra* note 182, at 12.

<sup>218</sup> *Ottaway*, note 50. See Quigley Interview, note 57 *supra*. Member NGOs of the Human Rights Working Group of the Coalition for a New Foreign and Military Policy, have both individual and collective roles. They have the following functions: (1) influence legislation by informing Congress; (2) influence financial policy of the United States<sup>1</sup> and its lending institutions; and (3) influence the Department of State. The Human Rights Working Group, which originated in late 1975, is a coalition of remnants of antiwar groups and those commit-

to be developed in order to facilitate a close and intimate interface between the private and public sectors on current human rights problems. Perhaps President Carter's emphasis of human rights<sup>219</sup> will provide the impetus for a more creative State Department-NGO relationship.

## VI. CONCLUSION

In the struggle to promote human rights there are no final victories. The implementation of human rights cannot be effectuated if one geographic area or type of political system is singled out for its violations. Human rights is a complex issue which is interwoven with political, socio-economic, and national security factors such that no geographic area or political system can claim to be free from the taint of abusing human rights. To effectively implement human rights an impartial, politically independent, persistent "organized concern" is required. NGOs have provided this "organized concern" in Latin America. Some NGOs, such as AI and ICJ, express this "organized concern" through careful research and selective dissemination of human rights violations, while others such as WOLA, rely more on personal contact with public elites. But whatever methods are used, NGOs need to exert a more consistent and coordinated effort, particularly with regard to IACHR and the Department of State, in order to more effectively prod these public elites to act in Latin America. The NGOs' reputation for credible, nonpartisan information, which allows these organizations to publicly allege human rights violations where governments or intergovernmental organizations cannot, must also be strengthened. Such improvements in NGO operations, however, require greater funding than NGOs now have available. The extent to which NGOs can resourcefully resolve these problems will determine their success in implementing internationally recognized human rights in Latin America.

*Philip L. Ray, Jr.*  
*J. Sherrod Taylor*

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ted to promotion of international human rights. It uses mailing lists from the antiwar era. Of the NGOs examined, only WOLA and NCC are officially members of the Coalition.

<sup>219</sup> See Address by The Honorable Cyrus Vance, Law Day, University of Georgia (Apr. 30, 1977), reprinted in 7 GA. J. INT'L & COMP. L. 223 (1977).