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SPECIAL REPORT

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U.S. Human Rights Policy toward Latin America

Briefly...

- U.S. human rights policy toward Latin America has been constrained by six factors: the dynamics of international relations, domestic political considerations and the policy process, the intensity of U.S. attention to the region, the definition adopted for human rights, and local developments in the target country.
- These limitations notwithstanding, the impact of U.S. human rights policy toward Latin America has been significant. U.S. power and influence in the region have given its policy stance special weight, and U.S. pressure has at times been the key to success of other human rights advocates, such as non-governmental organizations, whether or not that was the intended outcome.
- The United States has employed a wide array of instruments—including sanctions, rhetorical pressure, and quiet diplomacy—to pursue its human rights policies in Latin America. There is no single set of tools that works best to promote human rights. However, any instrument is likely to have a greater impact when it is consistent over time and with other policies and actions, grounded on bipartisanship and domestic and international consensus, and context-sensitive, carefully tailored to meet the circumstances at hand.
- Although the direct impact of any given policy instrument is difficult to gauge, the instruments do differ in terms of their employability: sanctions are politically sensitive and applicable only to a limited number of cases, whereas multilateralism, steady moral leadership, and combinations of policy tools are less controversial and can be used in a greater number of situations.
- In the same way that U.S. human rights policy is always contextual, operating within a number of constraints, it must also be flexible, able to seize new opportunities. Such opportunities are presented by the expansion of multilateral action and the proliferation of non-governmental actors in the human rights field. Both developments merit much of the credit for the improvements in human rights standards throughout the world, and hold enormous potential for the United States to diversify its policy tools to promote human rights.
- The changing realities of Latin America require close consideration. Over the past two decades, the era of military regimes and massive human rights violations has given way to democratically elected governments. Yet the region's civilian governments continue to face urgent human rights problems. Today's challenges in the region require long-term approaches: fostering judicial systems, professionalizing police and

About the Report

This report forms part of the Human Rights Implementation Project, a major initiative by the Research and Studies Program of the United States Institute of Peace. The project, which examines human rights policies implemented by the U.S. government over the past 25 years, will provide country studies from Africa, Asia, Europe, Latin America, and the Middle East, along with recommendations for ways to improve U.S. human rights policy formulation and implementation in the future. The purpose of this report is to examine U.S. human rights policy toward Latin America by drawing on three of those country studies: Chile, Guatemala/El Salvador, and Colombia. The study on Chile was written by Harry G. Barnes, Jr., senior adviser to the Asia Society and former chair of the Human Rights Committee of the Carter Center in Atlanta. The comparative study on Guatemala and El Salvador was prepared by Susan Burgerman, assistant director of Columbia University's Institute of Latin American and Iberian Studies. The study on Colombia was co-authored by Michael Shifter, senior fellow and program director at the Inter-American Dialogue, and Jennifer Burrell, a former program associate at the Inter-American Dialogue who is currently attending Harvard Law School.

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The views expressed in this report do not necessarily reflect those of the United States Institute of Peace, which does not advocate specific policies.

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armed forces, building vibrant civil societies, and strengthening inter-American and international institutions working on human rights.

U.S. Human Rights Policy: Sculptured by Layers of Constraints

The formulation, implementation, and effectiveness of U.S. human rights policy toward Latin America has operated within a number of constraints.

First, the dynamics of international relations have created competing—and often more compelling—interests to human rights in U.S. foreign policy toward Latin America. The perception of a direct threat to U.S. national interests has been the most forceful organizer of the policy hierarchy. Cold War security concerns engendered the overarching policy priority to contain communism in Latin America, relegating the promotion of human rights to a second-tier policy. Security interests were pursued at the expense of human rights policies: the United States often tolerated and supported regimes that were violating human rights but deemed anti-communist. Conversely, the end of the Cold War eased geopolitical concerns, replacing Washington's ideological approach with greater pragmatism, and allowing human rights concerns to rise on the U.S. agenda for the region. Along with the growing global concern for human rights, the end of Cold War hostilities also paved the way for a change in U.S. approach from unilateral imposition toward multilateral negotiation.

Second, obstacles to and opportunities for promoting human rights in Latin America have emanated as much, if not more, from inside the U.S. government as from the outside. Congressional opposition during the 1980s and the early 1990s to continuing U.S. aid to the Salvadoran military on human rights grounds was watered down in the face of accusations of being soft on communism. The rise in prominence of the drug issue in U.S. politics in the course of the 1990s subordinated human rights concerns to anti-narcotics efforts in U.S. policy toward Colombia. Conversely, the forceful domestic reaction to the Vietnam War in the 1970s elevated human rights to a salient and politically rewarding issue in Washington, leading to changes in bureaucratic structures and procedures that subsequently had an impact on U.S. human rights policy toward Latin America. Politics have played an important role also in the implementation of human rights policy, with political considerations affecting the administration's commitment to carry out congressional mandates.

Third, U.S. policy is by definition the result of complex bureaucratic politics, with different agendas and interests sculpturing the policy outcome. The policy process is often slow, particularly due to prolonged legislative procedures and what is sometimes a reluctance by the executive branch to implement the congressional intent; this was the case with the very gradual construction of a policy framework to attach human rights conditions to U.S. foreign assistance during the Nixon and Ford administrations. The greater the degree of bipartisanship and domestic policy consensus, the speedier and easier the policy process, and the more timely the policy. Meanwhile, ruptures between the key actors and the lack of policy consensus, resulting from the absence of an organizing principle in post–Cold War U.S. foreign policy, leave the policy particularly vulnerable to special interests and agendas. Such a scramble for policy characterized the U.S. approach toward Colombia throughout the 1990s.

Fourth, the level of U.S. attentiveness to Latin America has shaped its human rights policy toward the region. Although it could be argued that the intensification of U.S. focus on certain issues in Latin America, such as security and drugs, have relegated human rights to a secondary priority, the opposite is also true: the absence of compelling policy concerns in Central America in the late 1970s diluted the Carter administration's focus on the region, including on human rights. Conversely, the growth of U.S. attention, increasingly driven by the media, to an issue in the region may work to heighten the concern for human rights. U.S. attention to human rights in Colombia became more

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acute with the intensification of the regional security dimensions of the country's civil war. The escalation of the Salvadoran civil war compelled the U.S. Congress to impose human rights conditions on military aid to the country. However, as Michael Shifter and Jennifer Burrell note, intensification of the situation, particularly in countries of national security interest to the United States, may be counterproductive by provoking impulses to "get tough" at the expense of pro–human rights policy. Moreover, while helping to bring the target country up the U.S. policy agenda, enhanced engagement does not necessarily entail more deliberate, coherent, timely, depoliticized, or better implemented policy.

Fifth, ever since human rights rose to the U.S. foreign policy agenda in the late 1970s, they have usually implied civil and political rights rather than economic, social, and cultural rights. Still, the various U.S. administrations have attached different meanings on human rights, pursuing human rights through different frameworks. In particular, there has been an analytical pull between democracy and human rights. The Carter administration defined human rights as an end in itself, pursuing them rather independently of other policies, such as the promotion of democracy. The Reagan administration, working under the premise that a democratic government would entail respect for human rights, stressed the importance of democracy without much focus on promoting human rights per se. Its definition of democracy, moreover, was rather narrow, implying the holding of free and fair elections. For its part, the Bush administration grew to view human rights and democracy as independent yet mutually re-enforcing policies, and also acquired a more nuanced and broader notion of democracy that went beyond elections. How the United States defines human rights not only shapes its policy, but also influences its willingness and ability to participate in multilateral efforts to promote human rights.

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Sixth, dynamics at the domestic level in the target country have played a strong role in shaping U.S. human rights policies in Latin America. Violations against U.S. citizens, such as the murders of three U.S. human rights workers in March 1999 in Colombia and the killing of four U.S. churchwomen in December 1980 in El Salvador, are perhaps the most potent mobilizer of human rights concerns in the U.S. government, and may precipitate a change in the balance of domestic power by giving ammunition to those lobbying for human rights. Events beyond U.S. control—such as the 1986 reimposition of the state of siege in Chile following an attempt to assassinate General Augusto Pinochet, the change in government from Christian Democrat hands to the Nationalist Republican Alliance (ARENA) in El Salvador in 1989, or the eruption of divisions between economic elites and military hardliners in Guatemala in 1993—can lead to significant shifts in the target country's politics and commitment to human rights, thus altering U.S. perceptions and policies. Local developments have often been key to the efficacy of the U.S. human rights policy. For example, Susan Burgerman argues that a leader concerned about human rights and the country's human rights reputation, as was the case in Guatemala with President Ramiro de León Carpio, is a necessary factor for a lasting improvement in human rights; without such a change, the United States had only marginal influence on the human rights situation in the country.

U.S. human rights policy toward Latin America is, in short, always contextual, placed at different priority levels in the matrix of multiple foreign policy objectives. Global politics, domestic political considerations and the policy process, the intensity of the issue at hand, the adopted definition for human rights, and, perhaps most important, developments in the target country, realign U.S. policy priorities and shape the formulation, implementation, and effectiveness of its human rights policy. These constraints have rendered the formulation of U.S. human rights policy toward Latin America reactive, pursued often in an ad hoc manner through a variety of policy instruments. They have complicated the implementation of the intended policies. And they have both undermined and augmented the effectiveness of U.S. human rights policy. This implies that: (1) the direct impact of U.S.

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policy is difficult to measure, and (2) the United States exercises only limited control over the outcome of its human rights policy.

Despite its limitations, U.S. human rights policy is seldom irrelevant. This is particularly the case in Latin America, where, Harry Barnes notes, "U.S. influence is a major given." U.S. pressure can be decisive in tipping the scales, for example, by accelerating the process of improvement in human rights conditions in the target state. It also has wider repercussions: for example, the Carter administration's elevating human rights to the forefront of its foreign policy agenda served to bring human rights to the table for regional and international organizations, and to boost the rise of a global human rights movement. Conversely, U.S. lack of concern for human rights may undermine the work of other actors: the drive by U.S. non-governmental organizations (NGOs) to curb abuses in El Salvador was limited in impact due to the Reagan administration's unconditional support for military victory in the country.

Instruments to Promote Human Rights: What Works Best?

The United States has employed a number of instruments to promote human rights in Latin America, with varying degrees of success.

- *Rhetorical pressure.* Rhetorical pressure, such as statements by the administration and visits by top-level U.S. officials to the target country, has been a common instrument in U.S. human rights policy toward Latin America. It is not as politically sensitive as economic sanctions, for example, yet provides important signals of U.S. intentions and seriousness, acquiring particular weight when the target government is concerned about its international image, faces considerable domestic pressure to improve human rights, or depends heavily on the United States for aid or trade. Rhetorical pressure, as applied in the wake of Jorge Serrano's May 1993 "self-coup" in Guatemala (which involved a partial suspension of the Constitution and dissolving of Congress and the Supreme and Constitutional courts), has also propelled domestic forces for change in the target country, encouraging and emboldening local human rights advocates. In Chile, U.S. rhetorical support for human rights was of significant psychological importance to those fighting for human rights, and helped to keep the human rights situation from getting worse.
- *Quiet diplomacy.* Quiet diplomacy allows for informal, behind-the-scenes efforts to affect the target government's behavior. It has been adopted in cases where open criticism is perceived as unhelpful or counterproductive to changing behavior, or where more explicit engagement would be politically difficult. In Chile, the Reagan administration opted for quiet diplomacy because it was convinced that more explicit actions would only antagonize the Pinochet regime and exacerbate human rights abuses. Although quiet diplomacy can be more effective than open criticism or harsher measures, particularly when the target country does not depend heavily on the United States, it may also produce a sense of ambiguity and asymmetry of perceptions between the United States and the target government, and do little to galvanize the local human rights advocates. Indeed, the change in U.S. policy from quiet diplomacy to an overt support for the return to democracy in Chile signaled to the Pinochet government that the United States would be more critical in the future.
- *Bureaucratic structures and procedures.* The 1970s witnessed both an intensification of U.S. public attention to human rights, and an overall strengthening of congressional oversight of the executive branch. These developments led to the creation of new bureaucratic structures and procedures to maintain a more sustained attention on U.S. human rights policies, such as the obligation of the executive branch to prepare annual reports on human rights and the creation of the office of assistant secretary of state for human rights and humanitarian affairs. Endorsed further by the Carter administration, the new structures and procedures were established to

institutionalize human rights in the U.S. government, and, as Barnes points out, had a "watchdog effect" on U.S. support for governments with human rights problems. They have also provided the NGO community a regular avenue for voicing its views and mobilizing public opinion.

- *Sanctions and conditionality.* Sanctions and foreign assistance conditionality have generally been adopted in major, highly publicized instances of abuse, often at the initiative of the U.S. Congress in response to public outrage. The murders in 1989 of six Jesuit priests in El Salvador by members of the country's armed forces spurred the U.S. Congress to cut, and add conditions to, military assistance to the Salvadoran military. Sanctions are politically rewarding domestically, and they can help undermine the legitimacy of an abusive foreign government. However, their impact depends on a variety of factors and is often only short-term and limited. The more dependent the target country on the United States, the greater weight sanctions, the threat of sanctions, or conditionality tend to have. The Salvadoran military depended directly on U.S. aid and could thus be forced to modify their behavior through aid cuts, while the Guatemalan military, relatively independent of U.S. assistance, could afford to ignore the threat of sanctions. Also the character of sanctions matters. Results have been most palpable when sanctions have been forceful, specific, directly targeted to the offenders, and implemented in a whole-hearted manner. The Carter administration was reluctant to impose full curbs on trade with Chile to protest the Pinochet regime's human rights record at the time when U.S. investment in the country was expanding; this resulted in marginal concern by the Pinochet regime for U.S. human rights policy.
- *Multilateralism.* The end of the Cold War opened spaces for multilateral action for human rights, such as United Nations mediation of the Salvadoran and Guatemalan civil wars, and, perhaps even more significant, diplomatic cooperation between the United States and Soviet Union to persuade the Salvadoran warring parties to agree on a cease-fire. The United States is often seen as having achieved greater results in the area of human rights when acting jointly with other members of the international community than when pursuing human rights policies unilaterally. Multilateralism does not come without the challenges of consensus-building and, at times, settling for the lowest common denominator. However, it has several advantages. It can be used as complementary to unilateral efforts, and it helps ensure that the different actors are not working at cross-purposes. The collective weight inherent in multilateral efforts can make the policy less expensive and drastic than would be the case were the United States to act unilaterally; moreover, particularly in Latin America, multilateral approaches help curb criticism of U.S. hegemonic intentions.
- *Pressure by the judicial branch.* Besides the executive branch and Congress, the U.S. judicial branch has brought pressure on Latin American governments to respect human rights, albeit with limited success. Federal courts in the United States have jurisdiction over cases between foreign nationals involving offenses committed in a foreign country when the violator is in the United States. In April 1995, a Boston court awarded a U.S. citizen and eight Guatemalans millions of dollars in a civil suit against Guatemala's former defense minister Hector Gramajo, who was at Harvard University at the time.
- *Promoting judicial reform.* Supporting the establishment of an independent judiciary and encouraging the restructuring of a judicial system to guarantee observance of legal rights promotes a foundation on which peaceful resolution of disputes may be carried out. During the Gaviria administration, the United States began funding substantial judicial reform efforts in Colombia. These efforts, however, were made in the context of U.S. anti-narcotics policies, and ultimately did not address successfully the need for due process rights that are guaranteed under the Colombian constitution and international law.
- *Human rights training for Latin American militaries and police.* Establishing a culture

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of human rights protection in Latin America must include human rights training for those in the armed services. Current assistance programs such as the United States' International Military Education and Training (IMET) contain human rights components, but by all accounts, the subject of human rights does not figure prominently in the curriculum. According to Michael Shifter and Jennifer Burrell, in 1989, Colombia became Latin America's top beneficiary of the IMET program, in terms of U.S. dollars spent. More than 2,000 military and police received training in U.S. schools over the next several years. Counter-narcotics efforts have been militarized in Latin America, which, some have observed, has undermined recent trends toward democratization and greater respect for human rights.

The choice of human rights policy instruments is strongly influenced by U.S. policy priorities, domestic political considerations, and the target country's relation to the United States. Although the impact of any instrument is difficult to measure, since state behavior has multiple sources, five lessons of what works best can be drawn:

Mixed signals give mixed results: a policy tool, whether sanctions or quiet diplomacy, can yield only modest results when contradicted by other policies.

First, human rights policy will lack credibility and effectiveness unless it is consistent with other policies and actions. Mixed signals give mixed results: a policy tool, whether sanctions or quiet diplomacy, can yield only modest results when contradicted by other policies. In Chile, the U.S. executive branch's rhetorical support for human rights was contradicted by direct assurances to Pinochet that the chief U.S. concern was the Chilean military's success in combating communism. The impact of the State Department's 1991 human rights report condemning members of the Colombian military for human rights abuses was undercut by the U.S. failure to react when the Colombian military openly expressed their intentions to use U.S. assistance for an offensive against guerrillas. Consistency matters not only across policies but also over time: even when U.S. action has translated into immediate and tangible changes in state behavior, these changes may only be superficial and short-term. Such was the case with the detentions and rotations of some alleged human rights violators in the armed forces in both El Salvador and Guatemala after the intensification of Washington's rhetorical pressure.

The usefulness and applicability of any policy tool is greater when backed by a domestic and international policy consensus.

Second, the usefulness and applicability of any policy tool is greater when backed by a domestic and international policy consensus. Divisions between the United States and the international community, the U.S. executive branch and Congress, and the various governmental departments result in conflicting efforts and dilute the influence of each individual actor. Convergence at both domestic and international levels gives consistency to policy and compounds the impact of the individual efforts. In Chile, coordination between the State Department, U.S. embassy, Congress, and NGOs helped produce a positive impact on the human rights situation. In El Salvador, international consensus on the need for multilateral negotiation was crucial to achieving lasting peace after a 12-year civil war.

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Third, the more flexible and context-sensitive the policy instrument, the greater its potential impact. Well-tailored policies targeting the heart of the problem, such as imposition of sanctions on a military that violates human rights but is heavily dependent on the United States, are likely to yield tangible and swift results. Quick adaptation to new situations, as the U.S. policy shift to participate in the multilateral efforts emerging in the wake of the Cold War to bring peace to Central America, produce timely responses. Conversely, continued insistence on a policy may cause the United States to miss opening windows of opportunity. Due to its heavy policy focus on the fight against drugs in Colombia, the United States failed to seize the opportunity to strongly support President Virgilio Barco's policies to curtail human rights abuses in the country.

Fourth, as Burgerman points out, the general rule is that what works best to promote human rights is not to support abusive governments or militaries. However, the efficacy of a policy instrument does not necessarily depend on the actions of the target government, or even the form of government. Democracy, while conducive to the respect for human rights, does not guarantee the target government's commitment to human rights, let alone its capacity to ensure compliance with human rights standards by all its

citizens. For example, the U.S. Congress allowed for the resumption of military aid to Guatemala once a civilian, Vinicio Cerezo, was elected in 1985; however, human rights violations by the security forces grew only worse during the Cerezo government. Another case in point is the inability of civilian governments in both El Salvador and Colombia to control paramilitary activities. By extension, this means that strong U.S. influence on the executive office in the target country does not guarantee better results on U.S. human rights policy.

Fifth, some tools are less controversial than others and therefore may be more easily applied: sanctions, for example, are politically sensitive and seem to work only in a limited number of cases, whereas multilateralism, bureaucratic procedures, and steady rhetorical pressure may prove most effective in a larger number of situations and be less sensitive to policy concerns in the United States. Policy tools can always be used in tandem, such as imposing multilateral sanctions; as long as the simultaneously applied instruments remain consistent with one another, the policy is likely to acquire greater weight and satisfy a greater number of constituencies lobbying for the use of different policy tools. The ability to combine and sequence instruments is also conducive to devising policies that offer the target government both sticks and carrots, or a mix of short-term retaliation and longer-term incentives. Such policies hold perhaps the greatest potential for a lasting impact of U.S. human rights policy implementation.

Forging Successful Human Rights Policy

While there is no formula that guarantees effective human rights policies in Latin America or any other region, there are several conditions and approaches that favor success.

- *Lead with consistency.* The promotion of human rights is a constant process that should be based on firm, sustained, and consistent leadership. A policy stance articulated on a day-to-day basis and advocated at the highest levels of government leaves an impression of seriousness, associates the United States directly and clearly with the defense of human rights, solidifies the perception that the United States carries its policies through, and assures that all the relevant actors know where the United States stands. Silence, in turn, even when a facade for quiet diplomacy, gives the impression of complicity and indifference.
- *Coordinate and communicate.* U.S. human rights policy can be credible only when other policies toward a country or region are consistent with it. Such consistency requires first and foremost domestic policy consensus, achieved through the promotion of human rights as a national interest, constant dialogue between the government and the public, and coordination within and between the governmental branches. Bipartisanship, domestic consensus, and intra-governmental coordination yield the most coherent and depoliticized policies.
- *Define human rights.* A clear definition for human rights as different from, albeit linked to, democracy should be formulated and adopted. Barnes suggests the United States Institute of Peace and the National Endowment for Democracy launch a joint effort to develop guidelines for U.S. policymakers on the inter-relationships between democracy and human rights promotion, and formulate proposals on how to improve the State Department's efforts to combine democracy, human rights, and labor matters more effectively.
- *Adapt quickly.* There is no fixed set of tools that works best to promote human rights. Instead, human rights policy must be flexible, context-sensitive, and adaptable: the use of policy tools based on a solid understanding of the situation and carefully tailored to the prevailing circumstances allows the United States to exercise the most direct pressure, and to exploit new windows of opportunity for the promotion of human rights, such as the emergence of multilateral action or of leaders committed to human rights in the target country.

The promotion of human rights is a constant process that should be based on firm, sustained, and consistent leadership.

The end of the massive and systematic human rights violations marking Latin America only two decades ago allows the United States to move beyond the crisis management of the past to implement longer-term policies to meet the region's new challenges and prevent future abuses.

- *Involve non-governmental actors.* There is enormous opportunity for cooperation with non-governmental sectors in support of human rights. The NGO community, including the media, plays a key role in steering public opinion, monitoring and evaluating governments' compliance with human rights standards, demanding action against abuses and impunity, and formulating proposals for the promotion of human rights. Non-governmental actors have grown increasingly effective and powerful, as demonstrated by their success in improving the human rights performance of not only governments but also many prominent transnational corporations. Indeed, efforts by the NGOs to promote corporate responsibility have compelled many firms to establish policies and programs to address the possible negative effects of their operations on human rights; this trend, in turn, is helping to insure that human rights policies will not become subordinated to commercial interests in U.S. policymaking. Involving the NGO community in the policy process is not a concession but a necessity for the United States. Barnes suggests that the U.S. government and NGOs create a joint agenda to evaluate the efficacy of the instruments employed by the United States to curb human rights abuses.
- *Go multilateral.* The potential of multilateral action should be used to the fullest: it adds weight and credibility to U.S. policy, and helps avoid the need for controversial and costly unilateral measures. In the same vein, the United States should strengthen the capacities and credibility of multilateral institutions, such as the United Nations, the Organization of American States, and the Inter-American Commission on Human Rights.
- *Take a long-term approach*. One of the main lessons of U.S. human rights policy toward Latin America is that quick fixes seldom get to the root of the problem. The end of the massive and systematic human rights violations marking Latin America only two decades ago allows the United States to move beyond the crisis management of the past to implement longer-term policies to meet the region's new challenges and prevent future abuses. U.S. human rights policy should focus on strengthening judicial systems, professionalizing police and armed forces, consolidating civil society, increasing effectiveness of multilateral institutions, and fostering inter-American and international institutions working on human rights.

For more information, see our web site (www.usip.org), which has an online edition of this report containing links to related web sites, as well as additional information on the topic.

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