

# U.S. Policy and Human Rights in Argentina and Guatemala, 1973–1980

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During the 1970s, human rights became an important component of U.S. foreign policy toward Latin America. This chapter examines two countries targeted by this policy, Argentina and Guatemala. Using the concepts of the two-level game metaphor, we explain the divergent impact of U.S. human rights initiatives in these two countries. We conclude that U.S. efforts had, unexpectedly, a greater impact in Argentina than in Guatemala. This outcome results from a complex interaction of domestic politics and international negotiations, on which the two-level game metaphor casts some light.

Although they were given higher priority during the Carter Administration, human rights issues continue to be important elements in U.S. foreign policy. Thus, this analysis is relevant to contemporary debates about the use of sanctions to punish human rights violations, from Tiananmen Square to Sarajevo.

In September 1978, Vice President Walter Mondale and President Jorge Videla of Argentina reached a private agreement at a meeting in Rome: in exchange for Argentine agreement to let the Inter-American Commission on Human Rights (IACHR) make an on-site investigation of human rights practices in Argentina, the United States would release Export-Import Bank funds that had been blocked because of Argentine human rights abuses.<sup>1</sup> At the same time, U.S. legislation mandating an indefinite embargo on military assistance and arms sales to Argentina, because of gross violations of human rights, went into effect. These actions were the culmination of a series of U.S. steps aimed at improving Argentina's human rights record, following years of intense resistance by the Argentine government to international pressures. In December 1978, the Argentine government invited the IACHR to conduct an on-



site investigation. In the period that followed this decision, the human rights situation in Argentina improved significantly; especially noteworthy was the decline in the incidence of involuntary disappearances, for which the Argentine regime had gained international notoriety.<sup>2</sup>

In June 1977 the Guatemalan government, enraged by a U.S. Human Rights report recording abuses in Guatemala, rejected U.S. military aid. The U.S. Congress, in response, reduced military assistance in 1977 and terminated military aid to Guatemala in 1978.<sup>3</sup> In the three-year period coinciding with the Carter Administration's human rights policy toward Guatemala, from June 1978 to February 1981, nearly 5,000 people were seized without warrant and killed in Guatemala, and another 615 people were missing, according to an Amnesty International report that linked the political assassinations directly to the government of President Fernando Lucas García. During this period the Guatemalan government refused to permit an on-site visit by the IACHR, to respond to U.S. human rights initiatives, or to cooperate with any international or regional human rights organization. The Guatemalan government rejected the legitimacy of the human rights issues as a topic for international negotiation.

These two cases of attempted international accommodation, one successful and the other a failure, provide an interesting paradox in the interaction of domestic and international politics. Why did the Videla military government, having engaged in the most brutal forms of human rights abuses in Argentine history over the previous two and one-half years, change its internal practices and invite international scrutiny by allowing a prestigious regional delegation to look into the situation in Argentina? At the same time, why did U.S. policy have so little impact on practices in Guatemala? How can we explain the intransigent refusal of the Guatemalan government to negotiate on the human rights issue?

This issue differs from most others in this book in a number of ways. First, informational uncertainties are endemic in the case of human rights negotiations. Essentially, negotiations are carried out over practices that the repressive government never formally admits occurred. Thus third-party information is essential to negotiations, both to initiate concern over the issue and to monitor changes in practices. "Negotiations" and "cooperation" in these two cases were not public affairs, except for congressional decisions to ban or limit military and economic assistance. No Latin American government could admit it was engaging in human rights violations or afford the apparent surrender of sovereignty inherent in admitting that it had controlled abuses in response to U.S. pressure. Although the U.S. Congress was a major player in this game, it never had the chance to formally ratify an agreement on human rights with either Argentina and Guatemala. Because of the nature of authori-



tarian rule, the structure of domestic interests and the ratification process in the repressive country are often unclear, so negotiators work with uncertainty in this realm as well.

Second, cross-issue linkage here between human rights practices and military and economic aid was the central dynamic of human rights policy. Such linkage does not merely facilitate agreements, it makes negotiations possible in the first place. Third, these were markedly asymmetrical negotiations—asymmetrical in terms of the relative power of the players, but also in the nature of the payoffs to the players. That is, if negotiations were successful, one side secured military and/or economic assistance, while the other side, the United States, merely secured the knowledge that its allies were respecting the rights of their citizens. Fourth, the unique “moral” nature of the issue leads to a different cast of characters, such as nongovernmental human rights organizations, than that in many other negotiations. In spite of these points of divergence from the original, we find the language and insights of the two-level games model applicable in these cases.

The greater U.S. influence on Argentina than on Guatemala is the empirical anomaly driving this study. Any theory that focuses on the power of individual states to explain outcomes would predict the opposite pattern. Robert Putnam argues that “all-purpose support for international agreements is probably greater in smaller, more dependent countries with more open economies.”<sup>4</sup> Speaking about international human rights campaigns, Ernst Haas states that, “the more dependent the government is on aid, trade, and investments, the more often it is likely to yield to such pressure.”<sup>5</sup> U.S. experience in Guatemala and Argentina belies these expectations. By any measure, Guatemala was far more dependent on the United States than was Argentina, but withstood pressure on human rights issues. One source refers to this as an “apparent paradox: that a military establishment umbilically tied to Washington can yet exercise its autonomy with such ruthless intransigence.”<sup>6</sup>

Guatemala is a much smaller country than Argentina, with populations of 6.1 million and 25.4 million, respectively, in 1975.<sup>7</sup> In 1978, Argentina had a GNP of 53.4 billion dollars, while Guatemala’s was only 6.1 billion.<sup>8</sup> Guatemala was also significantly poorer, with a GNP per capita in 1978 of only 930 dollars, while Argentina’s was 2,030 dollars.<sup>9</sup> Argentina is far more industrialized, with only 13 percent of the labor force in agriculture in 1979, compared to Guatemala’s 56 percent.<sup>10</sup> The differences between the two countries are also stark as measured by social indicators: in 1989 Argentina had a 94-percent adult literacy rate, 71 years life expectancy at birth, and an infant mortality rate of 32.2 per 1,000, while Guatemala’s literacy rate was 57 percent, life expectancy at birth 62.6, and its infant mortality rate 53.6.<sup>11</sup> Guatemala’s economy is



more open, with foreign trade in 1975 equaling 37.8 percent of GNP, while it accounted for only 17.6 percent (the ninth-lowest figure in the world) in Argentina.<sup>12</sup> Finally, Guatemala is far more dependent on economic and military aid from the United States, receiving 91.7 million dollars in assistance from 1970 to 1973.<sup>13</sup> By any of these criteria, Guatemala should have been more susceptible to U.S. pressure than Argentina, and we should therefore see a greater improvement in human rights practices there during the period of U.S. activism on this issue in the late 1970s.

We explain this anomaly by locating four factors that led to the more successful negotiation on this issue: a small win-set, U.S. presidential preference for a vigorous human rights strategy, transnational cross-table lobbying by international and domestic human rights organizations, and the existence within the target government of a faction willing to consider a reduction in human rights violations as a means of pursuing its own internal strategy. Not only was the U.S. win-set smaller for Argentina than for Guatemala, but Washington also pursued its human rights strategy toward Argentina more intensely, and with fewer competing goals. In September 1978 these factors temporarily converged, enabling Vice President Mondale to achieve the agreement with President Videla to allow the IACHR to visit Argentina. In the Guatemalan case all such factors were missing, providing no opportunity for a successful agreement on human rights. In addition to this cross-country comparison, inter-temporal comparisons within the Argentine case allow us to identify the causal role of these factors.

This analysis begins with a brief chronology, outlining the progress of U.S. human rights policy in the 1970s. The following section discusses domestic coalitions on both sides and specifies the nature of the win-sets and the chief negotiators' preferences. We next turn to international negotiations, with particular reference to the 1978 Mondale-Videla agreement. And last, we present our explanation of these outcomes and speculate on insights generated by these cases for the two-level game model in general.

### CHRONOLOGY

Congressional activism on human rights issues began in 1973, and both general and country-specific legislation in 1974 and 1975 tied U.S. security assistance to recipients' records in this area. However, until 1977, legislation merely expressed the "sense of the Congress" and "policy of the United States," and thus was not binding on the executive branch. Resistance from the Nixon and Ford administrations prevented any serious negotiations on human rights before 1977.



*Argentina*

On March 24, 1976, a military junta overthrew the government of President María Estela Martínez de Perón in Buenos Aires, and General Jorge Videla assumed the presidency. The coup was preceded by an upsurge in activities by right-wing death squads and armed guerrilla movements. The military government initiated a program of brutal repression of the opposition, including mass kidnappings, imprisonment without charges, torture, and murder. Amnesty International estimated in 1977 that 6,000 people were being held as political prisoners, most without being charged, and that between 2,000 and 10,000 had been abducted.<sup>14</sup> The organization also began to publish information demonstrating that the disappearances were part of a concerted government policy by which perceived opponents were kidnapped by the military and the police and taken to secret detention centers where they were routinely tortured and interrogated.<sup>15</sup> Most of the "disappeared" were eventually murdered and their bodies buried in unmarked mass graves, incinerated, or thrown into the sea.<sup>16</sup> Human rights organizations and the press increasingly brought this situation to the attention of U.S. policy-makers. A State Department report released at the end of 1976 admitted that human rights abuses were taking place in Argentina, but argued that continuation of security assistance, including 48.4 million dollars in military sales credits, would be in the U.S. national interest.<sup>17</sup>

After Jimmy Carter's inauguration, the government quickly adopted a more aggressive approach to human rights in Argentina. Carter appointed Patricia Derian, a civil rights activist, as Assistant Secretary of State for Humanitarian Affairs and Human Rights. Derian visited Argentina three times during 1977 to discuss human rights issues, especially disappearances and torture, with the government.

On February 24, 1977, Secretary of State Vance announced that the administration was reducing the planned level of military aid for Argentina from the 32 million dollars requested in the Ford Administration's budget for the next fiscal year to 15 million dollars, because of human rights abuses. Argentina, together with Uruguay and Ethiopia, was one of the three countries targeted early in the Carter Administration to emphasize its commitment to human rights. Argentina reacted angrily, claiming that this action was undue interference in its internal affairs, and rejected remaining U.S. military aid.<sup>18</sup>

In July 1977, Congress followed these actions by passing a bill eliminating all military assistance and terminating private sales of military goods as of September 30, 1978.<sup>19</sup> This allowed one year for evidence of improvement in the human rights situation in Argentina. President Videla met with President Carter in Washington in September 1977,



during the ceremonies for signing the Panama Canal Treaties. At this meeting Videla first indicated that he would be willing to invite the IACHR to Argentina as a means of improving U.S.-Argentine relations.<sup>20</sup> Nevertheless, Videla did not follow through on this commitment until more than a year later, after the arms embargo had gone into effect and an Eximbank loan had been blocked. A number of high-level delegations, including a group led by Secretary of State Cyrus Vance, met with the junta during this period to discuss human rights.<sup>21</sup> However, there was no evidence of improvement by September 1978, and an indefinite embargo on arms sales went into effect. Argentina rushed to purchase military equipment during the year-long grace period, but on September 30, the last day of fiscal year 1978, Argentine military attachés were called to the Pentagon and told that the State Department had denied pending requests for licenses for nearly 100 million dollars of U.S. military equipment.<sup>22</sup>

At the same time, human rights considerations also pervaded decisions regarding economic assistance, loans from multilateral financial institutions, and Eximbank credits. The United States voted against approximately 25 Argentine loan applications in the multilateral financial institutions, but none of these votes actually led to denial of the loans.<sup>23</sup> In late summer 1978, the administration attempted to increase its economic pressure on Argentina by blocking a major Eximbank loan for nonmilitary equipment sales. This was the first move that would inhibit nonmilitary trade, and U.S. business responded by mounting a major lobbying effort for its repeal. Congress looked likely to overturn the decision. However, while the threat of denial was in place the administration achieved its clearest victory on the human rights front, the agreement to allow the IACHR to visit and prepare a report on human rights conditions in Argentina. This is an example of tactical issue linkage which led to a narrowing of the U.S. win-set.

In 1979 the Argentine government allowed the IACHR, an arm of the Organization of American States, into the country. In expectation of the visit, the junta took steps to improve human rights conditions. The IACHR report provided the most in-depth, well researched information on the situation in Argentina, documenting that the Argentine government had engaged in a systematic campaign of gross abuses of human rights.<sup>24</sup> In 1980 the State Department's annual human rights report called the situation in Argentina the "worst in the hemisphere," but noted that the number of disappearances had dropped significantly. By 1978 the practice was used much less frequently than before, and by 1980 it was virtually no longer used, although no explanation was given for previous disappearances.<sup>25</sup> U.S. policy toward Argentina during 1980 was complicated by efforts to gain its cooperation in imposing a grain



embargo on the Soviet Union, and pressure on the human rights front seems to have been relaxed, although the ban on arms sales remained in effect. Two other key international events served to keep the case of Argentine human rights in the minds of U.S. policy-makers. In 1979 the Argentine authorities released noted journalist Jacobo Timerman, and the publication of his powerful memoir detailing his disappearance and torture by Argentine military, which he describes as fascist and viciously anti-Semitic, had a major impact in U.S. policy circles.<sup>26</sup> Second, in 1980 the Nobel Peace Prize was awarded to Argentine human rights activist Adolfo Pérez Esquivel, who used his public position to speak out against the continuing abuses in Argentina.

### *Guatemala*

The history of the violation of basic human rights in Guatemala is even longer and more sordid than that in Argentina. The military maintained control of the government from 1954 (except for 1966–1970), with the U.S.-supported overthrow of the government of Jacobo Arbenz. During the period 1954–1976, Guatemala was a major recipient of U.S. military and economic assistance, including substantial training and equipment for military and police officers.<sup>27</sup> Police brutality and military repression against civilians have been commonplace since the late 1960s, when the military was joined by private death squads organized under the patronage and approval of the government and the army.<sup>28</sup> Within this general framework of repression, however, the human rights situation deteriorated in the 1970s. A Guatemalan organization, the Committee for Disappeared Persons, estimated that 15,325 deaths or disappearances occurred between 1970 and mid-1975.<sup>29</sup>

It is even more difficult to chart the pattern of human rights abuses in Guatemala than in Argentina. This is partly the result of a deliberate government policy to eliminate evidence. One Guatemalan colonel told a U.S. journalist, "In Argentina there are witnesses, there are books, there are films, there is proof. Here in Guatemala there is none of that. Here there are no survivors."<sup>30</sup>

General Kjell Laugerud, who held the presidency from 1974 to 1978, took steps to moderate the level of human rights abuses, disbanding some of the death squads. Kidnapping and other violations continued, however, although at a somewhat lower level. After the U.S. State Department released a March 1977 report on human rights abuses in Guatemala, but also noting that President Laugerud appeared to be improving the situation, Guatemala rejected all U.S. military aid. Congress then eliminated all military aid to Guatemala for fiscal year 1978.<sup>31</sup> Human rights organizations presented information on abuses and recommended



contacts to give testimony at hearings that provided the basis for the congressional decision.<sup>32</sup> However, military supplies already in the pipeline continued to flow, and the administration continued shipments of military supplies by reclassifying them as nonmilitary items. Foreign Military Sales (FMS) credits totaled 2.8 million dollars in 1977, 2.5 million in 1978, and 3.6 million in 1979.<sup>33</sup> Commercial sales to the Guatemalan government and private businesses were the primary means Guatemala used during this period to obtain military equipment and technology from the United States. These export sales were licensed by either the Department of Commerce or the State Department; the Commerce Department approved licenses during this period for the sale of shotguns, handcuffs, and military aircraft to Guatemala.<sup>34</sup> Economic aid continued unabated. In October 1979 and May 1980 the United States voted against two Multilateral Development Bank (MDB) loans to Guatemala on human rights grounds, but approved five others during this period.<sup>35</sup>

Although human rights violations in Guatemala were as serious as anywhere in the hemisphere, less congressional and administrative pressure was put on Guatemala than on Argentina. Congress held no hearings specifically on Guatemala from 1976 until 1981. Neither the administration nor Congress took any steps toward cutting economic aid or imposing trade sanctions. In particular, the continuation of military sales during this period is evidence of a lack of commitment to fully implement human rights policy in the case of Guatemala.

This is explained in part by the absence of domestic human rights organizations in Guatemala, which limited the dissemination of information on abuses. The different timing of cycles of repression also helps explain differences in the forcefulness of U.S. human rights policy. In Argentina, the height of repression (1976–1978) coincided with the height of human rights activism in the Carter Administration. This period of activism coincided with a temporary decrease in what still was a very high level of human rights violations in Guatemala. The reforms of the Laugerud government (1974–1978)—“so modest in another setting, yet uncharacteristic of post-1954 Guatemala—afforded hope to elements of the political center and moderate left of an incipient opening.”<sup>36</sup> It seems that this hope led U.S. policy-makers to exert less forceful pressures on the Laugerud Administration.

By 1979, under the new administration of General Lucas García, human rights abuses reached levels unprecedented even for Guatemala. International awareness of human rights violations in Guatemala became widespread. Amnesty International described disappearances as “epidemic,” and reported over 2,000 people killed between mid-1978 and early 1980. The Guatemalan press contained reports of 3,252 disappearances in the first ten months of 1979.<sup>37</sup> In 1980 evidence surfaced of a



specialized agency, under the control of President Lucas García and located in an annex to the National Palace, that coordinated the actions of various "private" death squads and regular army and policy units.<sup>38</sup>

By the time that awareness of Guatemalan human rights abuses became a matter of general concern, however, the attention of activists and policy-makers alike was focused on Nicaragua. Carter's human rights policy toward Central America was undermined by the perceived urgency of counterinsurgency in the wake of the Nicaraguan revolution.

Even before the 1980 elections, as Guatemalan military and local business associations became convinced that the Reagan Administration would move quickly to reinstate military assistance and training, they increasingly refused to deal with representatives of the Carter Administration. But U.S. policy on Guatemala did not change as quickly as the Guatemalan elite had hoped. By the early 1980s, and especially with release of the Amnesty International report linking death-squad activity directly to President Lucas García, congressmen were hesitant to be seen as advocates of a murderous regime. Second, the new administration's Central American policies focused on the priority issues of aid to El Salvador and support for the Nicaraguan contras. Some administration insiders feared that any attempt to reinstate military aid to Guatemala would undermine congressional support for the administration's priority goals in Central America.<sup>39</sup> As a result, the Reagan Administration did not lift the embargo on military aid to Guatemala until 1983, after General José Efraín Ríos Montt had come to power.

### DOMESTIC COALITIONS

On the U.S. side, an unusual coalition of liberals and conservatives supported reductions in foreign aid due to human rights violations. In Congress, votes in favor of cutting assistance came both from liberals dedicated to reducing U.S. ties to repressive regimes and conservatives with a more general interest in reducing U.S. expenditures on foreign aid. However, this consensus did not extend to measures that would be costly for the United States, such as denial of Eximbank loans. Congressmen in favor of imposing sanctions on Argentina received support from human rights lobbying groups. Opposition to sanctions came from a number of sources: administration officials in favor of "flexibility"; career Latin American specialists, especially in the State Department; members of Congress who believed such actions were contrary to traditional interpretations of U.S. national security; and business interests operating in Argentina.



*Congressional Alignments*

Washington's interest in human rights as a foreign policy issue originated in Congress rather than the executive branch.<sup>40</sup> In a backlash to the foreign and domestic policies of the Nixon/Kissinger years, perceived by many as amoral or immoral—including the fallout from Vietnam and Watergate—Congressional activism in foreign affairs increased substantially, particularly in the area of human rights. This issue provided a vehicle for Congress to attack the executive and regain more control over foreign policy issues. The conditions permitting such activism arose in part from institutional changes within Congress that allowed junior representatives and senators to play an unusually important role in the formation of foreign policy. The ability of new members to influence foreign policy was especially pronounced with respect to Latin America, where few congressmen professed much knowledge or interest.<sup>41</sup> With the immediate heritage of Vietnam and the recent experience of the domestic civil rights movement, international human rights became a cause with significant public and congressional support. Domestic groups with an interest in human rights issues found receptive ground in Congress for their arguments, and testified at dozens of hearings.

Representative Donald Fraser took the lead in introducing numerous human rights amendments in Congress. Other active members included Senator Edward Kennedy and Representatives Tom Harkin, Ed Koch, and Don Bonker, who took over Fraser's chairmanship of the International Organizations Subcommittee in 1979. Studies of congressional voting patterns on human rights legislation show that the most consistent support for initiatives aimed at Latin American countries came from liberal Democrats. Opposition came from members with high scores on the National Security Index (NSI) developed by the American Security Council, a conservative pressure group.<sup>42</sup>

*Coalitions in the Executive Branch*

During the Nixon and Ford administrations, the executive sharply opposed this human rights activism and resisted enforcing such measures passed by Congress. This led Congress gradually to reduce the executive's freedom of action, for example by moving away from "sense of the Congress" resolutions and general legislation toward binding, country-specific measures. Because of strong opposition at the top, few individual ambassadors appear to have put much emphasis on the topic of human rights violations in their day-to-day diplomacy under Nixon and Ford. However, the Ford Administration's final report on human rights in various countries claimed that the subject of human rights was raised



frequently with the Argentine government, more often than any other substantive issue.<sup>43</sup>

In spite of this report, the overwhelming body of evidence suggests that Henry Kissinger's "quiet diplomacy" on human rights largely amounted to silence.<sup>44</sup> Congress reacted to this attitude by creating within the State Department a Bureau of Humanitarian Affairs and Human Rights (HA), which bore responsibility not for maintaining good relations with any specific region, but for assuring that human rights concerns were brought into all aspects of U.S. foreign policy. In 1977 the head of this bureau was made an assistant secretary, providing HA with essential access to information, and under Pat Derian's leadership HA grew into an important, active participant in foreign policy decisions. The regional bureaus, however, tended to remain focused on their traditional task of maintaining a warm relationship with their host governments. While some individual ambassadors gave higher priority to human rights issues than they had previously, Derian encountered significant resistance to backing traditional diplomacy with actual cutoffs of U.S. assistance.<sup>45</sup>

Jimmy Carter's approach to human rights issues contrasted sharply with the previous administration's. From an electoral viewpoint, a general emphasis on human rights was one of the few issues that could (temporarily) unite a deeply divided Democratic Party in 1976. The right wing of the party, including Jeane Kirkpatrick and Patrick Moynihan, favored an active human rights policy directed against "totalitarian" regimes such as Vietnam and Cambodia. The left wing supported a campaign directed against "authoritarian" regimes such as those in Latin America. This fragile coalition reflected the "unholy alliance" of conservatives and liberals voting for human rights sanctions in Congress.

The issue of human rights originally gave Carter tangible political benefits, as well as fitting in with his own view of the proper purposes of U.S. foreign policy. As his National Security Adviser Zbigniew Brzezinski explained:

The commitment to human rights reflected Carter's own religious beliefs, as well as his political acumen. He deeply believed in human rights. . . . At the same time, he sensed . . . that the issue was an appealing one, for it drew a sharp contrast between himself and the policies of Nixon and Kissinger.<sup>46</sup>

This contrast became evident in the new administration's approach to the implementation of congressional directives on human rights. For the first time, the executive branch took the lead in imposing sanctions for human rights reasons, such as making the February 1977 announcement about reduction of military aid to Argentina.

During the Carter Administration, a special committee was created to



decide specific human rights issues, such as whether to approve loans from multilateral development banks. On the Interagency Committee on Human Rights and Foreign Assistance, more commonly known as the Christopher Committee, representatives from Treasury, Commerce, and the Agency for International Development (AID) tended to resist the "politicization" of their work implied by human rights considerations, while Derian argued strongly in favor of taking such considerations into account. Human rights issues dominated the diplomatic agenda of the Carter Administration toward Argentina; no human rights situation created greater concern in Washington in the 1970s.<sup>47</sup> The administration's attitude toward human rights in Guatemala revealed a greater degree of ambivalence. Both the State and Commerce departments continued to approve some licenses for commercial military sales to Guatemala during the entire period.

The case of U.S. Ambassador to Guatemala Frank Ortiz illustrates the conflicts within the administration over U.S. policy toward Guatemala. Ortiz, widely seen as a conservative without a strong commitment to human rights issues, was appointed U.S. Ambassador in Guatemala City in July 1979, during a period of intense human rights abuses. Ortiz developed close relations with the Lucas García government and argued that government-condoned violence was abating. He approved the March 1980 visit of a U.S. destroyer to a Guatemalan port, apparently without prior State Department knowledge, which many observers took as a sign of support for the Guatemalan government.<sup>48</sup> Pressures from human rights organizations and Congress contributed to the decision to replace Ortiz less than a year after he took office.

### *Coalitions in Argentina*

The bureaucratic authoritarian regime in power in Argentina during this period was highly insulated from civil society, with a concentration of power and decision-making within the Military Junta and high command. Initially, President Videla did not have great autonomy from the rest of the Junta, and was constrained by the need to negotiate with the other forces in the military as well as with hard-liners within the Army. The informal process of ratification took place within the military government, and the contours of the win-set depended on internal negotiations among the branches of the military and within each of the branches, especially the more powerful Army.<sup>49</sup>

Putnam suggests that the greater the autonomy of central decision-makers from their Level II constituents, the larger the win-set and thus the greater likelihood of achieving international agreement. In both Guatemala and Argentina, however, the relative autonomy of the mili-



tary government from civil society did not increase the size of the win-set on human rights issues. Since such issues often imply a direct accusation of the military in power, the leeway for negotiation on such a topic would always be narrow, regardless of the degree of autonomy of the military government from civil society. In the case of Argentina, however, Videla's increased autonomy vis-à-vis the Junta by late 1978 did appear to increase his ability to deliver on his promise to invite the IACHR to Argentina.<sup>50</sup>

Although it is difficult to know all the details of domestic negotiations on human rights in Argentina, there is no doubt, based on substantial documentation provided by the military themselves and uncovered by the judiciary in the trials of the military juntas, that the decisions to engage in repression were made at the highest levels of the Argentine government.<sup>51</sup> Thus the eventual decision to diminish that repression was also made by top-level government officials. The day-by-day implementation of the "dirty war" was carried out by decentralized military units, each responsible for a particular geographical area and under the control of different branches of the military. These units, however, coordinated their activities with each other, and were ultimately under the control of the commander in chief of each branch.<sup>52</sup>

The "counter-revolutionary war" carried out by the military served to promote unity in the armed forces. The military had differences about the way in which the "dirty war" was carried out, but no substantial differences as to whether the repressive activity was necessary and justified. The unity of the military forces on this issue, and the need to negotiate agreements among their various factions, including extreme hardliners in the Army and Navy, meant that in the period 1976–77 there was no overlap between the win-sets of the Argentine military government and the U.S. government on the human rights issue.

Although by the military's claim 90 percent of the armed opposition had been eliminated by April 1977, this did not lead to an immediate change in human rights practices.<sup>53</sup> By 1978, one can distinguish different groups within the armed forces with different positions on what the military government should do in the future. One faction was led by Admiral Emilio Massera, a right-wing populist; another by Generals Carlos Suárez Masón and Luciano Menéndez, who supported indefinite military dictatorship and unrelenting war against the left; and a third, led by Generals Videla and Roberto Viola, who hoped for eventual political liberalization under a military president. Over time the Videla-Viola faction emerged supreme within the Junta, and by late 1978 Videla had gained more control over the Ministry of Foreign Affairs, which had previously been in the Navy's sphere of influence.<sup>54</sup> The general strengthening of Videla's position in the fall of 1978, and his ascendancy



in the foreign policy realm, combined with U.S. pressure, helps explain his ability to deliver on his promise to allow the IACHR to visit by December 1978. The Argentine acceptability-set and win-set both changed over this period, as Videla came to see advantages to moderating human rights abuses *and* gained autonomy from the rest of the Junta.

Even with the emergence of Videla and Viola as the dominant figures in the military government, the win-set for human rights policy within the Argentine military remained very small. The great majority had come to believe that they were fighting (and winning) an irregular war against international subversion, and that they should be thanked, not condemned by domestic and international groups. International human rights pressures also created some negative reverberations in Argentina that the military used to their advantage.<sup>55</sup> In the late 1970s, many Argentine citizens accepted the government line that human rights concerns were part of an international leftist plot to discredit Argentina in world opinion.

Only through the tactical linkage of human rights issues with international assistance did the United States manage to redefine the Argentine win-set so that it overlapped with its own. Even so, the size of the overlap between the win-sets was minimal, and the Carter Administration may have hit upon one of the few face-saving alternatives that allowed the Videla Administration to respond to human rights pressures. Because the Mondale-Videla agreement involved a private understanding, the two decisions were not publicly linked and Videla did not have to admit that he was caving in to U.S. pressure. By involving the IACHR, the Carter Administration interposed a regional organization that was more legitimate in the eyes of the Argentine government and public. To invite a panel of other Latin American jurists was less compromising than to permit direct interference from the U.S. government. Videla and Viola understood that as part of the process of military-led political liberalization they were advocating, some kind of explanation of past repression would have to be provided. It appears that they saw the visit and report of the IACHR not only as a means of improving relations with the United States, but also as a potential means of drawing a curtain on the past by providing a minimal explanation of abuses, while emphasizing the limited process of liberalization they were initiating.<sup>56</sup> It was not until the strong IACHR report was published one year after the visit that Videla and Viola realized they had seriously misjudged the Commission. In the words of one observer, the Commission's report "boomeranged" on Videla.

The only significant civilian allies of the government whose opinions appear to have contributed to the definition of the win-set were the civilian technocrats, especially the economic policy-makers. The eco-



nomic program of the military regime constituted one of the two main goals of the government: the re-establishment of "order" and reinvigoration of the economy through a program of liberalization, expansion of exports, and foreign assistance and investment. The civilian technocrats and their closest allies in the military, the Videla-Viola faction, were concerned with the international image of Argentina, and the damage done to that image by the widespread reports of human rights violations. Nevertheless, neither the economic policy team nor domestic entrepreneurs became strong internal advocates of changing human rights practices, in part because the repression was perceived as a "taboo" topic by civilian allies of the military.<sup>57</sup> Also, because businessmen and members of the economic team had been targets of left-wing kidnapping and assassination attempts, they tended to support the repressive measures of the military.<sup>58</sup> In other words, the effects of issue linkage of human rights and economic aid were very diffuse, creating a general sense among the military that human rights issues might be costly, rather than leading specific targeted groups to lobby for policy change.

The military initially hoped that a veil of secrecy and repression could keep the outside world from recognizing the extent of human rights abuses. General Ramón Camps, Chief of Police of the Province of Buenos Aires, explained the importance of secrecy for the military: "On the orders of the highest military leadership, no one told the truth, so as not to affect international economic aid."<sup>59</sup> By 1978 it was clear that the strategy of secrecy had not worked. The scale of denunciations of human rights violations had become generalized and international.

One important reason for international awareness of Argentine human rights abuses was the presence, by 1977–78, of a wide range of domestic human rights organizations with significant external contacts. Thus, organizations like Mothers of the Plaza de Mayo, Grandmothers of the Plaza de Mayo, the Center for Legal and Social Studies, the Permanent Assembly for Human Rights, Commission of the Family Members of the Disappeared and Detained, the League for Human Rights, the Service for Peace and Justice, and the Ecumenical Commission for Human Rights, worked to document and publicize the abuses of human rights in Argentina. It is not clear whether these groups eventually had a direct impact on the decision-making of the Argentine military. They were often the target of abuse; their members were disappeared, their offices sacked and documents confiscated. These groups sought external contacts to publicize the human rights situation and to help protect themselves against further repression by their government. They were a crucial link in providing documentation and information to spur the interests and concern of U.S. policy-makers.<sup>60</sup>



*Coalitions in Guatemala*

In the Guatemalan case, the situation was quite different. Although the United States made some efforts to link military assistance and sales to the improvement of human rights practices, U.S. policy toward Guatemala was much less comprehensive and forceful than its policy toward Argentina. The period following the cutoff of U.S. assistance witnessed not only no decline in human rights abuses, but an escalation in outright killings and disappearances. While estimates of human rights abuses differ for the period, there is agreement that 1978 marked the beginning of an escalation of repression that continued for the next five years, during the administrations of Generals Lucas García and Ríos Montt. An Amnesty International document says of this period, "Untold numbers died during the Lucas García and Ríos Montt administrations. Estimates vary, but all put the victims in the tens of thousands."<sup>61</sup> All the key human rights organizations concur that there was widespread military violence against civilians in this period, either directed by or condoned by the government.<sup>62</sup>

The government united behind a stance of blaming all political violence on groups for which they had no responsibility. As the Guatemalan government responded to testimony in congressional hearings in 1976, "This violence is due to the perpetration of criminal acts by groups of extremist ideology obliging the Government of the Republic to make superhuman efforts for the control and punishment of the terrorists."<sup>63</sup> The government, however, made no attempt to bring any of those responsible for violence against opposition leaders, peasants, and other "potential subversives" to justice. Those who opposed this strategy—opposition leaders and much of the rural population—were completely disenfranchised by brutal repression, including the routine killing of opposition organizers.<sup>64</sup>

What made the Guatemalan domestic situation different from the situation in Argentina? Four conditions seem important: (1) U.S. policy was less forceful and comprehensive, and thus the costs of no-agreement were lower. (2) There was no powerful group within the Guatemalan military that could perceive a tactical advantage in responding to U.S. human rights pressures. (3) The late 1970s witnessed a dramatic upsurge in the numbers and success of the rural armed insurgent movement. (4) Few Guatemalan human rights organizations existed to document abuses and establish transnational linkages with international human rights organizations.

The Guatemalan military and elite groups of civilians were unified in their conservative world view and absolute opposition to the human rights policies of the Carter Administration. They fancied themselves the



upholders of free-world values now that the United States was governed by the "moderate Marxists" of the Carter Administration. Contrary to the situation in Argentina, where many commentators speak of "moderates" (albeit murderous ones) within the military, by the 1970s in Guatemala reformist groups within the military had been virtually eliminated.<sup>65</sup> Divisions existed among the Guatemalan armed forces on a variety of issues, but these did not lead to the emergence of a faction typically prepared to respond to human rights pressures.<sup>66</sup> The Guatemalan military had received substantial U.S. assistance and training over 20 years. While the two-level model is not well suited to incorporate the impact of history into the game, it is important to note that past U.S. influence (especially during the coup in 1954) contributed to the structure of the Guatemalan military that later blocked human rights pressures.

Historically, the Guatemalan military came to see rural Guatemala as its particular preserve. Any attempt to alter that position and organize peasants or rural workers into independent associations was perceived as threatening to the central concerns of the military. Revolutionary forces gained strength in Guatemala, during the period 1975–1980. It is estimated that by 1979 the guerrillas had at least 1,800 armed men and substantial civilian support.<sup>67</sup> The upsurge of rural insurgency in the late 1970s served to unify the military ideologically and focus them on the shared task of counter-insurgency. In this context, the military viewed U.S. human rights policy as interventionist, divisive to the military as an institution, and an interference in the strategy of counter-insurgency. Even more than in the case of Argentina, the military and important groups of elites believed that counter-insurgency was necessary to protect their very way of life, and that it was not possible without substantial repression. The Guatemalan military was also able to use negative reverberations to its advantage, creating the self-image of a country able to sustain itself without outside support. Chief of Staff Rodolfo Lobos Zamora declared, "We Guatemalans can feel satisfied at being the first country in the world that has managed to inflict a substantial defeat on subversion by means of our own eminently nationalistic strategy and tactics, without outside assistance." President Lucas García put it more succinctly: "Gringos are not going to teach us what democracy is."<sup>68</sup> International human rights activities were denounced as part of an international campaign in support of subversion and against the government and military of Guatemala.

Guatemalan business organizations were uniformly conservative and supportive of the repressive policies of the government during the 1970s. Right-wing business lobbies like *Amigos del País* and the Guatemalan Freedom Foundation had close connections with the government, and with the resident U.S. business community, united by a common conser-



vative ideology. The former head of the American Chamber of Commerce in Guatemala, for example, was strongly opposed to the Carter Administration's human rights policy.<sup>69</sup> Private-enterprise lobbies also engaged in cross-table lobbying, devoting considerable money and energies to wooing Republican politicians even before the Reagan Administration took office.<sup>70</sup>

Eventually the extreme corruption of the Lucas García government, and the sense of increasing international isolation, led to its ouster in March 1982. U.S. military aid cutbacks were among the multiple factors that contributed to the coup against the Lucas García regime. As government reserves declined, junior officers became increasingly concerned about the lack of adequate supplies, and some even called for a reduced level of human rights violations to improve the military's image.<sup>71</sup> This regime change, with General Ríos Montt taking power in a coup, did not lead to an improvement in human rights practices.

## INTERNATIONAL NEGOTIATIONS

No government wants to admit publicly that it violates the basic human rights of its citizens, or that improvements in their treatment are due to the pressures of another government. Thus, diplomacy on human rights issues rarely becomes public knowledge. As Assistant Secretary Derian said, making public such actions as denying loans for human rights reasons reflects a failure of negotiations, rather than a measure of success.<sup>72</sup> Governments engage in what we might call "opaque negotiations," with no public or formal agreements to signify cooperation. We can, nevertheless, examine which officials attempted to discuss human rights issues with the Argentine and Guatemalan governments, and the use of reductions and threats of reductions in assistance as bargaining tools. Tactical linkage between foreign assistance and human rights conditions provided the U.S. government with a source of leverage that eventually, in the Argentine case, led to a measure of success.

### *Argentina*

The Carter Administration's first major approach toward the Argentine government was the reduction in military aid announced in February 1977. However, Argentina responded by rejecting all remaining U.S. military aid. The link to security assistance did not provide sufficient leverage in and of itself to gain an agreement on human rights. In the Argentine case, it was the convergence of multiple forceful human rights pressures that led to a successful outcome.

Ongoing diplomatic pressures reinforced the perception that the U.S.



government was committed to pursuing human rights issues. A human rights officer in the U.S. Embassy in Buenos Aires regularly discussed both general human rights policy and specific cases of disappearances with the Argentine government. Higher-level officials, including the Secretary of State and the President, contacted the Argentine government on human rights issues, taking actions such as furnishing lists of the disappeared and pressing the government to allow visits by nongovernmental organizations.<sup>73</sup> In 1977, U.S. Treasury Secretary Michael Blumenthal met with Argentine Economic Minister José Martínez de Hoz in June, Patricia Derian visited Foreign Minister Oscar Montes in August, Assistant Secretary Todman met with President Videla in August, President Carter met with President Videla in September, and Secretary of State Vance met with Videla in November.<sup>74</sup> Human rights organizations argued that these initiatives contributed to a slight improvement in the situation even before the invitation to the IACHR.

A major attempt, and probably the most successful, to increase pressure on the Junta occurred during the summer of 1978. On July 20, the Eximbank announced that it had decided to withhold a 270 million dollar loan for construction of a hydroelectric plant on the Yacireta River. Allis-Chalmers, which was to supply the parts for this plant, mounted a massive lobbying campaign, which gained widespread support from business interests, to reverse the administration's decision. Members of Congress who had supported the termination of military supplies to Argentina worried that the extension of sanctions to nonmilitary items could prove extremely costly to U.S. trade at a time when the trade deficit was increasingly troublesome. Within the administration, Secretary of Commerce Juanita Kreps argued against the decision to block the Eximbank loan. At the same time, the congressional embargo on military assistance and sales was scheduled to go into effect on September 30, and the Pentagon denied pending license requests.

When President Videla requested a meeting with Mondale, each country faced a unique situation. In the United States, the pressures on Argentina to change its human rights practices had reached a high point, but the coalition supporting such pressures was breaking down over the trade issue. As business became enfranchised because of the threat to export financing, congressional support for stringent sanctions declined. Mondale's use of the loan denial threat was thus somewhat risky, since if he had tried to carry through on this threat he might have been overridden by Congress. However, this risk was mitigated by the private nature of the negotiations, and by the fact that the Eximbank loan was only one part of a package of improved relations. In Argentina, Videla had solidified his internal position vis-à-vis other groups in the government



and the military, but faced difficulties in the general realm of foreign relations. U.S.-Argentine relations, and to a lesser extent Argentine relations with European countries, had deteriorated over the human rights issue. The conflict with Chile over the Beagle Canal had intensified in mid-1978, while relations with Brazil remained troubled.<sup>75</sup> In this context, the agreements reached at the Mondale-Videla meeting offered both countries options for resolving the problems they faced. In September 1978, we find the temporary convergence of a small win-set in the United States, administration willingness to push hard on the human rights issue, and a faction within the Argentine government willing and able to use such pressure to pursue its own preferred policies.

### *Guatemala*

The history of human rights negotiations with Guatemala is much shorter than that with Argentina, since the Guatemalan government successfully refused to meet with U.S. representatives to discuss this issue. The Guatemalan military government adopted a simple, if brutal, strategy. It did not attempt to deny that widespread politically motivated murder took place in the country. As Vice President Francisco Villagrán Kramer (later exiled) stated in 1980, "There are no political prisoners in Guatemala—only political murders."<sup>76</sup> The government kept its own toll of those killed, which sometimes exceeded that collected by Amnesty International. However, the government argued that it had no control over the groups responsible for these murders, claiming "involuntary defection." Therefore, it claimed that it had nothing to discuss with the United States.

Unlike the situation in Argentina, Congress and the administration took no further steps to cut aid to Guatemala after the fiscal 1978 FMS legislation. The only high-level meetings were between Vice President Mondale and President Laugerud during the Panama Canal Treaty ceremonies, and one with Mrs. Carter and Laugerud and President-elect Lucas García in May 1978.<sup>77</sup> After this, Lucas García refused to meet with other administration officials, and the United States did not send many representatives to the country. Assistant Secretary of State William Bowdler did visit in September 1979, but was not able to meet with Guatemalan officials.<sup>78</sup> Overall, what limited attempts the United States did make to engage Guatemala in negotiations on human rights issues were failures. The limited sanctions embodied in the military assistance legislation were insufficient to induce Guatemala to negotiate, especially since the administration partially circumvented these restrictions.



## ANALYSIS

*Explaining Argentine Success*

Two puzzles deserve explanation at this point: Why pressure on Argentina succeeded in September 1978 while it had failed earlier, and why U.S. initiatives had a greater impact in Argentina than in Guatemala. As we discussed at the beginning of this chapter, a systemic perspective would lead us to expect greater success in Guatemala, a smaller, poorer nation more dependent on the United States. We argue that in September 1978, four necessary conditions for successful cooperation were temporarily met in the Argentine case. Implementation of the congressional military aid embargo and the denial of Eximbank funding narrowed the win-set in the United States; the President was genuinely interested in pursuing a human rights policy and had few competing objectives in Argentina; a dominant faction in the Argentine Junta thought it might be able to use the visit of the IACHR to prepare the way for political liberalization; and transnational lobbying had put the issue on both governments' agendas.

As we discussed above, Congress had gradually shrunk the win-set after 1973, putting tighter restrictions on foreign assistance to Argentina and eventually authorizing the administration to take human rights into account on Eximbank decisions. Each tactical issue-linkage removed potential "bargains" from the realm of ratifiable outcomes, and thus narrowed the win-set. The cutoff of Eximbank financing was costly to Argentina, as was the denial of military assistance and commercial sales. Unfortunately, cutting off Eximbank funding would also be quite costly to the United States, and Congress seemed likely to repeal the legislation authorizing the denial in the near future. Thus, Carter had only a short time-span in which to use the threat of a small win-set to achieve an agreement with the Argentine government. Coercive issue-linkage, in general, involves costs to both sides, and thus governments find it difficult to make credible threats such as cutting off Eximbank funding. This is in contrast to synergistic issue-linkage, where both sides benefit.<sup>79</sup>

Congressional pressure alone would have been insufficient, however. Nixon and Ford had shown that the executive branch could find ways to circumvent the intent of Congress. Carter's ability to continue military deliveries to Guatemala makes the same point. In addition, the coalition in Congress supporting a vigorous human rights policy was not strong enough to support costly trade sanctions in the face of presidential opposition. Thus, only a chief negotiator genuinely committed to improving human rights and facing few competing foreign policy objectives would use the opportunity of a small win-set to gain cooperation from Argen-



tina. Mondale's meeting with Videla exploited a temporary shrinking of the win-set to reach such an agreement.

However, even these two factors would have been insufficient to gain cooperation from Argentina if there had existed no faction prepared to invite the IACHR and reduce human rights violations. By September 1978, President Videla saw advantages in such a policy, but needed some way to convince the hard-line factions to agree. Externally, Videla understood that the invitation to the IACHR was a precondition not only for the Eximbank loan, but also more generally for improved relations with the United States and a lessening of Argentine "pariah" status in the international community. Internally, Videla hoped to use the report to support a limited process of political liberalization under military tutelage.<sup>80</sup> The strengthening of Videla's position within the military government, the final cutoff of military assistance and sales, the threat of cutting Eximbank financing, and Mondale's promise of improved relations in exchange for the IACHR visit apparently provided the necessary levers to gain the agreement of the hard-liners. As Putnam has suggested, international negotiations allowed the chief negotiator, Videla, to shift the balance of power in the Level II game in favor of a policy he preferred for exogenous reasons.<sup>81</sup>

The situation in Guatemala was the opposite of that in Argentina as of September 1978. Congress allowed a larger win-set for Guatemala, never threatening to reduce economic aid or impose any kind of trade sanctions except denial of military assistance. Within the United States, the win-set for Guatemala included an outcome involving a continuation of economic aid with no corresponding improvement in human rights; this outcome did not lie within the U.S. win-set for Argentina. The Guatemalan case therefore does not actually reflect a "failed agreement," but is instead an instance of cooperation on the part of the United States with regard to economic aid, but defection by Guatemala. Because of the use of tactical issue-linkage in this case, the analytical focus shifts from reaching agreements to the implementation of threats. Nevertheless, consideration of overlapping win-sets provides a useful analytic tool. The President, facing competing policy objectives in Guatemala, never engaged in the same kind of high-level arm-twisting that he, Mondale, Vance, and Derian used with Videla. On top of these limitations, there were no factions within the Guatemalan regime looking for an excuse to bring the death squads under control. Thus, there was no scope for cooperation in the Guatemalan case, and we find that U.S. human rights policy failed there. Any of these conditions alone would have prevented significant success; in conjunction, they guaranteed failure.



*Insights for the Two-Level Games Model: Institutions and Iteration*

The case of human rights in Argentina highlights two aspects of the two-level game model in particular. First, it draws attention to the different types of "ratification processes" that domestic constituencies might use to approve or reject negotiated agreements, and the implications of these processes for the contours of the win-set. Second, it calls into question the hypothesis that small win-sets should, *ceteris paribus*, increase a country's bargaining power in international negotiations. In the final part of this chapter, we suggest a typology for thinking about ratification processes and a tentative explanation for constant executive arguments in favor of flexibility, or large win-sets.

The process by which Congress approved executive human rights policies differed from the formal process of treaty ratification. However, if the two-level game model is to work in a wide range of cases, "ratification" cannot be limited to formal up-or-down votes of completed agreements.<sup>82</sup> U.S. human rights policy suggests some of the different processes that Congress might use to "ratify" an agreement, which we call approval, authorization, and acquiescence. Although the American context has suggested this typology, it should be general enough to apply to other national policy environments as well.

*Approval* refers to a process in which the principal negotiator arrives at an agreement with other Level I negotiators, and presents this agreement as a *fait accompli* to his Level II constituents. Congress then subjects the agreement to an up-or-down vote. We usually understand ratification this way; treaty ratification by the Senate presents a paradigmatic case.

*Authorization* represents an alternative institutional process in which Congress acts before the principal negotiators begin bargaining. A well-known example of such a process is U.S. involvement in GATT negotiations. Prior to each major round of trade talks, the executive receives congressional authorization to negotiate within certain substantive or procedural constraints.

In *acquiescence*, the institutional process does not mandate that Congress play a role in negotiations, either before or after the fact. Suggestive examples might include "gentlemen's agreements," such as that between the United States and Japan on immigration in the early twentieth century, or bilateral trade negotiations on Voluntary Export Restraints. In such cases, Congress has no voice in the negotiations, and the agreement is not submitted automatically for congressional approval. Thus, Congress generally acquiesces in the executive agreement, but can overturn it, as it did the gentlemen's agreement with Japan on immigration.

The ratification process has a double effect on the shape of the win-set, affecting both the apparent size and degree of uncertainty about what agreements can be ratified. As the process moves from acquiescence



to authorization to approval, the legislature is likely to overturn more agreements, since they will regularly arise on its agenda. Thus, the effective size of the win-set will decrease. At the same time, movement to a more formal ratification process should decrease negotiators' uncertainty about what agreements will be approved. Under approval, any agreement is assured a formal vote, and the preferences of members of Congress should be sufficient to provide a good idea of its outcome. Under acquiescence and authorization, however, an additional element of uncertainty arises, since the executive may be able to evade formal congressional evaluation. With less formal ratification processes, the intensity of members' interest in the agreement will determine whether the issue actually comes before Congress.

In the course of U.S. policy-making on human rights in Argentina, Congress gradually moved to restrict the executive's effective win-set. One way it did this was through passing first general, then country-specific legislation. However, the legislature also changed the relevant ratification process, moving from acquiescence to authorization. Authorization of the Eximbank denial provided the necessary leverage to reach an agreement. This movement restricted the range of agreements the administration was likely to get past Congress, shrinking the effective win-set.

President Carter, despite his strong commitment to international human rights, lobbied actively against congressional actions that would tie his hands when discussing these issues with other countries.<sup>83</sup> For example, when Senator Kennedy introduced an amendment in 1977 that would mandate termination of military sales to Argentina, the administration opposed him. With Carter's blessing, Senator Humphrey introduced an alternative amendment which gave the administration more room to maneuver, and Congress approved Humphrey's version. In addition, many members of the administration, including Patricia Derian and the President, argued against congressional proposals to tie U.S. approval of loans by international financial institutions (IFIs) to recipients' respect for human rights. Officials argued that such requirements would *reduce* their bargaining power, although the Christopher Committee instructed U.S. representatives to the IFIs to oppose or abstain on most loans to Argentina, even without congressional requirements.<sup>84</sup>

The two-level game logic leads us to expect that a president genuinely committed to influencing the human rights policies of other states should *favor* formal congressional constraints on acceptable agreements. All else being equal, such restriction of the win-set should tend to bring the final agreements closer to the president's "ideal point."<sup>85</sup> One possible way to reconcile this apparent contradiction between logic and evidence might



lie in a distinction between the "bargaining" and "implementation" phases of international negotiations.

Every negotiation goes through two phases. In the first, the bargaining phase, the two sides attempt to reach an agreement acceptable to both. It is during this phase that we should expect to find principal negotiators claiming that their "hands are tied," and that only agreements favorable to their side will gain approval from their domestic constituencies. In the second phase, the two sides must implement this agreement, with the cooperation of relevant domestic actors.

U.S.-Argentine discussions on human rights did not take the form of a one-shot bargain/implement procedure. Instead, we find a series of day-to-day agreements on the release of particular prisoners, approval of specific licenses for military sales, etc. In this kind of disaggregated negotiation process, the implementation phase of one agreement overlaps with the bargaining phase of the next. In such a situation, the bargaining advantages derived from limits on the principal negotiator's flexibility might be outweighed by the negative impact these limits will have on the next negotiation. If, in response to failed early negotiations, Congress were to cut off all aid, the executive would have reduced leverage in remaining talks.

In early discussions, the executive branch may want to carry out threats to deny particular loans, for example, in order to establish credibility. However, the executive will prefer to maintain control over the decision to go ahead with sanctions, rather than ceding it to the legislative branch. Executive preferences for flexibility might be explained by the fact that discussions on human rights were disaggregated, broken down into a series of smaller agreements. In this kind of negotiation process, sweeping limitations on U.S. assistance, leaving no room at all for executive flexibility, could be counterproductive, by cutting off on-going bargaining-phase talks. If the effects of disaggregation do account for the executive preference for flexibility, we should find a pattern in negotiators' arguments for it. Flexibility is a much greater asset when negotiations are disaggregated than when they are not. If the negotiation is a one-shot deal, flexibility is actually a disadvantage, as it reduces the negotiator's bargaining power. In September 1978, for example, Mondale was able to exploit the perception of *inflexibility* to gain an agreement with Videla. Greater executive flexibility in and of itself, however, in the case of Guatemala, did not lead to a more effective policy.

## CONCLUSION

Many analysts have concluded that U.S. human rights policy was a failure, that it had almost no impact on the practices of governments that



violated their citizen's basic rights.<sup>86</sup> This chapter refutes that contention, arguing that in at least one case, Argentina in late 1978, U.S. pressure did contribute to a decrease in the phenomenon of disappearances. However, we find that cooperation in this case resulted from the temporary convergence of four necessary conditions: a small win-set in the United States, a sympathetic chief negotiator, a faction in the Argentine government willing to use outside pressures to pursue its own political goals internally, and the existence and active involvement of nongovernmental human rights organizations. Lacking any one of these four factors, cooperation would almost certainly not have occurred. Given these stringent conditions, it is not surprising that, in general, the United States met with few comparable successes on the human rights front.

Prior to the Carter Administration's taking office, the executive branch was antagonistic to the vigorous pursuit of human rights policies, and frustrated congressional initiatives in this area. Congress responded by gradually tightening restrictions on various forms of foreign aid, and found a more sympathetic agent in the Carter Administration. These two processes coincided with domestic changes in Argentina that created conditions permitting a change in human rights policy. This change finally occurred in late 1978. In Guatemala, we find none of these conditions. There were no similar factions within the Guatemalan government; the U.S. win-set for this country was larger; the President was more reluctant to push human rights concerns, due to competing policy objectives; and no domestic human rights organizations existed in Guatemala. Surprisingly, "dependence" on the United States in an aggregate sense does not appear to have any relation to the level of cooperation achieved.

To say that U.S. policy "failed" in the case of Guatemala, however, is not to suggest that the aid cutoff was counter-productive, or that "quiet diplomacy" would have proved more successful. The case of Argentina suggests that the combination of severe pressures (military and economic aid, "no" votes in the IFIs, and the denial of Eximbank loans), plus the willingness to bargain on one important sanction (the Eximbank funds), contributed to change. This suggests that if the United States had made human rights a higher priority in its bilateral relations with Guatemala, and brought more pressure to bear, the chances of success might have been greater. But even forceful human rights pressures cannot guarantee success, since the necessary preconditions must exist within the repressive country to allow negotiations to succeed.

This pair of cases demonstrates the utility of the two-level game metaphor for sorting out the complex interactions of domestic and international factors in situations that diverge in many ways from the paradigmatic formal negotiation case. Negotiations were private, with no formal



agreements reached. Congress never faced a formal ratification decision on any agreement. Negotiations themselves resulted only from tactical issue-linkage between human rights and foreign assistance, since no "automatic" interdependence existed here. Yet the metaphor provides significant insight into the conditions that led to success in one case, at a particular time, and failure in the other.

In addition, we find that this example enhances the two-level game model in a number of respects. It suggests that an answer to the anomaly of executive preferences for flexibility lies in the iteration of negotiations, and emphasizes the importance of formal ratification requirements for determining the size of the win-set. It also suggests the importance of transnational linkages in influencing the size and the contours of the win-set. In this instance, the activities of domestic and international human rights organizations provided the essential information that led to emergence of the issue and permitted monitoring of change.<sup>87</sup> Where information uncertainties were pronounced and few powerful interest groups competed for influence, relatively small nongovernmental organizations armed with information were able to have a substantial effect on policy.

## NOTES

1. Interview with Walter Mondale, Minneapolis, June 20, 1989.

2. This interpretation differs from that of Carlos Escudé, who claims that U.S. human rights policy was unsuccessful in Argentina. First, although Escudé is correct that U.S. human rights policy was sometimes applied in a contradictory fashion to Argentina, he does not discuss the fact that it was applied more consistently in the case of Argentina than for any other country except Uruguay. Second, he does not discuss the granting of blocked Eximbank credits in exchange for the Argentine invitation to the IACHR, which is key to the argument we make here. Third, Escudé underestimates the importance of diplomatic pressures on the Argentine military government. While it is true that initially the Argentine government reacted nationalistically against the campaigns, by 1978 they were profoundly concerned about the international isolation of the military regime. Carlos Escudé, "Argentina: The Costs of Contradiction," in Abraham F. Lowenthal, ed., *Exporting Democracy: The United States and Latin America: Case Studies* (Baltimore: Johns Hopkins University Press, 1991).

3. Although the ban on U.S. military assistance to Guatemala was in effect until 1983, commercial military sales and economic assistance continued throughout the 1978–1983 period. U.S. General Accounting Office, *Military Sales: The United States' Continuing Munitions Supply Relationship with Guatemala*, report to the Chairman, Subcommittee on Western Hemisphere Affairs, Committee on Foreign Affairs, U.S. House of Representatives, January 1986.

4. Robert D. Putnam, "Diplomacy and Domestic Politics: The Logic of Two-Level Games," appendix to this volume, p. 444.



5. Ernst B. Haas, *When Knowledge Is Power: Three Models of Change in International Organizations* (Berkeley: University of California Press, 1990), p. 184.
6. George Black et al., *Garrison Guatemala* (New York: Monthly Review Press, 1984), p. 5.
7. Charles Lewis Taylor and David A. Jodice, *World Handbook of Political and Social Indicators*, 3rd ed., vol. 1 (New Haven, Conn.: Yale University Press, 1983), pp. 91–92.
8. *Ibid.*, pp. 106–107.
9. *Ibid.*, pp. 110–111.
10. World Bank, *World Development Report, 1981*, pp. 170–171.
11. Inter-American Development Bank, *Economic and Social Progress in Latin America: 1989 Report* (Washington, D.C., 1989), pp. 252, 340.
12. *Ibid.*, pp. 226–228.
13. U.S. House Committee on Foreign Affairs, Subcommittees on Human Rights and International Organizations and on Inter-American Affairs, *Human Rights in Guatemala*, 97th Cong., 1st sess., hearing July 30, 1981, p. 38.
14. Amnesty International, *Amnesty International Report, 1977* (London, 1977), pp. 118–123.
15. Amnesty International, *Report of an Amnesty International Mission to Argentina* (London, March 1977).
16. *Nunca Más: The Report of the Argentine National Commission on the Disappeared* (New York: Farrar, Straus, and Giroux, 1986), pp. 209–234.
17. U.S. Department of State, *Human Rights and U.S. Policy: Argentina, Haiti, Indonesia, Iran, Peru, and the Philippines*, report to the U.S. House Committee on International Relations, Dec. 31, 1976, p. 6.
18. "Security Links Cited: Assistance Is Reduced to Argentina, Uruguay, and Ethiopia, Vance Says," *New York Times* (NYT), Feb. 25, 1977, p. A1; "Argentina and Uruguay Reject U.S. Assistance Linked to Human Rights," NYT, March 2, 1977, p. A10.
19. Congressional Research Service, Foreign Affairs and National Defense Division, *Human Rights and U.S. Foreign Assistance: Experiences and Issues in Policy Implementation, 1977–1978*, report prepared for U.S. Senate Committee on Foreign Relations, November 1979, p. 106.
20. Interview with Robert Pastor, June 28, 1990, Wianno, Massachusetts.
21. High-level diplomatic efforts were assisted in Buenos Aires by F. Allen (Tex) Harris, a full-time Human Rights Officer in the U.S. Embassy. Harris provided liaison with Argentine human rights groups and protested specific violations; in two years the embassy made more than 1200 representations to the Argentine government on cases of abuse. Americas Watch, *With Friends Like These: The Americas Watch Report on Human Rights and U.S. Policy in Latin America* (New York: Pantheon Books, 1985), pp. 99–100.
22. Lars Schoultz, *Human Rights and United States Foreign Policy Toward Latin America* (Princeton, N.J.: Princeton University Press, 1981), pp. 331–332.
23. Escudé, "Argentina," p. 21, argues that because none of these multilateral loans were denied to Argentina, and total multilateral lending to Argentina actually increased during the period 1978–1980, the U.S. human rights policy was



ineffectual. However, this unrealistically faults U.S. policy for the failure of Western allies to accept human rights considerations in the determination of multilateral aid.

24. "It appears evident that the decision to form the command units that were involved in the disappearance and possible extermination of these thousands of persons was adopted at the highest level of the Armed Forces. . . ." Organization of American States, Inter-American Commission on Human Rights, *Report on the Situation of Human Rights in Argentina* (Washington, D.C.: General Secretariat, OAS, 1980), p. 134.

25. Asamblea Permanente por los Derechos Humanos, *Las Cifras de la Guerra Sucia* (Buenos Aires, August 1988); and United Nations Working Group on Enforced or Involuntary Disappearances, UN doc. E/CN 4/1986/18 (1986), p. 21, reported in Maria Bartolomei and David Weissbrodt, "The Impact of Fact-Finding and International Pressures on the Human Rights Situation in Argentina, 1977-1983," unpub. ms.

26. Jacobo Timerman, *Prisoner Without a Name, Cell Without a Number* (New York: Random House, 1981).

27. From 1950 to 1980, 3,360 Guatemalan military officers were trained by the U.S. as a part of the International Military Education and Training Program (IMET). U.S. Department of Defense, *Foreign Military Sales, Foreign Military Construction, Sales, and Military Assistance Facts as of September 30, 1984*.

28. For a discussion of U.S. support for counter-insurgency campaigns in Guatemala in the 1960s, see Susanne Jonas, *The Battle for Guatemala: Rebels, Death Squads, and U.S. Power* (Boulder, Col.: Westview Press, 1991), pp. 69-71.

29. U.S. House Committee on International Relations, Subcommittee on International Organizations, *Human Rights in Nicaragua, Guatemala, and El Salvador: Implications for U.S. Policy*, 94th Cong., 2d sess., hearings June 8 and 9, 1976, p. 86.

30. Allan Nairn and Jean-Marie Simon, "Bureaucracy of Death," *New Republic*, June 30, 1986, p. 14.

31. Stephen B. Cohen, "Conditioning U.S. Security Assistance on Human Rights Practices," *American Journal of International Law* 76 (1982): 255.

32. For example, the Washington Office on Latin America, a church-sponsored human rights organization, helped the staff of the House Subcommittee on International Organizations select witnesses to testify in congressional hearings, and later helped brief the witnesses in preparation for their testimony. "Memo from the Washington Office on Latin America, Washington, D.C., May 11, 1976" in App. 1 of *Human Rights: Implications*, p. 155.

33. Lars Schoultz, "Guatemala," in Martin Diskin, ed., *Trouble in Our Backyard: Central America and the United States in the Eighties* (New York: Pantheon Books, 1983), p. 188.

34. U.S. GAO, *Military Sales*, p. 4. Approval of export licenses to Guatemala varied widely over this period: the State Department disapproved 2.1 percent in 1979 and 68 percent in 1980; *ibid.*, p. 21.

35. Schoultz, "Guatemala," p. 187.

36. Peiro Gleijeses, "Guatemala: Crisis and Response," in *Report on Guatemala: Findings of the Study Group on United States-Guatemalan Relations*, p. 54.



37. Amnesty International, *Annual Report, 1980* (London, 1980), pp. 139–144.

38. Amnesty International, *Guatemala: A Government Program of Murder* (London, 1981), p. 7.

39. Gleijeses, "Guatemala: Crisis and Response," pp. 60–61.

40. In 1973, Congressman Donald Fraser (Democrat, Minnesota) began a series of hearings on the subject of human rights in the Subcommittee on International Organizations of the House Committee on International Relations. In 1974 these hearings culminated in a report entitled *Human Rights in the World Community: A Call for U.S. Leadership*.

41. It is noteworthy that some of the most activist members of Congress on the issue of human rights in Latin America never had related committee assignments, while members formally responsible for Latin American affairs, such as Representative Dante Fascell, chair of the House Foreign Affairs Subcommittee on Inter-American Affairs, typically voted against legislation tying U.S. assistance to human rights in Latin America. See Schoultz, *Human Rights*, pp. 146–148. This situation changed in 1981, when Representative Michael Barnes was named chairman of this subcommittee.

42. A high score on the NSI indicates that the congressman votes frequently in favor of "pro-security" legislation, such as increases in the defense budget and support for major weapons systems. See William P. Avery and David P. Forsythe, "Human Rights, National Security, and the U.S. Senate: Who Votes for What, and Why," *International Studies Quarterly* 23 (June 1979): 312; and David P. Forsythe, *Human Rights and U.S. Foreign Policy: Congress Reconsidered* (Gainesville: University of Florida Press, 1988), p. 37.

43. U.S. State Dept., *Human Rights and U.S. Policy*, p. 4.

44. See, for example, the statement of Patrick Breslin in U.S. Senate Committee on Foreign Relations, Subcommittee on Foreign Assistance, *Human Rights*, 95th Cong., 1st sess., hearing March 4, 1977, p. 12.

45. See U.S. House Committee on Foreign Affairs, Subcommittee on International Organizations, *Human Rights and the Phenomenon of Disappearances*, 96th Cong., 1st sess., hearing Oct. 18, 1979, p. 331.

46. Zbigniew Brzezinski, *Power and Principle* (New York: Farrar, Straus, and Giroux, 1983), p. 49.

47. Patrick J. Flood, "U.S. Human Rights Initiatives Concerning Argentina," in David D. Newsom, ed., *The Diplomacy of Human Rights* (New York: University Press of America, 1986), p. 129.

48. "Navy Ship's Visit to Guatemala Reveals U.S. Split on Policy," *Washington Post*, April 21, 1980, p. A14.

49. In the Argentine military regime, the Military Junta, made up of the commanders in chief of the Army, Navy, and Air Force, was the supreme authority. While decisions could be made by majority within the Junta, strong pressures existed for unanimity among its members, and unanimous approval was the general rule. Andrés Miguel Fontana, "Political Decision-Making by a Military Corporation: Argentina, 1976–1983" (Ph.D. diss., University of Texas at Austin, 1987), pp. 27–30.



50. Videla's position strengthened in May-September 1978 when he was reappointed to a term as President of the Republic; his ally, General Roberto Viola, was named Commander in Chief of the Army; and his chief internal opponent, Admiral Emilio Massera, resigned from the Junta.

51. "Se demostró que optaron por la clandestinidad y la ilegalidad," *El Diario del Juicio*, Dec. 11, 1985, pp. 1-2.

52. OAS, IACHR, *Report on . . . Human Rights in Argentina*, pp. 134-135.

53. According to a memorandum signed by Videla, the objectives of the military government "go well beyond the simple defeat of subversion." The memorandum called for a continuation and intensification of the "general offensive against subversion," including "intense military action." "Directivo 504," April 20, 1977, signed by General Videla, reproduced in "La orden secreta de Videla," *El Diario del Juicio*, December 3, 1985, pp. 5-8.

54. David Rock, *Argentina, 1516-1987: From Spanish Colonization to Alfonsín* (Berkeley: University of California Press, 1987), pp. 370-371. This understanding of divisions within the military was reinforced by interviews with military officers and civilian policy-makers of the Videla government, conducted in Buenos Aires in July and August 1990. Other observers, such as Jacobo Timerman, who saw the functioning of concentration camps from the inside, describe a conflict between the "moderates" led by Videla and Viola (eventually responsible for Timerman's release, after an intense international pressure campaign) and the hard-liners, such as Menéndez. The tension between the two groups was still so great in late 1979 that Timerman was released in the utmost secrecy, in order to prevent other groups within the Army from blocking his release. Menéndez, to protest Timerman's release, attempted a rebellion against the Videla faction. Timerman, *Prisoner*, p. 163.

55. In Argentina, the military effectively turned the slogan of human rights to their advantage when, during the 1979 World Cup held in Argentina, citizens sported bumper-stickers in the blue and white colors of the Argentine flag with the slogan "Los Argentinos Somos Derechos y Humanos" (a play on words with the term "human rights"—"derechos humanos"; it translates roughly as "We Argentines are upright and humane").

56. Interview May 13, 1990, with Tom J. Farer, member of the Special Commission of IACHR that conducted the on-site observation in Argentina in September 1979. Also, interview with Ambassador Arnaldo Listre, Buenos Aires, July 20, 1990.

57. Interview, Buenos Aires, July 31, 1990. This interviewee requested absolute anonymity.

58. Interview with José A. Martínez de Hoz, Minister of Economics in the Videla Administration, August 6, 1990, Buenos Aires.

59. Rock, *Argentina*, p. 385.

60. Members of these organizations traveled frequently to the United States and Europe, where they met with human rights organizations, talked to the press, testified before Congress, and met with members of Congress and their staffs and with State Department officials. Alison Brysk, "The Political Impact of Argentina's Human Rights Movement: Social Movements, Transition, and Democratization" (Ph.D. diss., Stanford University, 1990).



61. In March 1984, the juvenile division of the Guatemalan Supreme Court asked the country's mayors to draw up lists of how many children had lost parents since 1980 as a result of political violence. In September 1984, the Guatemalan press reported that the court's preliminary findings suggested that some 100,000 children (and perhaps as many as 200,000) had lost at least one parent, and that some 20 percent of them were orphans. Amnesty International, *Guatemala: The Human Rights Record* (London, 1984), p. 7.
62. Amnesty International, *Guatemala: A Government Program of Murder*; and Americas Watch, *Human Rights in Guatemala: No Neutrals Allowed* (New York, 1982).
63. U.S. House Committee on International Relations, *Human Rights in Nicaragua, Guatemala, and El Salvador*, p. 132.
64. Shelton H. Davis, "State Violence and Agrarian Crisis in Guatemala," in Diskin, ed., *Trouble*, pp. 155-171.
65. Gabriel Aguilera Peralta, "El Proceso de Militarización en el Estado Guatemalteco," *Polemica* no. 1 (September-October 1981), p. 39; Marlise Simons, "Guatemala: The Coming Danger," *Foreign Policy* no. 43 (1981), p. 103.
66. One historical division was between the younger, "modern" military who had been trained in the Escuela Politécnica and the older line officers who had not attended the military academy. The older officers tended to be more conservative, to have closer links to the rural elite, and to be more apt to respond violently to rural unrest. After the overthrow of Arbenz in 1954, most of the progressive officers were purged, but some divisions still remained within the military between different officers with political ambitions. Jim Handy, "Resurgent Democracy and the Guatemalan Military," *Journal of Latin American Studies* 18 (November 1986). On the Escuela Politécnica, see Franklin Patterson, "The Guatemalan Military and the Escuela Politécnica," *Armed Forces and Society* 14 (Spring 1988).
67. Peralta, "El Proceso de Militarización," p. 35.
68. "Lucas Criticizes Carter at Rally After Bombing," *Foreign Broadcast Information Service*, Latin America, September 8, 1980, p. 9.
69. Allan Nairn, "To Defend Our Way of Life: An Interview with a U.S. Businessman," excerpts from interview with Fred Sherwood, in Jonathan Fried et al., eds., *Guatemala in Rebellion* (New York: Grove Press, 1983), pp. 89-92.
70. Amigos del País hired the Washington public relations firm Deaver and Hannaford to improve Guatemala's international image and divert attention from its human rights record. "Guatemala: A Sharp Twist to the Right," *Latin American Regional Report: Mexico and Central America*, Nov. 28, 1980, p. 3.
71. Jim Handy, *Gift of the Devil: A History of Guatemala* (Toronto: Between the Lines Press, 1984), p. 182.
72. U.S. House Committee on Appropriations, Subcommittee on Foreign Operations and Related Agencies, *Foreign Assistance and Related Agencies Appropriations for 1978*, 95th Cong., 1st sess., hearings April 5, 1977, p. 305.
73. U.S. House Committee on Foreign Affairs, *Human Rights and the Phenomenon of Disappearances*, p. 331.
74. "U.S. Links Aid to Argentina Rights," *NYT*, June 1, 1977, p. A12; "Carter



Aide Again in Argentina for Assessment of Human Rights," *NYT*, Aug. 9, 1977, p. A4; "U.S. Official Has Talks in Argentina," *NYT*, Aug. 16, 1977, p. A6; and "Vance Wins Argentine Pledge on Nuclear Arms," *NYT*, Nov. 22, 1977, p. A3.

75. "Cuadro de Situación," *Carta Política*, October 1978, p. 5.

76. Amnesty International, *Guatemala*, p. 5.

77. "Notes on People," *NYT*, May 13, 1978, p. A12.

78. Schoultz, "Guatemala," p. 187.

79. For additional discussions of coercive issue-linkage, see the chapter by John Odell in this volume; and Lisa L. Martin, *Coercive Cooperation: Explaining Multilateral Economic Sanctions* (Princeton, N.J.: Princeton University Press, 1992).

80. Interviews with Ambassador Arnoldo Listre, July 20, 1990, and with Dr. Ricardo Yofre, August 1, 1990, Buenos Aires.

81. Putnam, Appendix, p. 457.

82. *Ibid.*, p. 438.

83. "House Bars U.S. Aid to Seven Countries in Rebuff to Carter," *NYT*, June 24, 1977, p. A1.

84. U.S. House Committee on Foreign Affairs, *Resolution of Inquiry Concerning Human Rights Policies*, 96th Cong., 2d sess., hearing Feb. 6, 1980, p. 8.

85. Putnam, Appendix, p. 441.

86. See, for example, Gracia Berg, "Human Rights Sanctions as Leverage: Argentina, A Case Study," *Journal of Legislation* 7 (1980): 93–112.

87. The importance of human-rights organizations is reflected in the opening statement of Representative Bonker in the hearings considering reinstatement of military aid to Argentina in 1981. "Review of United States Policy on Military Assistance to Argentina," hearing before the Subcommittee on Human Rights and International Organization and on Inter-American Affairs of the Committee on Foreign Affairs, U.S. House of Representatives, April 1, 1981, p. 3.