AMNESTY INTERNATIONAL, HUMAN RIGHTS & U.S. POLICY

Maria Baldwin

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Committee:
Gary R. Hess, Advisor
Franklin W. Goza
Graduate Faculty Representative
Robert Buffington
Douglas Forsyth
This dissertation assesses Amnesty International’s ability to influence U.S. foreign policy through an examination of its human rights campaigns in three different nations—Guatemala, the United States and the People’s Republic of China. While these nations are quite different from one another, according to Amnesty International they share an important characteristic; each nation has violated their citizens’ human rights. Sometimes the human rights violations, which provoked Amnesty International’s involvement occurred on a large scale; such as the “disappearances” connected with Guatemala’s long civil war or the imprisonment of political dissidents in the PRC. Other times the human rights violations that spurred Amnesty International’s involvement occurred on a smaller-scale but still undermined the Universal Declaration of Human Rights; such as the United States use of capital punishment.

During the Guatemalan and Chinese campaigns Amnesty International attempted to influence the United States relations with these countries by pressuring U.S. policymakers to construct foreign policies that reflected a grave concern for institutionalized human rights abuse and demanded its end. Similarly during its campaign against the United States use of the death penalty Amnesty International attempted to make it a foreign policy liability for the United States. How effective Amnesty International has been in achieving these goals is the subject of this dissertation.

This dissertation argues that Amnesty International has played an important, if often overlooked, role in shaping the environment in which foreign policy was made in the United States. While it would be difficult to argue that it was directly responsible for specific pieces of
legislation this dissertation asserts that Amnesty International was instrumental in increasing
U.S. policymakers’ sensitivity to human rights issues during the last quarter of the twentieth
century. While this increased sensitivity did not always translate into domestic or foreign
policies that fully respected the provisions of the Universal Declaration of Human Rights the
ability of Amnesty International, a non-governmental organization, to pressure U.S.
policymakers and to change the policymaking environment needs to be studied.
For Mike
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Perhaps most of all I am indebted to my husband who endured months of a physically present partner who was mentally in the trenches of human rights campaigns that spanned the last several decades; for that alone he richly deserves the dedication extended to him from the start.
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CHAPTER I: INTRODUCTION TO AMNESTY INTERNATIONAL’S DETERMINED PROTEST FOR HUMAN RIGHTS PROTECTION

While many in the United States acknowledge the positive attributes of human rights in general, the appropriate role that they should play in the construction of foreign policy has been heavily debated. Part of the problem stems from the ease with which the origin of human rights has been explained; a person has human rights simply because they are human. The planet has six billion people, even with sufficient political will to protect human rights, how does one ensure the human rights of over six billion people? Which human rights should be prioritized: political, civil, social, economic, or cultural? These questions are argued within governments but also within the human rights community, proving that these categories of human rights do not fit seamlessly together. The global acceptance of human rights ideology by the turn of the century stemmed from the struggle to define and develop the concept of human rights, which took place over the course of hundreds of years, and by the dramatic events of World War II. The modern human rights era is anchored to this long term development as well as the outrage connected to the events of the war.

The gross human rights violations committed during the war gave tremendous impetus to the human rights movement as governments looked for ways to ensure that human rights would be protected in the post-war era. To that end they chartered the United Nations (UN) and created the Universal Declaration of Human Rights (UDHR) a non-binding human rights document that charged governments with the responsibility to ensure that human rights were protected. The ratification of that document while non-binding strongly suggests that human rights had became a global common in the aftermath of World War II. Progress, however, in the area of human rights has not always been consistent. For instance, the universality of human rights was challenged by the Chinese Communist government through the 1990s, which asserted that
Confucian-based societies observed something it called “Asian Values” rather than human rights. But the PRC’s arguments did not make much headway internationally and it had largely abandoned the Asian values concept by the late 1990s. There were however other, more pervasive problems, including governmental failures to create policies that reflected a concern for human rights and the inclination to treat human rights as aspirational pursuits rather than legally-binding obligations. As a result, some human rights advocates took up the task of explaining to and insisting that policymakers constructed foreign policies that protected human rights. It would be easy to suggest that foreign policy and human rights do not intersect and that human rights considerations should take a back seat to more important matters that strike at the heart of a nation’s vital interests. But such a statement ignores hundreds of years of global history and the significant impact some human rights movements have had internationally.

Many of the early human rights movements were international in scope, because they occurred within vast empires that dominated several cultures and territories. Such was the case with a sixteenth century campaign led by the Spanish monk, Bartolomé de Las Casas. He dedicated his life to improving the plight of the indigenous people living within the Spanish Empire in the New World.¹ Beginning in 1514 he condemned Spanish treatment of the native people and led a one man campaign to convince Charles V of the Holy Roman Empire (Charles I of Spain) that the period of military conquest was over. He further asserted it was time to peacefully convert the natives and transform the area into an agricultural colony. While he succeeded in persuading the King of Spain, not much changed in the Americas due to the distance and time involved in enforcing royal decrees. As a result, Las Casas began to take

¹ Part of Las Casas’s efforts involved the publication of The Devastation of the Indies: A Brief Account which documented the treatment of the indigenous population by the Spanish. This volume has been reprinted numerous times and the 1992 edition published by John Hopkins University Press included an extensive introduction written by Bill Donovan who placed Las Casas’s account into historic context.
matters into his own hands to compel the Spanish in the New World to modify their behavior toward the indigenous people. First, he refused to give final absolution to any Spaniards who did not free their Indian slaves or pay restitution. He was recalled to Spain in 1545 but did not give up his campaign for the indigenous people and in 1552 he published a damning critique of Spanish rule in the Americas entitled *The Devastation of the Indies*. It was quickly translated into English, French, and Dutch making Spanish atrocities known to both Catholic and Protestant Europe. While Las Casas human rights’ legacy is somewhat tainted, he did present the Spanish Empire with a moral challenge regarding the humanity of its actions in the New World. His actions did not fundamentally change Spanish doctrine and he died in 1566 voicing regret that he did not do more.

Las Casas’s efforts were only marginally successful; suggesting that the isolation of such efforts would ultimately lead to their failure. In addition, the nature of international relations which heavily favored the powerful, the sanctity of national sovereignty and the disinterest of other governments and peoples worked against this early human rights movement. However, as powerful countries expanded so did their vital interests. This expansion of vital interests;

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2 Las Casas’s critics believed that his crusade on behalf of the indigenous people was merely a smear campaign against the Spanish whom he had grown to dislike. Biographers suggested that Las Casas, a Spaniard himself, indulged in this self-hate because he had come to see his own actions, including receiving rewards in the form of Indians and land, as reprehensible. It has also been proposed that this self-hate emerged from his belief that Spain—the primary colonial power—was the chief villain in the devastation Las Casas witnessed and therefore it was natural for him to come to develop an aversion to the Spanish. This aversion was due in part to his extensive cultural emersion in the Americas. He learned several native languages after becoming the first priest ordained in the New World in 1512 and he spent much of his life as a priest living among the indigenous people of the Americas. By 1514 when Las Casas began openly criticizing the Spanish for their treatment of the indigenous people one could argue that Las Casas’s identity as a Spaniard had been compromised as a result of this cultural emersion; therefore explaining this apparent self-hate.

3 Despite Las Casas’s efforts on behalf of the indigenous peoples his legacy as a true social critic was challenged because he asserted that Africans should replace the indigenous as slaves in Americas. A position he later recanted but this incongruence was used by his opponents to challenge the earnestness of his commitment. Bartolomé de Las Casas, *The Devastation of the Indies: A Brief Account* with an introduction by Bill M. Donovan (Baltimore: The Johns Hopkins University Press, 1992), 3-5, 20.
coupled with the evolving beliefs about natural law, created an environment within which
governments became more responsive to human rights campaigns.

Long before the term human rights came into being, the idea that such a concept existed
was explored by philosophers such as Menius and Plato.\textsuperscript{4} Menius argued for “natural rights”
and contended that the universal laws of nature supercede the dictates of any particular
government.\textsuperscript{5} Plato asserted that a universal standard of moral justice existed and as a result
some actions were clearly just and others were unjust. Such arguments undermined
governmental claims of sovereignty and absolute power. Further they asserted that the
government was not the source of rights. They instead argued that a greater power, such as God
or a trait held in common by humanity, such as reason was the true source of rights. The
thinkers of the Enlightenment, such as John Locke, further developed the idea of natural rights
and explored the relationship between rights and government responsibility. His *Second Treatise
of Government* (1690) asserted that all people possessed natural rights no matter where they lived
and that they had set up governments to protect those rights, not to surrender them. The
perception of government transformed in the wake of the Enlightenment and the violence, due in
part to these radical ideas, resulted in the creation of important documents, such as the United
States Declaration of Independence, the French Declaration of the Rights of Man and Citizen,
and the American Bill of Rights.

The Enlightenment and the documents, which it in large measure inspired, undoubtedly
had an impact on another important thinker of the time, Thomas Paine. When he published *The

\textsuperscript{4} The development of human rights philosophy is covered in numerous volumes such as Patrick Hayden’s *The

\textsuperscript{5} Natural law is no longer considered a strong source for human rights because what is right depended upon the
perspective of each individual. In addition, the idea that we can not get a “should” from an “is” would eventually
blunt the usefulness of this argument. In general, the trouble lay with attempting to create a list of human rights
from a general statement about human nature. However, at the time, thinking about rights as belonging to people
rather than governments and royalty was an important turning point.
Rights of Man in 1791 he used the term “human rights,” perhaps for the first time and asserted that the source of these human rights was the universal natural rights of individuals. He also suggested that the best way for an individual to secure human rights, was to work to secure the same rights for others, “Whatever is my right as a man is also the right of another; and it becomes my duty to guarantee as well as to possess.”⁶ He would likely have been pleased by the emergence of the first international human rights organization in 1839; the British and Foreign Anti-Slavery Society, which endeavored to test Paine’s theory by working to abolish slavery.⁷

By the time the British and Foreign Anti-Slavery Society was created, the British government had been actively involved in ending the slave trade for two decades. Once the British government supported the idea of fighting against the slave trade, it used its powerful navy to enforce this standard not only on its own colonial possessions, but upon others as well.⁸ Great Britain had ended the slave trade in 1807 and the United States followed suit in 1808; however, beginning in 1815, the British began using its navy to pressure Spain, Portugal, France and the Netherlands to abolish the slave trade. A British naval squadron was stationed along the West African Coast in 1819 to patrol for illegal slavers and beginning in the 1840s, the British raided the slave barracoons on the Gillañas River. Eventually the British military destroyed the slave factories at Lomboko. The British campaign against the African slave trade had innumerable international consequences; one of the most important for the development of human rights was the coalition of activists across national borders. This coalition continually pressured the British government to remain involved and to use its military power to disrupt the

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⁷ The British and Foreign Anti-Slavery Society is currently known as the Anti-Slavery Society for the Protection of Human Rights and is considered the longest continually existing INGO in existence.
⁸ The British efforts to end the slave trade are detailed in Linda Rabben, Fierce Legion of Friends: A History of Human Rights Campaigns and Campaigners (Brentwood, MD: The Quixote Center, 2002).
slave trade. Because the British government agreed that it was advantageous to end the slave trade it used its powerful navy to force other nations to conform to its position. The British government therefore violated other nations’ sovereignty in order to end human rights abuse. At the time this intrusion in the name of human rights was uncommon but eventually nations would voluntarily relinquish a degree of sovereignty and thereby undermine the dogma of national sovereignty in the name of human rights.

The 1863 creation of the International Committee of the Red Cross (ICRC) was the result of an individual’s outrage at the tragedy of human suffering. J. Henry Dunant while in northern Italy in 1859, witnessed the aftermath of the Battle of Solferino, a fifteen hour battle under the scorching sun fought by 300,000 Italians, Frenchmen and Austrians. The battle itself was bloody and deadly; however, the aftermath was also horrific as wounded survivors of the battle languished under the scorching sun because medical services were wholly inadequate to the need. Dunant believed that the aftermath and the suffering of the wounded was an affront to the soldiers’ common humanity and published his observations of the battle and its aftermath. He called for the creation of a neutral organization whose task was to take care of these fallen soldiers, regardless of which side they fought for or where the battle was waged. To that end, nations signed the Geneva Convention (1864) which governed the treatment of wounded soldiers. The power to wage and conduct war as a nation desired was the exclusive jurisdiction

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9 The majority of these international activists were British Quakers they were assisted by several British newspapers that published advertisements and articles from anti-slave trade advocates. However, these same newspapers also printed advertisements seeking the recovery of runaway slaves because they needed the advertising revenue. Linda Rabben, *Fierce Legion of Friends*, 13.

10 The ICRC has been awarded the Nobel Peace Prize three times first in 1917 then in 1944 and 1963. In addition, Henry Dunant was awarded this Nobel Peace Prize in 1901 in connection with his work to create the ICRC. J. Henry Dunant, *A Memory of Solferino* (Washington D.C.: The American National Red Cross, 1939).

11 Since 1864 the Geneva Conventions have been expanded and revised those additional Conventions and Protocols which protect individuals not involved in the fighting such as medics and civilians but also those who could no longer fight, such as prisoners of war and troops that were shipwrecked. At this time 190 nations, almost every nation in the world adheres to the Geneva Conventions.
of national governments but under the Geneva Convention nations relinquished this unbridled power to conduct war as it wished. Those that signed the Geneva Convention in 1864 did it because it received benefits, most notably the improved treatment of its own soldiers. However it should also be noted that the erosion of national sovereignty in the area of human rights was now underway and was legitimized by international humanitarian law.

This erosion of national sovereignty and legitimacy of humanitarian law can also be seen at the turn of the twentieth century with the creation of the Congo Reform Association (CRA) sometimes referred to as “the first international human rights movement of the twentieth century.” The target of the CRA was the King Leopold II of Belgium who claimed the African Congo as his own personal colony. Under his brutal ownership it is estimated that between five and eight million Congolese people died as a result of overwork, malnutrition, disease, torture and outright murder. Edmund Dene Moral, the creator and leaders of the CRA, pioneered many of the tactics used by modern human rights INGOs to expose human rights atrocities in the African Congo. The CRA exposed Leopold’s action in the Congo in international newspapers, pamphlets, books and organized international speaking tours to spread the word about Leopold’s crimes. It also used photographic evidence to substantiate the allegation set forth by the organization and challenged Leopold to reform his colony or turn it over to the Belgian state. Morel made letter writing a central focus on his campaign to improve the situation in the Congo. He estimated that in the first six months of 1906 alone he wrote 3,700 letters to politicians and prominent members of societies around the world in order to encourage their participation in the CRA. In response to his letters, books, pamphlets and newspaper articles Morel also received thousands of letters expressing support as well as offering information on the situation in the

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14 Ibid, 214.
Congo. By 1908 Morel claimed he had received about 20,000 such letters which he filed and cross-checked for accuracy before sharing the allegation to the international press. By the time the CRA had its final meeting in 1913 the Congo had been a colony of Belgium, rather than King Leopold II’s, for nearly five years. The violence however continued despite the transfer of authority; but the reformist zeal of Morel’s mobilized “betters” of elite society had been then faded substantially. Some of the tactics of the modern human rights movement are apparent in the CRA such as the successful use of international accountability, shaming, and cooperation to improve human rights protection but the failure to maintain that pressure allowed for the continuation of human rights abuse under the authority of the Belgian state rather than King Leopold for decades. The tension between government intentions and the reality of their policies suggest that modern human rights organizations need to maintain pressure on governments and maintain their own momentum in order to prevent a retreat on human rights improvements.

The twentieth century proved to be the bloodiest in human history with some estimates finding that between 60,000,000 and 100,000,000 were killed during the century. The genocides in Armenia, Cambodia, Rwanda, Bozni-Herzegovina, and against the indigenous peoples of Central and South America and Australia; in addition to the deaths related to World War I, World War II, wars in Korea, Vietnam, and the Middle East, global terrorism, and others demonstrate the shocking potential for inhumanity. Primarily governments bore the responsibility for this incredible level of violence but increasingly the source of this inhumanity needs to include non-state actors. The fatal blow to the idea that states had an unbridled right to do as they desired within their own borders came as a result of the Nazi’s actions during World War II. The need to have international oversight became obvious and contributed to the birth of the United Nations.

15 Ibid.
The establishment of the United Nations marks the beginning of the modern human rights movement. The UN is an intergovernmental organization (IGO) created to act as a human rights watchdog and its charter welcomed the participation of international non-governmental organizations (INGOs), especially in the area of human rights. Thus adding another layer of agencies to work for the protection of human rights; however, member governments have the power and responsibility to create and enforce policies. INGOs attempt to influence member governments and have been instrumental in formalizing and instituting international human rights norms and laws. This relationship between governments and INGOs began with the creation of the document which ushered in the contemporary human rights movement.

The founding human rights document, upon which all other international human rights treaties are anchored, is the Universal Declaration of Human Rights (UDHR). It was unanimously adopted by the United Nations on 10 December 1948 and declared that all people had political, civil, economic, cultural and social rights. Governments that ratified this document obligated themselves to protect these rights. The UDHR serves as the foundation for the modern human rights movement and is the product of efforts by both governments and INGOs to protect human rights in the aftermath of World War II. Over 40 INGOs were invited to participate as consultants or observers in the drafting of the Declaration including peace and labor organizations, Jewish, Catholic and Protestant groups, and legal associations. This combination of governments and INGOs drafted and worked for the ratification of the UDHR

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16 Human rights norms are “social expectations that have been codified to some degree in formal international legal instruments” and create international pressure irrespective of whether a nation ratified a specific human rights document. Anne Marie Clark, *Diplomacy of Conscience: Amnesty International and Changing Human Rights Norms*, (Princeton: Princeton University Press, 2001), 11.

17 The UDHR was unanimously adopted however, there were a number of abstentions including Byelorussia, Czechoslovakia, Poland, the Ukraine, the USSR, Yugoslavia, South Africa, and Saudi Arabia. Honduras and Yemen were absent. The day that the UDHR was adopted, December 10, 1948, is celebrated annually as International Human Rights Day.

during the brief window of international cooperation immediately following the end of World War II before the Allied victors became Cold War enemies. The international participation during the drafting sessions as well as the nearly universal ratification of the UDHR granted significant international legitimacy to the human rights instrument and was an important landmark in the long history of the human rights movement, even as the initial optimism of 1948 faded. All too soon the geopolitical demands of the Cold War compromised governmental willingness to enforce the UDHR as it was intended therefore the other participants in the drafting of the UDHR, the human rights INGOs, endeavored to fill the gap.

While the victors of World War II had worked together to win the war, the marriage of convenience that they had shared to defeat Germany and Japan began to dissolve even before the war ended, as each had different ideas about how to manage the aftermath of this great conflict. The United Nations was one such site within which the conflict, the Cold War, would be fought and human rights became one of the weapons in that struggle. The first evidence of this contest came with the formation of the UDHR and the failure to name the instrument a “covenant” and thereby endow it with the force of law. The document was named a “declaration” which did not carry the same weight, was not legally binding on its signatories and contained no mechanisms to sanction or otherwise punish those who violated its provisions.\(^{19}\) In addition, governments began to use human rights as a political tool to embarrass political opponents while simultaneously ignoring the human rights violations of political allies. There was also a tendency within the two opposing blocs to fracture the UDHR by prioritizing specific groups of human rights over others based on political ideology. While the United States and its allies favored civil and political human rights, which dominated Articles 3 through 17 in the UDHR,

the Soviet bloc asserted that the social and economic human rights contained in Articles 18 through 27 were of paramount importance. This political partition of human rights by governments undermined the interdependent, indivisible and universal nature of the UDHR and revealed the inability of governments to be the leaders of the human rights movement, especially during the Cold War. While human rights activists and the INGOs who helped draft the UDHR were frustrated with the unimpressive performance of governments, their inaction did provide an opportunity for human rights INGOs to exploit the gap between promise and practice. This challenge would lead to the elevation of the issue of human rights through campaigns to bolster international human rights norms and increase the number and strength of human rights INGOs.

The UDHR importance lies predominantly in that it was an international human rights document that defined human rights and outlined the expected behavior of governments regarding those rights; thus creating norms which each government was morally bound to respect within its borders. However, progress in the area of human rights following the ratification of the UDHR, even with the aggressive work of human rights INGOs, has been hampered by a number of obstacles that complicated the realization of the UDHR’s provisions. Many of these difficulties stem from the UDHR itself: it includes a vast number of human rights, several of which were in tension with each other; it creates human rights absolutes which are often incompatible; and it contains no mechanism to sanction those that do not adhere to its provisions. Human rights INGOs and activists also had to wrestle with the dilemmas of reconciling practice with the fact that governments cannot be leaders in the areas of human rights; however, it seems clear that human rights often take a back seat to other consideration and so there is room for other actors to come to the forefront of this issue. Overtime these other actors have gained much more experience with the issue and therefore in a strong position to champion the issue. As we have seen since the end of the Cold War, governments are sometimes willing to make human rights an important issue but at the same time they are willing to let these actors do the leg work because they are better at it and it is cheaper for them. As a result, INGOs cannot simply be ignored or done away with because they fill a vital function, but governments should also keep in mind that these organizations can be adversaries as well as allies.
with principle, reality with the ideal and pragmatics with absolutes. In addition to surmounting these internal challenges, human rights INGOs had to attend to governmental failures to adhere to the flawed but groundbreaking UDHR. Therefore human rights INGOs interactions with governments and their use of international law and power to overcome these obstacles are important components of the modern human rights movement.

Human rights INGOs had their work cut out for them as they not only had to increase awareness of human rights issues in general but also to clarify, strengthen and legalize human rights norms. Sometimes this work was achieved by a single individual such as the 1948 ratification of the Convention on the Prevention and Punishment of the Crime of Genocide, which was almost single-handedly ratified due to the work of Raphael Lemkin. Other treaties such as the International Covenant on Civil and Political Rights (1976), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987) and the Rome Statute of the International Crime Court (1998) were ratified due to the work of INGOs and individuals over a long period of time. All of these Conventions and Treaties have strengthened international human rights norms which were first formalized in the UDHR. In addition to strengthening norms, these instruments helped move human rights from the moral realm into the legal one, because they had the force of international law and contained mechanisms to punish those signatories who were in violation. While this demonstrates progress, enforcement of these treaties was often politicized, even after the Cold War. This uncertain enforcement of international human right norms illustrated the challenge of doing human rights work even in a time when the overall virtue of human rights was general accepted around the world. By the

22 Acceptance of human rights ideology did not necessarily translate into implementing human rights-friendly policies.
1960s many governments seemed increasingly reluctant to acknowledge, much less act on these norms. When this reluctance was coupled with the continued abuse of human rights around the world, the need for more human rights INGOs to work on behalf of human rights principles became apparent. In this environment of reluctance and escalating abuse a number of new human rights INGO were created; perhaps one of the most important of these was Amnesty International (AI).

Founded in 1961 by Peter Benenson, AI today boasts a membership of over 1.8 million dues-paying members from over 150 countries and territories. It is an international, voluntary, grassroots, human rights activist organization whose mission and vision statement asserts that the organization’s primary concern is the impartial protection of human rights.

Amnesty International’s vision is of a world in which every person enjoys all of the human rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. In pursuit of this vision, AI’s mission is to undertake research and action focused on preventing and ending grave abuses of the rights to physical and mental integrity, freedom of conscience and expression, and freedom from discrimination, within the context of its work to promote all human rights.

This statement represents an expansion of AI’s work which had traditionally prioritized civil and political rights. This prioritization became a source of criticism for the organization because it did not mesh with AI’s contention that all human rights were universal, interdependent and indivisible. The move to what AI calls a “full spectrum” approach to its human rights work

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24 Ibid. 287. Adopted in 2002 when AI decided to do away with its ever expanding mandate.
25 This criticism, during the Cold War, came from the Soviet bloc who themselves privileged social and economic human rights over political and civil rights. However, AI was also criticized in the post-Cold War by the NGO Committee at the UN when it stated that “Amnesty International should expand its area of concern to include socio-economic rights.” United Nations Press Release NGO/264 January 29, 1996.
has begun to address the concerns of those critics.\textsuperscript{26} Moreover, this vision and mission statement situates AI’s human rights work firmly within the parameters of international human rights laws and widely accepted human rights norms and asserts that it will pursue the realization of these law and norms through action and research. This statement asserts therefore that AI, while expanding its work, will build on its traditional source of strength, action based on first-rate human rights research. AI is primarily an information-collecting and information-distributing advocacy organization; its information consists of evidence of human rights abuse and counts on the publication or threat of publication of these facts to shame governments into complying with international law. Thus AI puts a great deal of weight on the power of shedding light on human rights abuse to prevent further violations of human rights or to end them once they have begun.

At the core of AI’s human rights work is its attempt to persuade two different groups—government officials and their constituents—that human rights should be an important consideration when constructing policy. The relationship between these two groups in the United States provides an opportunity for AI to advance human rights protection around the world provided that it can successfully elevate human rights issues to these groups. AI asserts that national governments have a duty to uphold and protect the international human rights laws they have agreed to in international, national and regional forums and to abide by international human rights norms. As mentioned earlier, the development of international human rights norms and law had been an important component of the human rights story since the end of World War II. Often AI’s human rights strategy included using human rights norms, and the international expectations that came with them, to create pressure on governments to either ratify a human rights treaty or at least adhere to the international expectation that such rights were to be

\textsuperscript{26} The full spectrum approach has eliminated the traditional prioritization given to political and civil right but AI implementation of this new approach has proceeding slowly in order to achieve the right balance and to ensure this tremendous change does not hurt the organization.
protected. Consequently, a country that was not formally bound to a human rights instrument could still be targeted by AI’s human rights campaigns when there was sufficient international consensus attached to the human rights issue. The implication here is not that governments are always persuaded by these human rights norms and campaigns but that the failure to formalize a human rights instrument presents no barrier to human rights campaigns within that country based on the provisions of those human rights instruments.

AI’s second target audience, the general public, plays an important role in raising the “social expectations” that could result in a government aligning its policies with international human rights norms. The general public within the country, especially if it is a democracy, can create internal pressure on its government to comply with international norms while the interested public abroad can lobby its own government to apply political pressure. AI members believe that a “large numbers of activists, raising their voices together in determined protest, can protect people in danger in other countries” reflecting the transnational nature of human rights.27 This “determined protest” can not only save individuals whose human rights are violated, but also protect all individuals who are in danger of human rights abuse because such advocacy can result in the expansion and strengthening of international human rights norms. Systematic abuse of human rights norms may most often occur in the developing world or in those countries living under an authoritarian regime, but AI asserts that any violations of a person’s human rights is an abuse of power and that abuse of power threatens all people because it undermines the rule of law. Therefore, to secure the rule of law AI lifts a person’s individual suffering from its individual, local context and places it in the context of international law. Once the individual’s plight is conceptualized in this way the interdependency of human rights protection, the rule of

law and “determined protest” becomes clear. The best way to ensure one’s own human rights was to work for the protection of others and that is achieved by taking action, as Thomas Paine suggested nearly 200 years earlier.

Simply because AI rationalized human rights this way did not mean that this was a universally accepted characterization of this contentious issue. Its “determined protest” looked to many governments, who place a priority on sovereignty and internal security, like an extra-government attack on those principles. AI answered the charges regarding sovereignty by planting its human rights demands in the rule of law and arguing that governments relinquished a portion of their sovereignty when they signed or ratified human rights documents and/or include human rights protections into their national laws. In addition, the existence of international human rights norms meant that the failure to sign these human rights documents did not free governments from attempts to get them to modify their human rights policies. Following this logic, AI was not demanding anything from the governments that they had not already promised or were expected to respect due to evolving human rights standards agreed upon by the international community.\(^{28}\) In addition, many in the human rights community argued that the best way to create internal security was for the government to respect human rights and therefore disregarded governmental claims that human rights work destabilized nations.\(^ {29}\) The disconnect between international human rights norms and human rights reality provided the space for AI’s “determined protest” and it pioneered some of the methods to close that gap between human rights promises and reality.

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\(^{28}\) Ibid.

\(^{29}\) For instance, William F. Schultz’s, Executive Director of AIUSA, book *In Our Own Best Interest: How Defending Human Rights Benefits Us All* asserted this idea that countries will be more stable when they protect and promote human rights within their border.
The methods that AI employed to achieve its overall mission evolved as the organization grew. Early in its history, when its membership was small and its finances inadequate, its tactics focused primarily on letter-writing and working on behalf of individuals. As it grew, AI branched out to include working for groups of people, interacting with policymakers in multiple forums and educating the general public. Its methods were designed to place increasing pressure on human rights violators in order to ensure compliance with international human rights and norms. Pressure built up because demands were persistent and increased in number and because governments faced an increasing degree of scrutiny of their actions. AI believed this pressure worked because government leaders were only willing to follow where public opinion led; therefore, pressure worked best when it came from multiple sources and reflected a clear direction in public opinion. AI’s founder aimed to organize those sympathetic to human rights protection by introducing a new form of “determined protest,” the letter-writing campaign.

Peter Benenson’s Appeal for Amnesty campaign was its first attempt at organizing the determined protest that would become AI. His article, “The Forgotten Prisoners” launched a worldwide appeal and called for a united response to human rights abuse. It began:

Open your newspaper any day of the week and you will find a report from somewhere in the world of someone being imprisoned, tortured or executed because his opinions or religion are unacceptable to his government. There are several million such people imprisoned—by no means all of them behind the Iron and Bamboo Curtains—and their numbers are growing. The newspaper reader feels a sickening sense of impotence. Yet if these feelings of disgust all over the world could be united into common action, something effective could be done.30

Benenson’s call for organization was sparked by the imprisonment of two Portuguese students whose only crime was to toast liberty. The article detailed the cases of six other Prisoners of

Conscience (POCs), a term coined by Benenson, and appealed to the general public to write on behalf of these individuals to try to secure their release. He defined a POC as:

Any person who is physically restrained (by imprisonment or otherwise) from expressing (in any form of words or symbols) any opinion which he honestly holds and which does not advocate or condone personal violence. We also exclude those people who have conspired with a foreign government to overthrow their own.  

This adoption of POCs and the letter-writing campaigns became the trademark of the growing organization.

While scholars may debate Amnesty International (AI), effectiveness in influencing government policies there is little debate about its effectiveness at the individual level, especially by those who have been directly impacted by its POC campaign. AI never claims credit for the release of any POC; however, it has been instrumental in securing the release of thousands of POCs since its founding in 1961. When Peter Benenson founded AI he created a letter-writing organization that politely asked the governments of the world to release POCs; it was called one of the “larger lunacies” of the time that some believed that such a tactic would work. By 1980 AI estimated that its members wrote at least one million letters a year and it asserted that these letters help to secure the release of a POC or at least improved the conditions of their imprisonment.

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31 Peter Benenson, “The Forgotten Prisoners.” This definition was modified in Amnesty’s Mandate in 1991 and was then defined as “people subjected to imprisonment, detention, or other physical restrictions imposed by reason of their political, religious or other conscientiously held beliefs or by reason of their ethnic origin, sex, colour, or language, provided that they have not used or advocated violence.” Amnesty International, *Amnesty International Report 1992* (London: Amnesty International Publications, 1992), 11, AI Index: POL 10/01/92.

32 A ‘prisoner of conscience’ is not the same as an ‘innocently’ or ‘wrongly’ or ‘unjustly’ imprisoned person. An innocent, wrongly, or unjustly imprisoned person is not necessarily a prisoner of conscience unless their imprisonment stemmed from a persecution because of his or her identity or beliefs. But AI does work on cases such as these by attempting to get fair trials for these kind of prisoners. Amnesty International, *Amnesty International Handbook*, 7th ed. (New York: Amnesty International Publications, 1991), 29, AI Index: ORG 20/02/91. Definition of POC from London Observer 29 May 1961.


on 30,000 individual cases of POCs or possible POCs and that 25,559 of those cases had been resolved.\textsuperscript{35} There is little doubt that those 25,559 believed AI was an effective organization; statements made by former POCs bear this out.

One such former POC was Rajat Neogy, the founding editor of the African magazine \textit{Transitions} which the \textit{New York Times} called “Africa’s slickest, sprightliest, and occasionally sexiest magazine.” The magazine frequently attacked African dictators and Neogy was imprisoned in 1968 and charged with sedition after the magazine had criticized Ugandan President Milton Obote’s proposed constitutional reforms.\textsuperscript{36} AI named him a POC that year. He was released in April 1969 and spoke out about the importance of AI’s intervention on his behalf.

The political prisoner’s greatest fear is of being forgotten. His gratitude to anybody or any organization that keeps him alive in the outside world is humble and boundless. When Amnesty International in Britain declared me a ‘prisoner of conscience,’ our underground grapevine was seething with excitement. It meant Uganda’s detention laws had been brought to world attention and for some detainees who have been imprisoned for over three years its was like breathing new air.\textsuperscript{37}

This gratitude for AI’s work was also reflected in a statement by former POC Faraj Ahmed Birgdar, a poet and journalist from Syria; “Whatever you think the impact of your work may be it will be greater than you can imagine.”\textsuperscript{38} There are copious other expressions of gratitude from former POCs, which begs the question, how did AI achieve these successes?

Nations of every political ideology and in every stage of development continue to imprison those within its borders it perceives as a threat, despite our civilized pretenses and the

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existence of international law which forbids it. Peter Benenson, the founder of AI, believed the failure to remedy these injustices was a threat to human rights around the world and so with the help of friends, developed the Appeal for Amnesty in 1961. His appeal was answered by thousands of people around the world.  

This adoption of POCs and letter-writing campaigns would quickly become the trademark of the growing organization and relied on the belief that governments were sensitive to public opinion. The Appeal for Amnesty in 1961 claimed that the legal basis for this letter-writing campaign resided in Article 18 in the UDHR, which ensured the freedom of thought, conscience, and religion including the right to “receive and impart information and ideas through any media and regardless of frontiers.” As the Appeal gained more publicity, AI headquarters in London received letters from all over the world regarding other possible POCs in need of its attention. Benenson and others who formed the leadership of the new organization established procedures to determine who was eligible for POC status to ensure each fell within the parameters established by Benenson’s definition. After it was confirmed that a prisoner was a POC, which was different from being innocently or wrongly imprisoned, AI demanded the immediate and unconditional release of the individual and refused to negotiate with holders to obtain release.

After an individual was designated a POC he or she was then adopted by an AI group. That group then worked to secure the immediate and unconditional release of that POC by appealing to various authorities, primarily through letter-writing campaigns and mobilizing public interest. These activities gradually, but consistently, increased the pressure on the

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39 By 1963 in AI’s Prisoner of Conscience Library in London it already had 2,800 cases from 83 countries that were continually updated by volunteer researchers. Egon Larsen, A Flame in Barbed Wire: The Story of Amnesty International (New York: W. W. Norton & Company, 1979), 27.


offending government to release the POC. AI’s Handbook explained how long-term pressure was created:

Pressure comes from the fact that these actions never stop and that the influence of these actions continues to grow. One letter to a Minister of Justice is not pressure. A second letter is. Two letters from one person every single week is a little more pressure and two letters from a few people every single day is a little more still.⁴²

This technique seemed to work especially well in authoritarian regimes because no one wanted to be the person who discarded correspondence addressed to the head of the government.⁴³

Benenson believed that political dissenters were imprisoned because governments could do so with little political cost. In most cases, the imprisoned people were simply forgotten. AI set out to raise the political costs by shedding light on these illegal imprisonments and bringing international attention on this activity in the hopes of shaming governments around the world into complying with human rights laws. Although governments rarely acknowledged the effectiveness of this method and AI never claimed full credit for any individual released, the pressure of these letter writing campaigns had a cumulative effect and increasingly led to the release of political dissenters.⁴⁴ Because AI’s primary mission was to secure the release of POCs it organized campaigns that mobilized its entire membership to work on behalf of selected POCs.

Two of these campaigns that highlighted the plight of POCs were the Prisoner of the Month campaign initiated in 1965 and Prisoner of Conscience Week, which began in 1968. Both of these campaigns were designed to mobilize the entire AI membership to compliment the work of local AI groups and selected POCs that were suffering particularly abusive treatment or

rapidly deteriorating health conditions. The Prisoner of the Month campaign was designed to
mobilize AI’s entire membership to inundate three different government officials each month
with requests to release the spotlighted POCs. The International Secretariat selected the three
POCs highlighted in AI’s monthly newsletter and provided AI members with a case history of
each POC along with the following remarks:

Each of the people whose story is told below is a prisoner of conscience. Each
has been arrested because of his or her religious or political belief, colour, sex,
ethnic origin or language. None has used or advocated violence. Their
continuing detention is a violation of the United Nations Universal Declaration of
Human Rights. International appeals can help to secure the release of these
prisoners or to improve their detention conditions. In the interest of the prisoners,
letters to the authorities should be worded carefully and courteously. You should
stress that your concern for human rights is not in any way politically partisan. In
no circumstances should communications be sent to the prisoner.

According to AI by 1977 no fewer than 20,000 people participated in these monthly campaigns
and it claimed progress in many of these featured POC cases.

It is impossible to measure the precise impact of their concerted appeals for
release, but during the first ten years of the campaign since 1965, massive appeals
have been launched on behalf of more than 360 people. Of these, at least 178
prisoners in 45 countries were released, had their sentences reduced, or were
transferred to better conditions, following the AI campaign.45

A significant number of AI members also participated in the annual campaign that highlighted
the plight of POCs.

Prisoner of Conscience Week, observed annually in October, was a week-long publicity
campaign that highlighted twelve POC cases that symbolized the suffering of all POCs adopted
or under investigation by AI around the world.46 For example, in 1972 the selected POCs for
this campaign were historians, clergymen, writers, political activists and physicians from
Nationalist China, South Africa, the Soviet Union, Turkey, Namibia, Zanzibar, Indonesia, Cuba,

46 Ibid, 16.
Czechoslovakia, Paraguay, Spain and Hungary. Some were surprised in 1974 when the Prisoner of Conscience Week included an American, Martin Sostre, whom AI asserted was “a black activist apparently framed by the police because of his radical activities.”

Sostre operated a political oriented bookstore in Buffalo, New York, and was convicted in 1968 of selling $15 worth of heroin and sentenced to 20–30 years imprisonment. He was a civil rights, anti-war activist who had taught himself about the American legal system while imprisoned and then used that knowledge to address prisoner abuse. He was placed in solitary confinement because he “attempted to mail legal papers he had prepared for a co-defendant who had not yet been tried. These papers were intercepted by the warden, who ordered Sostre confined in solitary from June 25, 1968 until July 2, 1969.” Sostre sued New York State for the unjust suffering and cruel and inhuman conditions of his 372-day confinement and received $13,020 in damages. Sostre’s case took a dramatic turn in 1971 when Arto Williams, the chief witness who testified against him, recanted his testimony. He now claimed that he agreed to “frame” Sostre to avoid his own conviction as a second felony offender. Williams also claimed that Buffalo police pursued Sostre because they believed that he was responsible to the race riots that broke out there in the spring of 1967. The Federal judge in Buffalo denied Sostre’s habeas corpus application in March 1974 and in October 1974 the U.S. Supreme Court refused to hear

his case on technical grounds. Significant international pressure however built during 1974 on Sostre’s behalf; including the inclusion of his case in AI’s Prisoner of Conscience Week.\textsuperscript{51}

AI campaign was meant to draw attention to twelve POCs cases that exemplified all of AI’s POC cases files and Sostre’s case provided abundant evidence of politically motivated arrest, inhuman prison condition and arbitrary prison policies. According to the \textit{New York Times},

> Because of his imprisonment and subsequent activities, prisons in America and particularly in New York can never again be quite the dark pits of repression and despair they once were. If after all that, Martin Sostre can prove that he was wrongfully charged, convicted and imprisoned, the irony will be rich but the shame of the state will only be compounded.”\textsuperscript{52}

This was one of the goals of AI’s POC campaign not only to secure the release the prisoner but to ensure that conditions improved thereby preventing or at least reducing the possibility that someone else will endure similar conditions in the future.

As a result of this international pressure and the failure of the courts to provide a remedy in Sostre’s case Governor Carey granted Sostre clemency on Christmas 1975.\textsuperscript{53} According to AI, Martin Sostre was one of 1,403 POCs that were released in 1975.\textsuperscript{54} By the late 1970s AI’s Prisoner of Conscience Weeks were given themes to provide focus on specific categories of POCs. For example, in 1979 the theme was children, in 1980 it was the “different faces of imprisonment,” in 1982 the campaigned focused on “victims without voices: human rights violations in rural areas,” in 1983 it drew attention to human rights activists and in 1985 young people in prison were highlighted by the annual campaign. This campaign received considerable

\textsuperscript{51} Additional sources of international pressure for Sostre’s release included: Andrei Sakharov, the well-known Soviet dissident, Ramsey Clark, Philip and Daniel Berrigan, the Reverend Ralph D. Abernathy, Julian Bond and Angela Davis.


\textsuperscript{53} Sostre had been granted parole for the drug offense in mid-December 1975; however, he was to remain in prison due to a 1975 conviction for assaulting a prison guard. The Governor’s clemency resulted in his release.

\textsuperscript{54} Available at AI’s website www.amnesty.org
attention from the international press likely because, as the case of Martin Sostre illustrated, the individuals selected by the International Secretariat had compelling stories that cried out for justice.

Both the Prisoner of Conscience Week and the Prisoner of the Month campaigns were designed for AI’s membership and to generate an avalanche of mail for governments who held POCs. According to Sean MacBride, a founding member of AI, “The avalanche of mailbags is still the biggest annoyance to most governments. Mail piles up. It’s a nuisance. Sooner or later the matter is at Cabinet level and everyone is wondering whether the person is worth all the trouble. The answer frequently is no.” The POCs highlighted by these campaigns were often selected because they face an imminent threat to their lives. By the early 1970s a quick response to the unjust detention of individuals became an instrumental component of that individual’s survival.

In order for an individual to be named a POC his or her case had to first be investigated by the International Secretariat; only after an individual was declared a POC could AI groups adopt that person and campaign on their behalf. This process took time. However, the dynamics of human rights abuse was changing during this period. While AI’s focus in the 1960s had primarily been to secure the release of POCs who had suffered long term human rights abuse by the 1970s, in addition to this work, AI confronted the lethal consequences of short term, systematic human rights abuse.

AI’s answer to this evolving human rights crisis was the Urgent Action (UA) network, which was established in 1973. When researchers at the International Secretariat received word that an individual was at immediate risk they prepared a case sheet which included the person’s name, the details of his or her case, AI’s specific concerns, as well as background information.

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regarding the relevant pattern of human rights abuse in that country. The case sheet also suggested concerns to be raised in appeals and information about where to send appeals. These UA case sheets were then distributed to AI members who also participated in the UA network. They were asked to send appeals as quickly as possible, by telegram, fax, airmail, or electronic mail on behalf of the prisoner profiled on the case sheet. The UA was created in March 1973 following the abduction of Luiz Bastilio Rossi, a Professor of Brazilian History at São Paulo University in Brazil on 15 February 1973. AI received word of Rossi’s abduction through a Roman Catholic Bishop. By this time AI was gravely concerned about the deteriorating human rights situation in Brazil due to the high number of “disappearances,” torture, and extrajudicial executions and at an internal meeting between AI’s Secretary-General, Martin Ennals, and several AI researchers the UA was created. Professor Rossi was the first UA Appeal sent out to selected AI members on 19 March 1973 who were asked to send immediate requests on Rossi’s behalf to save him from torture and possible “disappearance.” Two weeks later Rossi’s wife was ordered to police headquarters to identify her husband. She was surprised to see him alive. The authorities had called her there to verify this and to then sign a letter to AI that stated he was alive, that he had not been tortured and that the international action should stop. She was shown a pile of letters and according to Rossi’s wife, the Director of the police stated, “Your husband must be a more important person than we thought, because we’ve got all these letters from all over the world.”56 Once she returned home she sent another letter to AI stating that she had been forced to sign the letter from the authorities and that her husband had been tortured and that she believed the letters had saved his life. He was released in October 1973 and went into exile in Belgium. After his release he credited the attention generated by AI’s UA appeal with saving his life.

The torturer aims to isolate you, to cut all your links with the outside world. But AI was able to break that isolation. Once the authorities know that other people know you’re there and what’s happening to you, they are forced to be more careful about how they treat you. When I saw my wife, I knew that my case had become public, I knew they could no longer kill me. Then the pressure on me decreased and conditions improved.\(^{57}\)

His wife agreed saying that she got the impression that the authorities were feeling the pressure from AI to produce him alive because his case had received so much international publicity so quickly. AI was also pleased with the results of its method and quickly developed the UA network. By 1982 AI had issued 302 UA appeals on behalf of individuals in sixty-one countries to prevent torture, extrajudicial execution, “disappearance,” or to address medical and legal concerns.\(^{58}\) While the Prisoner of the Month and Prisoner of Conscience Week campaigns and the UA network had many successes, they did not change the fact that governments around the world continued to imprison and hold POCs. Therefore another campaign was initiated in 1982 to raise global awareness about POCs.

By 1982 AI had already organized theme campaigns on various human rights violations including preventing torture, abolition of the death penalty and ending arbitrary and summary executions around the world. The theme campaign strategy had raised global awareness about these other human rights abuses therefore AI adopted this approach to its POC campaign. AI launched its year-long campaign, “A Universal Amnesty for All Prisoners of Conscience” on Human Rights Day, 10 December 1982. The goal of the Appeal was to collect signatures for a petition to be presented to the President of the UN General Assembly and all heads of state, which called for the release of POCs around the world. The appeal stated:

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\(^{57}\) Ibid.
THOUSANDS of men and women are in prison throughout the world solely because of their political or religious beliefs. Others are held because of their color or ethnic origin. These are Prisoners of Conscience—none has used or advocated violence.

NONE of these people should be in prison. The fact that they have been arrested and punished because of their beliefs or origins is an affront to humanity. They should be freed unconditionally.

We Call For a Universal Amnesty for All Prisoners of Conscience

WE BELIEVE that such an amnesty, backed by the United Nations and declared by all governments, is possible. It would give effect to the moral and legal principles of the Charter of the United Nations and the Universal Declaration of Human Rights.

This appeal extends to all those adopted as prisoners of conscience by Amnesty International and to those falling within its definition of such prisoners. The appeal will be presented to the President of the General Assembly of the United Nations and to all Heads of State.\(^59\)

This appeal reflected AI’s commitment to universal human rights, as well as its reliance on the international rule of law and international norms to ensure human rights were protected. During this year-long campaign more than one and a half million people from one hundred twenty-two countries—including former presidents and heads of governments, artists, newspaper editors and men and women from all walks of life and cultures—signed the petition that was presented to the UN on the eve of Human Rights Day 1983.\(^60\) Upon receiving the petition, the UN Secretary-General Perez de Cuellar said AI had “once again rendered a valuable service to the entire international community” and that the “world owed a debt of gratitude for its efforts.” He added that the United Nations appreciated the amount of dedication and skill that AI brought to its work and strongly encouraged it to continue its good work.\(^61\)

AI continued to adopt POCs throughout the 1990s; however, the number of new cases declined significantly. For instance, in 1995 it was working on behalf of 4,012 POCs or possible

\(^{59}\) Ibid, 6.
\(^{61}\) Ibid, 14.
POCs but only 389 of these were adopted that year.\textsuperscript{62} This trend continued so that by the year 2000 there were only 993 long-term cases open and only 108 of those were adopted within that year.\textsuperscript{63} There are several reasons for the decline in the number of POCs adopted, but perhaps the two most important reasons have to do with the changing characteristics of human rights violations which required different tactics to combat and the expansion of AI’s mandate.\textsuperscript{64}

Even AI’s dedication and skill in the area of human rights was challenged by the continuing problem of POCs. No one could be sure how many POCs there were at any particular time around the world, but what was certain was that for each POC that was known, there were many more that remained unknown. However, there is abundant evidence, especially from former POCs, that AI’s campaigns on their behalf had been successful. There was also abundant evidence to suggest that AI was fighting an uphill battle because POCs continued to be taken. Therefore while AI’s role in curbing this form of human right abuse was impressive, it had not been completely successful. It also had not prevented the genesis of new forms of human rights abuse.

By the 1970s, human rights advocates noticed a significant change in the nature of human rights abuse in many countries around the world. The new human rights violation known as “disappearing” became much more widespread.\textsuperscript{65} In some countries the number of people classified as POCs fell off significantly while an increasing number of people were classified as “disappeared.” Their lifeless bodies would then be found days later bearing signs of torture. The

\textsuperscript{62} Ibid, 360.
\textsuperscript{64} Each time the organization expanded its mandate a proportion of the membership argued that AI was spreading itself too thin and that its work for POCs would be hurt. By the 1990s AI had several theme campaigns in addition to POCs which all competed for resources. The move away from POCs has become a persistent concern for some members of the organization, especially in AIUSA.
\textsuperscript{65} AI placed “disappearing” in inverted commas to underscore its belief that it did not accept the government’s position that the victim had simply vanished. AI believed that the government often knew the location as well as the fate of these individuals and therefore they could not correctly be characterized as “disappeared.” Ibid, 37.
meticulous process of researching, classifying an individual as a POC and then initiating a letter-writing campaign on that POC’s behalf was not going to work because the time for effective action was significantly reduced. To address this new type of human rights violation, AI had to create a new strategy that could deal with this widespread and fast-paced act of violent human rights abuse. Its answer can be seen as an important turning point in its history: because it mobilized its membership differently than POCs campaigns and because it recognized and targeted the governments that were responsible for specific, systematic human rights violations within their borders, often with impunity. Its new method was known as the country campaign.

A country campaign was initiated when AI had substantial evidence that the government was complicit in widespread human rights violations. At the same time that AI developed its country campaign—and perhaps as a result of its investigations in these countries—AI was aware that some human rights violations were so common they could be found almost anywhere in the world. Human rights violations such as torture and capital punishment did not contain themselves within borders and in some cases were legally imposed. Therefore AI developed international themes or awareness campaigns, which were designed to educate the public and to sensitize people to these global human rights violations. AI was able to create these new methods because it had a growing membership which provided not only human resources but also additional financial resources through membership dues and donations.\textsuperscript{66} AI’s membership increases were predominately in developed countries of the global north but its membership in general received a tremendous boost after it was awarded the Nobel Peace Prize in 1977 and the United Nations Human Rights Prize in 1978. The legitimacy bestowed on the organization due

\textsuperscript{66} An AI membership is $25 annual for adults and $15 annual for students. Members are also solicited for additional donations throughout the course of their membership because AI does not seek or accept monetary funds from governments or foundations. AI did however accept the monetary award that came with the awarding of the 1977 Nobel Peace Prize.
to these awards in part came because of the manner in which it governed its creation as well as its growth.

AI was created during the Cold War, at a time when human rights were used as political weapons; therefore, it was important for AI to create and follow rules which insulated the organization as much as possible from charges of bias, fraud and inaccuracy. So it established rules regarding the financial independence of the organization, its political neutrality and the collection and credibility of evidence of human rights abuse. While these rules did not completely insulate AI from charges of bias, especially as it grew and became more well-known, the charges were increasingly seen as the automatic response of governments that had been caught behaving badly. It was hoped that this high-level of transparency would take the emphasis off AI for calling attention to human rights abuse and focus that attention on the abuse itself. Its efforts to secure its financial independence, political neutrality and credibility will be detailed below.

AI’s sought to maintain its economic independence to ensure that financial ties did not undermine the human rights work of the organization. Therefore AI did not seek or accept money from governments or foundations; in this way, it ensured it was beholding only to its worldwide membership and was economically independent. This economic freedom enhanced AI’s overall credibility because it was not obliged to any other power than what it believed was the truth. This financial independence was instrumental in establishing AI’s political independence as well. Because it was not indebted to any nation or political philosophy it was free to critique human rights abuse anywhere it occurred.67

67 Amnesty’s accounts are open to public scrutiny and the International Secretariat provides copies to those interested.
Another element of AI’s political independence flowed from its commitment to political impartiality. It neither supported nor opposed any government or political system; nor did it necessarily support or oppose the views of the people whose rights it worked to protect; it was concerned with the rule of law with regard to human rights. It was also aware however, that because human rights were used as a tool during the Cold War to embarrass other nations, its work would be politicized and its claim of political impartiality would be viewed with skepticism, especially by the governments it criticized. AI addressed this dilemma by adopting the “three country rule” which stated that AI’s groups had to work equally on behalf of human rights protection in three countries and those countries had to represent one country each from the first, second and third world. AI members came to believe they were successful in achieving political impartiality when they were called agents of the enemy in the Cold War by governments on both sides of the Iron Curtain. AI also worked to maintain political impartiality by keeping victims of human rights abuse central to their efforts. To that end, human rights abuses were not ranked, which would have suggested that some violations were worse than others. Any violation of human rights was equally important; therefore, any violator of human rights was targeted for action by the organization. Consequently, there was no black list of countries which AI labeled as the worst human rights violators or on the other hand, a list of the best protectors of human rights. This acknowledged that human rights violations occur everywhere, including democratic nations, not just in countries with dictators or that were economically underdeveloped.

AI also attempted to bolster its political independence by creating a rule that prohibited members from working on human rights issues within their own country. This ensured that

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68 It should be noted that AI focused on political and civil human rights for most of its existence. Only in 2002 did it included social, economic, and cultural rights into its mission statement. As mentioned above, this is referred to as a full spectrum approach.
members maintained an “objective distance” between their activism and the human rights issues they addressed as AI members. This rule also ensured that areas without AI members would receive the attention of the organization and that AI would not devolve into a federation of national human rights organizations rather than an international movement.\(^6^9\) In addition, it also ensured that members did not become victims of their own governments due to their human rights work for AI.

While these rules were important in governing the actions of AI’s members they would do little to insulate the organization from charges of bias, or worse, if its information was inaccurate. Accuracy was pivotal in establishing AI as a credible human rights organization; therefore it placed a premium on gathering accurate information before taking action or leveling charges against suspected human rights violators. In order to ensure accuracy AI established procedures to ensure that it used the most credible information available from a variety of reliable sources. Only after these “clusters of evidence” were verified did AI move forward with allegations of human rights abuse.\(^7^0\) When AI received information about human rights abuse it put that information through several verification tests to ensure accuracy before distributing it or making charges of human rights abuse. Often country experts from AI conduct field research to substantiate or dismiss allegations; such in-country research missions are conducted with the consent of the government under investigation. After the mission is over the collected information is presented to AI’s International Secretariat, the organization’s research and campaign headquarter, where it is cross-checked against other sources of information. These other sources of information include information available from local NGOs, refugees and the

\(^6^9\) Amnesty International, *Amnesty International Handbook*, 19. Members can however, participate in theme campaign such as the abolition of torture or the death penalty in their own country and they can lobby their own governments to enact human rights legislation and create human rights-friendly foreign policies.

media to name a few. After the International Secretariat has verified and analyzed all available
information it produces a report which is then sent to members of the offending government
officials. AI requests that these governments comment on any inaccuracies and respond to the
allegations contained in the report. If a government responds to the charges their statements are
included in the report when it is published international. Often governments do not respond to
AI’s reports until after they are published and at that time they criticize the publications of the
report but often do not take issue with AI’s facts.

Therefore, by the time AI issued a report, the charges of human rights abuse had gone
through various types and degrees of critique and review. This lengthy and deliberate process
provided a relatively-high degree of safety from accepting false information from informants and
from chaotic conditions, which might distort the human rights picture. This practice also put AI
in good stead with some governmental and intergovernmental bodies, because it does not appear
to be reactionary, but reflective and temperate in its calls for action. While governments and the
like appreciate this aspect of AI’s work, some other human rights advocates and INGOs have
been disappointed by it.

There were three main sources of criticism of AI from the human rights community: the
concentration of AI’s membership in the global north, its narrow focus on civil and political
rights, and its failure to lead the human rights movement.\footnote{Morton E. Winston, “Assessing the Effectiveness of International Human Rights NGOs: Amnesty International,” in 
international human rights organizations; however, many of these, including AI, recognized the
problem and have attempted to increase membership in the developing countries of the global
south. AI appears to have heard the second criticism and has addressed the issue by eliminating
its mandate and replacing it with the visions and values statement, discussed earlier, which resulted in a full spectrum approach to human rights.  

The solution to the final criticism has been much more difficult to reverse because of the structure of the organization. AI is a large, democratic, grassroots, activist organization, not an elite human rights research institute, such as Human Rights Watch (HRW). AI’s policies and focus is established by its members and its democratic structure and diverse membership sets the pace of change. That membership, since the 1990s, has set a pace that has largely removed AI from the cutting-edge of the human rights movement. By contrast, HRW’s, large membership is guided by a small committee, which determines the policies and sets the course it will take to achieve its objectives. Its hierarchical structure allows it to react more quickly to human rights crises and it has essentially replaced AI as the cutting-edge human rights organization.

According to many human rights observers; “in recent years, Amnesty International has lost its status as an opinion leader within the human rights movement, and has taken on more the role of follower or Johnny-come-lately.” AI’s refusal to join the International Campaign to Ban Landmines initiated in 1993 because the initiative fell outside of AI’s mandate illustrated this point. Four years later after this refusal, at the biannual International Council Meeting, AI’s policies were amended and it announced its support for the campaign; but this decision was made one month after the International Campaign to Ban Landmines received the Nobel Peace Prize. This revealed the trouble with AI’s democratic structure; it cannot respond to the changing human rights environment quickly because it must first build consensus within its

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72 The implementation of its full spectrum approach has been resisted by some within AI and so the organization has work to do in order to truly espouse its new mission statement.
73 Ibid, 33.
74 This campaign fell outside of AI’s mandate because death was not “deliberate” or “targeted” at an individual as it was in the case of extrajudicial execution or disappearances.
diverse, far-flung membership. In order to understand this criticism one must know how AI makes the policies that govern its human rights work.

Since AI is a grassroots organization it makes sense that the impetus for policy changes and calls for action originate with the local AI groups who propose resolutions to be considered by the larger AI section of which it is a part. How this works depends upon the size of the AI chapter; for instance in the United States the largest national AI chapter, local AI groups pass resolutions to their regional AI chapter, if a resolution is approved at the annual regional meeting it is then considered by the national AI section at its annual meeting. The regional resolutions that are approved at all AI’s national meetings are then considered at the International Council Meeting (ICM), a biannual meeting attended by hundreds of representatives from all of the AI’s national sections. The International Council is the supreme governing body of the organization and the only group with the power to amend AI’s statute as well as its overall policy. The ICM also has the authority to set the budget, generate the priorities for the upcoming year and elects eight of the nine members of the International Executive Committee. This committee is then charged with the duty to implement the authorized policy changes and to act as the governing body of AI between ICM.\textsuperscript{75} This International Executive Committee then appoints the Secretary General of the organization who runs the daily operations of the organization and acts as its spokesperson. He or she also serves as the chief officer of the International Secretariat which collects and analyzes information about human rights violations and provides advice to AI sections, groups and members. The International Secretariat employs about three hundred people and has a number of volunteers from dozens of countries who carry out research, give advise

\textsuperscript{75} This very important meeting normally lasts over one week and is convened in different cities around the world on invitation from one of its sections. Because the ICM has so much power these meetings are important events for AI.
about international law, write publications, develop strategies, and maintain documentation.\textsuperscript{76} Their work is then provided to the membership, governments and anyone with access to the internet.\textsuperscript{77} Given the lengthy process required to establish new policies and change the direction of this massive human rights organization, the criticism of fellow human rights advocates seems justified. These critics, however, are also quick to point out the virtue of AI’s democratic structure and its diverse, far-flung membership.

While the deliberate pace can be frustrating for those who had come to expect a lot from AI, this slow pace is the very reason that it can be said to speak as a global voice of human rights. The organization is one of the largest human rights organizations in the world and it has members in all areas, although more densely in some areas than others. For this reason AI can legitimately claim to represent the global human rights movement.\textsuperscript{78} In addition, its focus on accuracy over timeliness established a level of credibility obtained by few other human rights INGOs. As a result, AI has established itself as an important conduit of information in such forums as the United Nations Commission on Human Rights. In addition, even AI’s critics point out the vital role AI plays in training human rights advocates. These “AI graduates” either stay with AI or take that human rights advocacy training to other human rights organizations; either way AI makes an impact in the human rights community.\textsuperscript{79} This reality was shared by one human rights activist:

\textsuperscript{76} Amnesty International, \textit{Amnesty International Handbook}, 116-120.
\textsuperscript{77} AI has taken its human rights campaign to the internet. All of its public documents from 1996 until the present are posted on its website and available for anyone in the general public to view. There appears to be a lot of interest in AI’s information. Its website contained nearly 10,000 files in 1999 and was hit 4.5 million times a month. By 2003 its website contained 38,000 pages and was visited approximately 15,000 times a day with more than 50 million pages viewed over the year. Amnesty International, \textit{Amnesty International Report 2000} (New York: Amnesty International Publications, 2000), 274, AI Index: POL 10/001/00 and Amnesty International, \textit{Amnesty International Report 2004} (New York: Amnesty International Publications, 2004), 312, AI Index: POL 10/004/2004.
\textsuperscript{78} Morton E. Winston, “Assessing the Effectiveness of International Human Rights NGOs,” 34-35.
\textsuperscript{79} Ibid, 35.
My whole human rights perspective, everything comes from Amnesty. It seems like all of these first and second generation AI people are like a little mafia. We all know each other and love each other dearly. And now we are spread all over the world doing other human rights work…I think Amnesty was wonderful, because it really trained a whole set of people all over the world to become conscious of human rights…It was like a star that exploded.”

Therefore while the human rights community’s criticism of AI is justified even these critics are quick to note the overall importance of AI in the international human rights community. Perhaps it is this status that has made AI a target of criticism from another source, the governments that perpetrate human rights abuse or allow it to occur.

Governmental criticism of AI normally occurred as a result of the negative attention that country received following the publication of a report issued by AI regarding its human rights violations. Often governments did not take issue with AI’s facts but with its failure to understand the unique problems that their country faced, which it believes should have exempted them from human rights standards set for the rest of the world. In addition, targeted governments sometimes criticized the imbalance in AI’s report asserting that their neighbors or political adversaries should be criticized rather than themselves because the other country’s human rights abuse was worse. Finally, these governments sometimes resort to claims of national sovereignty and assertions that AI was interfering with the country’s internal affairs. Such criticism, especially from governments, was to be expected. Despite such criticism AI has shown consistent growth both in terms of membership and financial resources over the course of its 45 year history.

AI’s first annual report placed the organization’s annual budget at £7,500 and Benenson feared that the organization would not be able to survive financially. However, his concerns

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80 Linda Rabben, *Fierce Legion of Friends*, 201.
81 Ibid, 193.
diminished over the course of the 1960s as AI’s membership grew and with it AI’s financial resources. By its tenth anniversary, in 1971, the organization reported that it had more than 18,000 members in 27 countries and an annual budget of $103,200. Just six years later its membership had increased to 100,000 and its annual budget climbed to $500,000 and by 1980 its budget was $4 million and its membership doubled. Its membership more than doubled again by 1983 and more than doubled again by 1991 when it boasted 1.1 million members in 150 countries and territories. AI’s membership numbers during the 1990s ranged between 1.1 million and 1.8 million and during this period its financial resources continued to increase. In 1991 its annual budget was set at £12,691,300, by 1996 it had increased to £17,205,000. Five years later in 2000 the annual budget was increased to £18,106,000 and in 2004 it was set at £25,375,000. These increases strongly suggest that AI’s members and those sympathetic to human rights considerations believed in the methods and effectiveness of the organization. Evidence of this effectiveness can be found in its work with Prisoners of Conscience (POCs) as well as its expansion into at least thirty-six other themed human rights campaigns.

The money raised by AI and its growing global membership also allowed it to increase the number of human rights missions it could conduct. In 1982 there were only 28 missions, by 1992 that number had increased to 94 and by 1998 AI sent out a total of 141 missions all over the world. The purpose of these missions varied however, they normally were conducted in order to

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84 AI’s national sections are responsible for funding the organization because there is no central fund-raising program and AI does not accept or seek money from governments. The annual budget represents one-fourth of the estimated amount likely to be raised by the national sections. How the national sections raise money varies; some methods are walk-a-thons, auctioning donated artwork, holding concerts and soliciting dues and donations from members.
85 These other themed campaigns are listed on Amnesty’s website (www.amnesty.org) and include traditional campaigns such as POCs and extrajudicial executions as well as more recent campaigns such as economic globalization and conscientious objectors.
investigate alleged human rights violations, to collect information, talk with governments, observe trials, or attend intergovernmental meetings. As a result of these missions AI could report on observed facts rather than depending solely upon informants or media accounts, ensuring the information it reported was as accurate as possible. This work in the areas affected by human rights violations also created links between AI and the local communities, allowing for an exchange of information that continued after the mission ended. Sometimes these missions resulted in the distributions of funds to the victims of human rights abuse. The International Secretariat distributed funds to POCs and their dependents, to torture victims for medical treatment or to locally-based human rights organizations to provide help for communities-at-large.

Perhaps AI’s closest friendly rival in the human rights movement is Human Rights Watch (HRW) founded in 1978 after the Final Act of the Helsinki Conference. When founded, its attention was focused on Eastern Europe and it was founded by people “uncomfortable with the slowness and conservatism of AI in responding to changing patterns of [human rights] violations.” The organization wanted to pressure the United States to take greater action on behalf of human rights and to publicize specific human rights violations in Eastern and Central Europe. Unlike AI, which depended on financial resources from its members, HRW received the

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86 While AI sometimes must rely only on these sources if a country is closed to it, the organization prefers to conduct its own investigations in human rights abuse. However, all information, no matter the source, goes through a series of tests before it is used by the organization.
87 In 1982 the International Secretariat distributed £123,721, ten years later that amount was increased to £247,343. However, by 2002 the relief fund was reduced to £110,000 as the organization decided to use the funds differently. If local organizations were given funds through Amnesty’s relief funds they were required to report back to the International Secretariat regarding how the funds were used.
majority of its initial funding from the Ford Foundation. Within a decade the organization had taken on a global presence. Much like AI, the bulk of its work falls in the realm of protecting civil and political rights, it publishes its findings in detailed reports and it shares AI’s objective to influence public opinion and government leaders. AI and HRW are the two largest human rights INGOs; they also have the broadest mandates for action on behalf of human rights protection.

Most other human rights INGOs have specific missions or do not have the geographical reach of AI or HRW. Médecins san Frontières (MSF) or Doctors without Borders has established a global reach since its founding in 1971. It was created to provide emergency medical assistance and to bear witness publicly to the difficulties of the people they assisted. Peace Brigades International was founded in 1981 to provide protection for human rights workers operating in conflict areas. It also has a global reach but is not a large organization and is less well-known despite the importance of its work. There are also a vast array of IGOs and non-profit organizations in operation internationally which work on behalf of human rights. Some of the larger organizations such as UNICEF get the attention of the international community but all of these organizations, large and small, be they INGO, IGO or non-profit make important contributions to the human rights movement through their advocacy work. As a result the human rights movement has elevated the issue of human rights to a powerful discourse in a relatively short period of time.

The collapse of the Soviet Union and the end of the Cold War did not result in a fundamental reassessment of AI’s assumptions, methods or rules. The political seas may have changed, but the foundation of AI’s work, international human rights law, remained the same.

The fact that AI not only survived, but thrived during the Cold War suggested that the manner in which it conducted itself was a recipe for success. By that time it was a Nobel Peace Prize winner, economically solvent and had earned an international reputation as a measured and reliable human rights INGO. It had earned a great deal of legitimacy in the area of human rights.  

AI’s self-management and widespread support for human rights worked together to create an organization which was both internationally relevant and influential. This influence translated into power; however, AI’s potential power was different than that wielded by governments, appropriate, considering AI is an INGO. That INGO status would be crippling if power was measured only by the number of military divisions or the amount of financial resources one had at its disposal. AI has no divisions in the military sense; although one could argue that its members act in a similar fashion in the struggle to protect human rights using weapons, such as letter-writing campaigns. Which division was more effective? This is a dangerously easy question but also one that merits a deeper examination of the changing nature of power in the contemporary world.

States do not have a monopoly on power in the contemporary world as they did during the Age of Empires or even during the Cold War. While states remain the predominate source of power in the contemporary world they are being challenged by non-state actors who also have the ability to achieve the outcomes they desire through their military or economic resources, or Hard Power.  

For instance, Al Qaeda or Hezbollah, have financial and military resources that vest them with a high level of hard power and some INGOs and multi-national corporations are so wealthy that they wield some degree of hard power. Using military or economic sanctions

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90 AI still earns the ire of governments around the world and still has enemies but generally speaking these critics normally criticize AI when they have been forced to answer human rights abuse allegations.

91 The theory of hard and soft power which I am making use of comes from Joseph S. Nye, Jr., Dean of the Kennedy School of Government at Harvard University. He coined the term “soft power” in the 1980s and has written several books on the topic.
against others is only one way to attempt to achieve one’s objectives. The “second face of power” involves co-opting others rather than coercing them and complements hard power, it is known as soft power.

Soft power is a nation’s ability to influence and at the same time attract other nations through the combination of culture, domestic policies and values, and tactics and styles of foreign policy that others find appealing and perhaps wish to replicate and thus get the outcomes one desires using alternative methods to military action or economic sanctions.\textsuperscript{92}

This definition asserts that soft power is more than just the ability to influence. It is also the ability to entice another to share one’s own desired outcome; once the outcome is shared reliance on hard power can be minimized. This characterization of soft power also indicates that governments do not have a monopoly on soft power because the amount of soft power is determined by the receiving audience and is based on intangibles such as culture and values which cannot successfully be imposed on others. As a result, many different non-state actors as well as state actors can hold soft power.

The importance that governments put on soft power varies, but some countries have experienced the benefits of soft power in achieving the outcomes that it desired, such as the United States. It emerged as the victor of the Cold War because its hard power contained the Soviet military, while its soft power undermined the foundations of the Soviet system.\textsuperscript{93} Even in the post-Cold War world some have suggested that the United States soft power was greater than its military and financial resources. A German editor, Josef Joffe stated in 2001:

\begin{quote}
U.S. culture, low-brow or high, radiates outward with an intensity last seen in the days of the Roman Empire—but with a novel twist. Rome’s and Soviet Russia’s cultural sway stopped exactly at their military borders. America’s soft power, though, rules over an empire on which the sun never sets.\textsuperscript{94}
\end{quote}

\textsuperscript{93} Ibid, 50.
\textsuperscript{94} Ibid, 11.
Cultural, however, is not the only source of soft power. There are two other resources that combine with culture to serve as the building blocks of soft power including; living up to political values at home and abroad and constructing foreign policies that are seen as legitimate and that have moral authority.\textsuperscript{95} One issue that determines the waxing or waning of U.S. soft power is human rights. Human rights as they will be discussed in this project are a direct outgrowth of World War II. The massive human rights violations revealed in the aftermath of that war led to the establishment of the United Nations and human rights instruments such as the Universal Declaration of Human Rights (UDHR) and the United States played a central role in these events. Since that time the United States has continued to hold itself up as a human rights leader; when it fails to live up to this leadership standard, human rights INGOs take steps to encourage a return to this standard. Consequently, an interesting relationship has developed between the United States and AI. While in theory both believe in the ideal of human rights, the manner in which each views and works toward that ideal is different. As a result, the relationship at times takes on the tone of allies and other times it was much more adversarial.

This project will explore three of AI’s campaigns that were designed to encourage the United States to construct policies befitting a human rights leader. It asserts that AI has influenced the policy environment in the United States; while acknowledging that its overall influence has been somewhat blunted due to the capricious reaction of the two target audiences, U.S. policymakers and American citizens, to its campaigns. To that end, three case studies will be used to gauge AI’s effectiveness in elevating the human rights issue for U.S. policymakers and its citizens as well as its efforts to strengthen the deference to international human rights

\textsuperscript{95} Ibid.
norms and laws in the United States. The three countries under consideration are Guatemala, the United States of America, and the People’s Republic of China.

These three case studies have been selected because they reflect some of the major turning points in AI’s evolution and these countries are now or have in the past figured prominently in U.S. policy decisions. These countries reflect a geopolitical balance which AI, especially in its early history, maintained between developed and developing nations as well as nations representing different governmental ideologies. The differences between these countries in overall stability, influence and power—both hard and soft—will provide information about which environments and situations are best suited for AI’s work. These countries have also been selected because AI’s evolution as an organization is closely linked to its human rights work there.

The Guatemalan case study will focus on the human rights violations that occurred during its thirty-six year civil war through its unsteady resolution in 1996 as well as the aftermath of the Peace Accords. Guatemala can be categorized as a developing country but it can also be referred to as a failing nation; the resulting instability has had serious human rights implications. AI’s efforts in Guatemala correspond to the onset of the civil war there. One of the more troubling components of this human rights story was the number of individuals who were “disappeared.” Those who were categorized as “disappeared” almost always were found dead shortly after being taken away by paramilitary units or other governmental officials. The complicity of the Guatemalan government in these “disappearances” and the United States government’s complicit relationship with them were targets of AI’s multi-faceted human rights campaign. The Guatemalan case study will focus on a new strategy that AI devised to combat
the widespread human rights violations. This new strategy was called a country campaign and Guatemala was the first country targeted by this new method in 1979.  

The next case study will focus on another form of governmental human rights violations, as AI understands them, this time in the United States, the state-sanctioned execution of criminals. The history of capital punishment in the U.S. since it was reinstated in 1976 will be examined as well as the foreign policy ramifications on the United States due to its adherence to a domestic policy which violates international human rights laws and norms. AI led the abolitionist charge in the 1970s and this case study will test to see if its theme campaign offensive had any success in the United States. AI’s decision to launch such a campaign was a significant break from its traditional methods and demonstrated its commitment to international human rights laws and highlighting violations wherever they occur.

Both country and theme campaigns have their roots in AI’s trademark human rights work, prisoners of conscience (POCs). Therefore, the final case study will focus on POCs in the People’s Republic of China, a nation that imprisons a vast number of its citizens illegally. This case study will take up the issue of POCs beginning with the events that led to the Tiananmen Square Massacre in 1989. The Chinese human rights record since this time has been consistently worrisome as its growing economic power presents both an opportunity and a challenge to those who want to improve China’s human rights record. All of the three case studies will be presented in two chapters each; the first will focus on the human rights situation within the country and the next will document AI’s response to those conditions—both toward the violating government and the United States. In addition, the impact of strengthening international human rights.

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rights laws will be analyzed. A brief note on sources should be made at this time. AI has a number of archives which house both its public and private documents. Its public documents consist of thousands of press releases; reports and the like and are available both on the internet as well as in archives in Amsterdam, London, Boulder CO, and even Athens, Ohio. AI’s public documents are well indexed and the use of these public documents is encouraged by the organization. There also are private or internal documents which are not publicly available, indexed only according to date and AI is reticent to allow access to these documents. While it is not impossible to gain access to these documents, for example Stephen Hopgood was granted access to AI’s internal files for his 2006 book work entitled *Keepers of the Flame: Understanding Amnesty International*, he found the experience frustrating and decided instead to rely on interviews with long-term members of AI’s staff. The AI documents used in the preparation of this dissertation therefore consist of hundreds of the public documents available from various archives in the United States.

This human rights foreign policy analysis will build on previous human rights literature but also offers a unique perspective on the role of human rights in the area of policy construction. The history of human rights work and INGOs has been the focus of countless books and articles, especially since the 1970s. Generally these works focus on human rights philosophy or theory, narrating the story of human rights abuses thematically or geographically or tell the story of specific human rights INGOs.\textsuperscript{97} AI has been a frequent recipient of these works attention

\textsuperscript{97} Perhaps the most authoritative and comprehensive treatment of human rights NGOs is William Korey’s *NGOs and the Universal Declaration of Human Rights: “A Curious Grapevine.”* Another important work about international human rights activism is Margaret E. Keck and Kathryn Sikkink’s *Activist Beyond Borders: Advocacy Networks in International Politics*. Jack Donnelly, a professor of International Relations has produced several volumes on human rights theory and practice including *Universal Human Rights in Theory and Practice and International Human Rights: Dilemmas in World Politics*. It should be noted that some of AI’s former leaders have also written books about human rights. Perhaps the most noteworthy of these volumes are two written by William F. Schulz, Executive Director of Amnesty International USA. He authored *In Our Own Best Interests: How Defending Human Rights Benefits Us All* (2001) and *Tainted Legacy: 9/11 and the Ruin of Human Rights* (2003).
probably because it is the largest and the arguably, the most successful of the human rights INGOs. AI has been the sole focus of at least four books but has also been prominently featured in studies of INGOs as well. The first book dedicated exclusively to AI was an account of its early history by Egon Larsen entitled *A Flame in Barbed Wire: The Story of Amnesty International*. It was published in 1979 and, just as the title suggests, Larsen’s book covered the history of AI from its creation through its receipt of the Nobel Peace Prize. Larsen’s book was in a sense an unauthorized biography because he was given no special access to AI’s files although he did interview the founder and others in the organization. This was a popular history of the organization meant for AI’s members and those curious about it. The next two biographies of AI were both published in 2001 but were dramatically different in style and intended audience.

Jonathan Power’s book entitled *Like Water on Stone: The Story of Amnesty International* was very similar to Larsen’s book. It was a popular history of AI and used a case study approach to document the history of the organization from the 1970s until the end of the century. The other book published about AI in 2001 was Ann Marie Clark’s *Diplomacy of Conscience: Amnesty International and Changing Human Rights Norms*. Clark also used a case study approach; however, she used her case studies to do more than just document AI’s history. She uses these case studies to document the important role played by AI in establishing international human right norms. She argued that “the norms that we recognize today as part of human rights laws have for the most part been created through a process in which Amnesty International and a few other nongovernmental organizations have been key participants.” Clark’s volume

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98 The edited volume by Claude E. Welch, Jr. in 2001 entitled *NGOs and Human Rights: Promise and Performance* included three chapters which discussed AI or compared it to another human rights INGO.
provides a rigorous study of the impact and effectiveness of AI’s human rights advocacy in international law and by extension in the global conscience.

The final work on AI published in 2006 by Stephen Hopgood entitled *Keepers of the Flame: Understanding Amnesty International* was not a history of the organization but an attempt to understand the evolution of the International Secretariat—which Hopgood’s calls AI’s nerve center. The purpose of all four books was to tell the story of AI. Each one does this in different ways and with different case studies to illustrate the changes within the organization. However, telling the story of AI without examining the results of its work, limits the importance of these books to AI’s members or those curious about the organization. Clark and Hopgood’s books, however, go beyond storytelling and attempt to address the global impact of the organization.

Of these four books, two were written by journalists and two were written by political scientists; historians have yet to weigh in on AI. However, in order to do justice to this organization, it is important to provide more than a narrative of its activities. AI is an activist organization, therefore the history of its activism—ensuring that the provisions of the Universal Declaration of Human Rights are implemented—should be coupled to the target of that activism and some assessment made regarding if AI’s work has paid any dividends. That is what this project sets out to do; examine if its strategies have been successful and look to see if the target audience—public opinion and U.S. government policymakers—have been impacted by AI’s work. As a result, this is not a popular history of the organization, although the evolution of the organization is addressed throughout. Likewise, this is not a project that analyzes human rights philosophy or theory; it peers into the consequences of AI’s human rights work to gauge its impact. An historical examination of AI’s work is long overdue. It is also important to attempt
to understand the effect and role of AI and other INGOs in the U.S. democratic process. These organizations have access and influence and are re-shaping the policymaking landscape; therefore in order to get a better understanding of this landscape we must include them in policy analysis.

This project does not assert that there is a direct cause and effect relationship between AI’s work and U.S. policy; but it does argue that in order to understand the important presence of INGOs such as AI in U.S. policymaking institutions we need to use a wide-angle lens. While there is not a direct connection from AI’s work to U.S. policy change, there have been more subtle, but no less important transformations in the policymaking environment. Policies are not made in a vacuum, especially in a democracy like the United States, there are a variety of special-interest groups attempting to influence policymakers and these policymakers are beholden to their constituents for re-election. There is the catch; public opinion influences policymakers who want to be re-elected. AI has therefore made these two groups its primary target audiences.

AI attempts to influence public opinion, which in turn will influence policymakers to make decisions which are in keeping with human rights principles. Therefore a study of AI effectiveness requires one to look at the complicated interaction between AI and its campaigns to reach these two audiences, as well as the interaction between the American public and its policymakers. In so doing the effect of AI’s work can be seen. While one cannot point to a specific piece of legislation and say “AI is responsible for that” it is possible to see that the environment in which policy decisions are made has become more human rights friendly over the past four decades. Does this mean that the U.S. policies are always in keeping with AI’s philosophy? The answer is no. However, policymakers know that they cannot ignore the issue
of human rights in their policymaking, thus revealing the effectiveness of AI. The policymaking environment has changed as a result of AI and other INGOs’s efforts; an interesting reality considering that INGOs operate outside traditional governmental processes, revealing the power of persuasion to compel change.
CHAPTER II. THE GUATEMALAN CIVIL WAR, HUMAN RIGHTS ABUSE AND THE UNITED STATES

Guatemala is a country of paradoxes. Its land is rich and fertile but has been dominated by export crops, such as coffee and bananas, as a result its people are hungry and poor.\(^1\) It is a beautiful country, making it a popular tourist destination but that beauty conceals the ugly reality of a thirty-six year civil war. It is a nation located in the former territory of the mighty Mayan Empire that discriminates against its ethnic majority, the indigenous Mayans. Guatemala’s image has improved very little since the end of it civil war and the 1996 Peace Accords, which ended this war, have not brought peace. Some characterized Guatemala as a genocidal banana republic during its civil war, those same observers now refer to it as a vigilante cocaine republic or a corporate mafia state.\(^2\) None of these characterizations is suited to the protection of human rights. The modern human rights tragedy in Guatemala is rooted in the history of the country itself and its regional and hemispheric location. The influences of these factors have converged to produce the economic, political and social conditions that have devalued human rights protection and the rule of law in Guatemala.

Prior to the Age of Exploration, the territory that is now Guatemala was dominated by the Mayan Empire; after the Spanish conquest, Guatemala functioned as Spain’s general headquarters in Central America. Despite the extensive presence of the Spanish military in Guatemala, the Mayans remained defiant of their rule. It was one of three regions designated as “captaincy generals,” frontier settlements where indigenous peoples continued to resist the

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conquest and were only wrestled under control one tribe at a time.³ Within Guatemala this struggle produced indigenous and Spanish communities that developed in isolation from one another and in general this colonial experience retarded the political and economic growth of Latin American. After the Spanish relinquished their colonial possessions in the Americas in the nineteenth century, the newly independent countries found it difficult to reverse the crippling effects of their colonial legacy. Many of these newly independent countries replaced authoritarian colonial rule with authoritarian strongmen whose rule resembled that of the Spanish. Many of the same institutions, the social structure and the dominant culture continued to reflect centuries of Spanish rule which further hampered the transition from colony to republic.

Latin America’s democratic aspirations were further hindered by the increasing dominance of the United States in the Western Hemisphere, which began with the Monroe Doctrine of 1823—a warning to European powers to stay out of the hemisphere. As the United States became more powerful, it exerted more control over Latin America, especially the countries of Central America. Often this was done at the behest of U.S. businesses that owned large tracts of land in the area and transformed several Central American nations into “banana republics.” Consequently, the United States became the dominant power in Latin America after the Spanish left the Americas. The level of influence the United States exercised in Latin America increased again after World War II as part of its Cold War strategy—although this time the goal was informal control rather than outright dominance.⁴ This chapter will examine the United States-Guatemalan relationship and the impact of that relationship on human rights in Guatemala during its civil war.

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³ The other two regions designated by the Spanish as “captaincy generals” were Venezuela and Chile.
The indigenous population in Guatemala, largely made up of the descendants of the Mayans, comprise about 55 percent of the total population and even into the 1980s it was said that they “survived more as a race and a culture than any other indigenous people of North and Central America.” Guatemala’s indigenous people spoke twenty-three different languages—including one hundred dialects—and lived in villages where they had strong family ties and cultural loyalty to a traditional lifestyle dedicated to the land and where they preferred to be left alone. This voluntary cultural isolation was reminiscent of the colonial period, and it had devastating consequences after independence because it allowed for the continued exploitation of the indigenous by those who inherited the legacy of Spanish rule. The elite Ladinos, non-indigenous Spanish-speaking Guatemalans, owned the majority of the land and consequently controlled political power. They followed the Spanish example and continued to develop Guatemala with the cheap labor of the indigenous people and money from powerful international businesses. In addition, they perpetuated the Spanish socio-economic structure that had produced a pattern of persistent poverty for the underclass, largely made up of Indians and peasant Ladinos. The inherent inequity in this system concentrated power in the hands of the elites who had a vested interest in maintaining and developing systems that ensured the continuation of the status quo; thus perpetuating the colonial tradition, which separated the indigenous peoples from the rest of Guatemalan society.

Given the inequality of this system it was not surprising that it was challenged by its victims. The first challenge from the left was purely political and would later be seen as the first wave of a leftist radical insurgency. The “Decade of Reform” began in 1944 and encompassed

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The thirty-six year civil war had its origins in this reform campaign because it threatened to dismantle the elite Ladinos systems and fundamentally re-order Guatemalan society. President Arévalo pushed for education and land reform and oversaw the drafting of a new, progressive constitution. During his five-year administration organized political and labor activities began to flourish. His reforms were not universally accepted; a fact dramatically illustrated by the more than 12, but perhaps as many as 22, attempted coups against his presidency. This military violence had a powerful ally in the rural landowners who felt threatened by labor reform, literacy programs, and unionization. In response, Arévalo opted for a moderate system of reforms that was largely limited to the urban areas. This exclusion of the rural areas, especially the highlands that were heavily populated by the indigenous, from political and social reform, would provide a fertile environment for disenfranchisement to shift toward a radical political insurgency.

In 1951 Arévalo turned the presidency over to his Minister of Defense, Colonel Jacobo Arbenz Guzmán, a central figure in the October Revolution. A reformer at heart, Arbenz accepted Communist support prior to and following his election and made rural land reform a centerpiece of his administration. To that end, a bill was enacted in June 1952 that allowed the government to expropriate uncultivated sections of large plantations for redistribution to poor families. The bill provided for compensation to the landowners based on the tax value of the land as reported to the government in May of 1952. This amount would be paid with 25-year bonds bearing 3 percent interest. During the 18 months this land reform program was in effect,

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6 Arévalo has the distinction of being the first Guatemalan president in the 20th Century to be elected to office, serve the full constitutional term and step down voluntarily.

7 Arbenz won a free and open election although he was also suspected in the 1949 death of his likely presidential opponent, Colonel Francisco Javier Arana, supported by conservative opponents of reform.
1.5 million acres were redistributed to some 100,000 families. This land re-distribution extended Arévalo’s reforms into the rural areas and provoked the conservative, powerful landowners into action against Arbenz’s regime both within Guatemala and abroad. The United Fruit Company, a U.S.-based company, had a lot to lose under Arbenz’s reform program. It owned a vast amount of prime farmland in Guatemala which it grossly undervalued in order to keep its taxes low. In addition, it left approximately 85 percent of its land unused therefore under the provisions of the 1952 law the United Fruit Company would lose most of its land.

The fury of this powerful economic interest merged with the political concerns of the Dwight D. Eisenhower administration to ensure that Arbenz’s reforms and leftist insurgency in Guatemala were stopped. President Eisenhower believed Arbenz was at the very least, soft on communism but more likely a stooge for Moscow. The domino theory, used to justify action in Vietnam, was also used to justify action against Arbenz and his leftist government. The proximity of the Panama Canal and Mexico’s oil fields heightened the sense that Guatemala’s fall to communism would pose a significant threat to U.S. security and to the “free world” in general. It was also believed that third world countries such as Guatemala were easy targets for communist infiltration; therefore the United States worked to secure the western hemisphere’s poor countries from being enticed into the Soviet sphere. The 1947 Rio Pact created the framework for collective action against communist advances from within or from outside of Latin America. Secretary of State, John Foster Dulles, went before the Organization of American States (OAS) in August 1953 to persuade signatories of the treaty to take action

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8 Arbenz lost seventeen hundred acres of his own land under his program.
9 Arbenz also began the construction of an Atlantic port and an Atlantic highway to reduce his country’s dependence on U.S. businesses such as the United Fruit Company, which had a virtual monopoly on transportation in Guatemala with its cross-country railroad, known as International Railway of Central America.
10 Secretary of State John Foster Dulles and his brother Allen Dulles, Director of the Central Intelligence Agency, believe this connection between Arbenz and communism but both also came from the New York law firm closely linked to the United Fruit Company.
against Guatemala, but found no support within this regional body. Eisenhower, failing to secure a collective response to this imposing communist threat, then opted for a unilateral covert operation to remove Arbenz from power.

The Central Intelligence Agency organized, equipped and directed a small invasion force led by Colonel Carlos Castillo Armas in June 1954. This invasion force was small, numbering only 150 men, and it was ill-prepared to fight Arbenz. Radio broadcasts from Armas’s men, which called for the people to overthrow Arbenz did not work; airplanes sent by Eisenhower were more effective. Sticks of dynamite were dropped from these airplanes on the people of Guatemala City and the subsequent terror weakened Arbenz’s military and political position. Arbenz attempted to counter this coup by arming a peasant militia but the regular army prevented this; Arbenz was defeated and forced to resign. Colonel Armas then assumed the presidency.¹¹ His government reversed Arbenz’s land reform program, purged the communists from the government along with radical nationalists and signed a Mutual Defense Assistance Pact with the United States in 1955. Perhaps most importantly, Armas established anti-communism as a central element of Guatemalan national politics, which aligned it with the United States’ Cold War strategy. This also provided a way to pursue its internal enemies with the assistance of its powerful military ally. The 1954 coup was an important turning point for Guatemala because the political center was eradicated—leaving only the political left and right—and a lopsided, polarized political system supported by the United States.¹² The Decade of Reform had ended but the leftist political challenge was not eradicated; it was only dormant for

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¹² United State companies heavily invested in Guatemala once again after Arbenz was ousted but the United States government also provided significant aid to the Armas government; $80 million between 1954 and 1957. LaFeber, *Inevitable Revolutions*, 125.
the remainder of the 1950s. The left’s first political challenge was reversed but the underlying reasons for its existence remained and so the left would eventually mount another challenge to the Guatemalan state.

The combination of Cold War politics, business interests, and long-simmering social structural inequality in Guatemala provided the fertile ground for Guatemala’s vastly destructive, long-fought civil war. Guatemala’s location—within the United States sphere of influence—and Arbenz’s land reforms, were conceptualized by the U.S. government as a communist challenge that was much too close to the United States. Therefore the turmoil in Guatemala was largely understood by the U.S. government as a battleground of the Cold War. While the U.S. was obsessed with the geopolitics of the Cold War, the Guatemalan elite had another reason to cast this as an example of communist aggression. The exploitation of Guatemala by U.S. businesses and Guatemalan elites, which had been preceded by that of the European colonial powers, created a large gap in Guatemalan society between the very rich and the very poor. The large underclass created by that exploitation became the source of the communist threat feared by the U.S. and Guatemalan government because it was believed that the poor were tailor-made for communist ideology. While one can make the argument that the Guatemalan insurgency was fueled by communists bent on controlling the country, it could also be argued that the majority of Guatemalans were not interested in fighting a proxy war to bring communism to their country. Rather, they were interested in having their government fix the social and economic ills that created the large gaps between the rich and poor in Guatemala. Those that orchestrated the ouster of Arbenz chose to see Guatemala’s problems as the next battleground in the Cold War and therefore anyone who challenged the government did so because they were a Communist. This simplistic thinking set the tone for the long war on the horizon.
Following the 1954 CIA coup and continuing throughout the civil war, politics in Guatemala were dominated by an informal alliance between the army and economic elites. The foundation of the Movimiento de Liberación Nacional (Movement of National Liberation, MLN) in 1954, a party which dedicated itself to combating leftist influence within the country, demonstrated this convergence of political and military power. The MLN supported the organization of armed groups of civilians to fight subversion and stated that “the government should not consider it strange that citizens organized to take justice into their own hands.” In 1966 it established provisions allowing for large numbers of armed civilians to function as law enforcement agents with little oversight of their activities.\(^\text{13}\) Perhaps the most notorious of these groups first appeared in June 1966 and was commonly known as Mano Blanca or “The White Hand.”\(^\text{14}\) Licenciado Mario Sandoval Alarcon, who would become Vice-President of Guatemala in 1979 and who served as Secretary General of the MLN Party, claimed responsibility for its formation. An early MLN pamphlet threatened all communists with death and acknowledged that its actions were illegal, but explained that they were effective and therefore necessary.

The Army was demoralized by the guerrillas last year until we organized the White Hand. In the systematic elimination of the guerrillas, a series of injustices have been committed. Several hundred persons have been killed, but between January and March [1967] the guerrillas have been almost completely eliminated from the Guatemalan Oriente. The terrorism of the guerrillas has forced the government to adopt a completely illegal plan, but this has brought results.\(^\text{15}\)

Some of the methods of the White Hand were also used by the Guatemalan military following Arbenz’s removal from power to purge the country of leftists. Colonel Armas ordered large

\(^{13}\) Quotation is from the MLN’s 27 September 1966 manifesto found in part in Amnesty International, *The Death Penalty* (London: Amnesty International Publications, 1979), 192, AI Index ACT 05/03/79.


numbers of executions by firing squads and as a result, more people likely were killed during this time than during the counterrevolution that brought him to power. Those targeted specifically by Armas’s firing squads included community leaders, those that supported the Decade of Reform and leaders of urban and peasant unions. His purges in conjunction with the actions of the White Hand were successful in repressing leftist activities into the next decade.\(^{16}\) Armas’s rule however, would not last into the 1960s; he was assassinated in 1957 by a member of his own presidential guard. Despite the short tenure of this administration Armas’s presidency signaled a return to strong-man rule in Guatemala as well as the re-structuring of the Guatemalan military into a much more professional and deadly fighting force.

Military power was central to the military-oligarchy’s hold on power. However, the ineffectiveness of the Guatemalan military during the CIA coup demonstrated the need to turn the rag-tag army into an effective counterinsurgency force before it could be used effectively against the State’s internal enemies. The problems with the military had begun to be addressed in the mid-1950s when the United States military assistance started transforming the inefficient army into a politicized, professional force. By the late 1960s, the United States had assisted Guatemala in creating a professional army numbering around six thousand men led by Carlos Arana Osorio.\(^{17}\) Arana’s army received counter-insurgency training from July to October 1966 from approximately 1,000 U.S. Green Berets; in addition, the Guatemalan army received nearly $6 million under the Military Assistance Program (MAP) and $11 million in U.S. military equipment to eradicate the insurgency in Guatemala.\(^{18}\) During the Izabal and Zacapa campaigns, which followed this assistance, at least seven hundred unidentified rural peasants were killed and

\(^{16}\) LaFeber, *Inevitable Revolutions*, 125.
\(^{17}\) Yon Sosa’s guerrilla forces at this time numbered around 40 regular forces. LaFeber, *Inevitable Revolution*, 170.
Arana acquired the nickname, the “butcher of Zacapa.”\(^{19}\) Despite these military campaigns and others Arana’s army failed to destroy the rebels but managed to kill some 8,000 peasants in his attempts to pacify the country though the combined actions of civilian vigilante death squads and his professional army.\(^{20}\) President Armas and Colonel Arana’s actions represented a fusion of military and political power, which was harnessed and directed against those defined as enemies of the state. These enemies of the state were the political descendants of the decade of reform, but their re-emergence in 1960 was not limited to political ideology. Some in the military conspired to overthrow the Guatemalan president who they considered to be too submissive to the powerful United States. The convergence of these two discontented groups would give rise to the second wave of the leftist radical insurgency, which marked the beginning of the long civil war in Guatemala.

The second wave of the leftist insurgency can be traced to an attempted coup on 13 November 1960 against President (General Miguel) Ydígoras Fuentes, the man who had replaced Armas as president. The coup was sparked by the growing resentment a number of military officers had toward Ydígoras’s policies and his acquiescence to U.S. requests to use Guatemalan military bases to train Cuban exiles for the doomed Bay of Pigs Invasion.\(^{21}\) The coup failed but Ydígoras’s presidency was crippled and he was removed from power in March 1963. The first generation of guerillas developed from this failed coup attempt. The military leaders of this unsuccessful operation began to operate in the northeast of the country, in the

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\(^{19}\) The Guatemalan Government told the IACHR that “government forces were not involved in the killings and that the killings were imputable to extremist factions engaged in mutual destruction.” Amnesty International, *Amnesty International Briefing Paper No. 8: Guatemala* (London: Amnesty International Publications, 1976), 5.

\(^{20}\) This vigilante groups were not necessarily all civilian because they contained many off-duty police, retired military personal and the like. Arana’s Zacapa-Izabel campaign introduced targeted political assassination on a mass scale into the counterinsurgency war to eliminate the guerrillas as well as political leftists who had supported Arévalo and Arbenz. As a result, few of the thousands killed were actually guerrillas; most were middle-class, leftist professionals. Schlesinger and Kinzer, *Bitter Fruit*, 246.

\(^{21}\) The presence of clandestine U.S. forces in Guatemala conjured up resentment about the 1954 CIA coup that sparked the 1960 coup attempt.
Zacapa Department, under the name *Fuerzas Armadas Rebeldes* (FAR) in 1962. The two leaders of the insurgents were Marco Antonio Yon Sosa and Luis R. Turcios Lima, army lieutenants who had been trained at Fort Benning. They were often credited with the survival of the insurgency against the U.S.-trained Army until 1966. By that time their revolutionary action was fragmented, outperformed during battles, and inadequately equipped and trained in comparison to the U.S.-assisted Guatemalan Army. President Ydígoras believed the close proximity of communist Cuba and the Guatemalan guerrillas in the east of the country was a threat but he was ineffective in dealing with the problem. He was therefore removed from the presidency and replaced by Colonel Enrique Peralta Azurdia, the Minister of Defense. Like Ydígoras he did not attack the FAR, which had by this time, begun assaulting the UFC’s banana plantations in Bananera, Izabel. He referred to the guerrillas as “bandits” but did not try to eliminate them. This dismissive treatment of the insurgency ended in March 1966 when Julio Cesar Méndez Montenegro won the presidency.

When he took office, President Méndez Montenegro offered amnesty to insurgents and former officers who had taken part in the failed 1960 coup and many within the insurgency took advantage of his offer to re-enter society. But the insurgency continued because the FAR guerrilla organization continued to exist. President Méndez’s ingenious use of amnesty allowed him to say he was a revolutionary at the same time that he moved against the remaining leftist guerrillas. He claimed that those who rejected amnesty gave him no alternative but to order the army to move against them. Those guerrillas that rejected amnesty were then targeted by a

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22 Turcios had died in a car accident and Yon Sosa’s organization appeared to be increasingly unrealistic. LaFeber, *Inevitable Revolutions*, 168.
23 Peralta refused the title of President.
massive military campaign supported by the United States, and a public relations campaign
designed to undermine popular support for the FAR. Between 1966 and 1968 the violence
intensified and the number of deaths, assassinations, and kidnappings increased rapidly. As a
result, the leftist guerrillas were nearly defeated by Colonel Carlos Arana Osorio—the “butcher
of Zacapa” in 1968. His impressive accomplishments against the guerrillas propelled him into
the presidency in 1970 where he continued his push to eradicate the leftist insurgency. His brutal
campaign to wipe out the guerrillas came at a high price because almost all Guatemalans’ human
rights were systematically violated to eliminate the leftist threat.

The victims of this early period of the war were primarily peasants, members of rural
union organizations, university and secondary school teachers, and students. Right wing groups
such as the White Hand beginning in 1966 claimed credit for the increased number of tortured
and mutilated bodies found in and around Guatemala City and in the east—a politically and
economically significant area where one-sixth of Guatemala’s population resided. Amnesty
International (AI) estimated that between 1966 and 1976 20,000 people were killed or missing in
the name of counterinsurgency, pacification, and anticommunism. The government justified
this as its response to left wing and common criminal violence. Many of these victims were
indigenous people, believed by the Guatemalan government to be harboring or otherwise
supporting guerrilla forces, which made them legitimate targets in the government’s battle
against its internal enemies. The government justified its actions on the grounds that it had to

25 He earned this nickname due to the counterinsurgency campaign he oversaw in the rural regions of Zacapa and
Izabal, which were instrumental in dealing the near fatal blow to the first leftist insurgency by 1968.
26 Toward the end of this first phase of the war, 1971-1977, repressive operations were more selective and
geographically diverse but community and union leaders as well as catechists and students continued to be the
primary victims.
27 Secret cemeteries and mass graves discovered in 1978 and 1979 added credibility to AI’s claim. Amnesty
Newsletter 9, no. 10 (October 1979), 1.
“drain the ‘water’ in which the guerrilla ‘fish’ swam.”

Using the internal enemy concept, the water was everywhere and by extension so were the guerrilla fish and no region of the country would be spared from this war. This was because the goal of the counterinsurgency forces was not only to defeat the rebels, but also to eliminate the social support base that nurtured and perpetuated the guerrillas; as a result civilians were targeted by military and paramilitary groups.

Neutralizing this support base was achieved through kidnapping and murder, which created a general feeling of terror throughout the country and was intended to eliminate rebels outright and demoralize their efforts by eroding their support network. The primary method to achieve this goal became known as “disappearance” political opponents and their supporters. Those who “disappeared” were normally last seen being taken by military or paramilitary forces and were found shortly afterward bearing signs of torture alongside a road, in a ravine, floating in a lake or buried in mass graves. The bodies were often found with notes stating that the now almost un-recognizable person was killed because of their communist sympathies. Between 1976 and 1986 at least 18,000 people had disappeared in Guatemala, including guerrillas, criminals, opposition leaders, and their supporters. Most were never found alive. Evidence gathered after the civil war strongly suggested that the majority of those who disappeared were killed by governmental forces or their auxiliaries.

30 While this became a popular method for many Latin American dictators the phase “disappeared” was first coined for the situation in Guatemala.
32 Ann Marie Clark, “‘A Calendar of Abuses:’ Amnesty International’s Campaign on Guatemala,” in NGOs and Human Rights: Promise and Performance, ed. Claude E. Welch, Jr. (Philadelphia: University of Pennsylvania Press, 2001), 57. This number represents 39% of the disappearances for all of Latin America.
By 1967 Guatemala ranked at the top of the U.S. State Department’s list of Latin American nations threatened by insurgents. The important role that the United States played in supporting the Guatemalan state did not go unnoticed by the guerrillas and during the late 1960s 28 U.S. soldiers were killed by guerrillas. Other higher-ranking Americans in Guatemala were also targeted by guerrillas in an attempt to strike out at the origins of the Army’s power. As the Army gained a stranglehold on the guerrilla movements in the mid-1960s, guerrillas resorted to kidnapping government officials, both from Guatemala and the United States, to negotiate the release of its leaders. The most prominent of these cases was the failed abduction and assassination of U.S. Ambassador to Guatemala John Gordon Mein in August 1968. The Ambassador’s murder was preceded by that of Colonel John D. Webber of the U.S. military mission and Lieutenant Commander Ernest A. Monroe, chief of the naval section. The guerrillas struck out against the U.S. because of its assistance to the rightist government. They were probably unaware that the friendly relationship between the two governments was beginning to crumble.

The murder of these high-ranking military and political American figures contributed to the eroding relationship between the two countries. Before leftist guerrillas claimed responsibility for Mein’s murder, U.S. officials were unsure if the assassins represented the political right or left. This led one critic of U.S. policy in Guatemala to conclude: “such is the bankruptcy of [U.S.] policy in Guatemala that we are hated with equal intensity by both sides.” It seemed that the United States had lost control of the monster it had in large measure created in

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35 Colonel John Webber, a U.S. military attaché to Guatemala was reported by *Time* magazine on 26 January 1968 as claiming credit for the mobilization of paramilitary groups that would become death squads, such as the White Hand.
the 1960s because the professional and politicized army it created was now operating for its own ends and answered to itself rather than to its creator. The Army, which controlled the country during the first phase of the war, wanted Washington to provide training and supplies but not advice about how to conduct its counterinsurgency campaign. The United States would largely accommodate this demand beginning with the presidency of Richard M. Nixon. The Nixon Administration initiated policies that fundamentally changed U.S. foreign policy and re-interpreted its global role. Under the Nixon Doctrine the United States would no longer act as the world’s policeman, but would instead provide the means for others to act on their own behalf, provided the outcome was deemed vital to U. S. interests. As a result, military aid and training continued in Guatemala while thousands of peasants and political opponents were killed.\footnote{Washington provided Guatemala with $35 million in aid between 1967 and 1976. Between 1966 and 1976 50,000 people died violently but Nixon and Ford kept the military supplies flowing. LaFeber, \textit{Inevitable Revolutions}, 257-258.}

Colonel Arana’s rise to the presidency in 1970 came with a pledge to eliminate all guerrillas. He promised that even “if it is necessary to turn the country into a cemetery in order to pacify it, I will not hesitate to do so” and with the help of the White Hand he pursued the realization of that pledge.\footnote{The CIA characterized his regime as “the most extreme and unyielding in the Hemisphere” Susanne Jonas, \textit{Of Centaurs and Doves: Guatemala’s Peace Process} (Boulder: Westview Press, 2000), 21. LaFeber, \textit{Inevitable Revolutions}, 171 and 257.} He declared a state of siege in November 1970 that continued until October 1971 and during that time a large number of city dwellers and university personnel were killed.\footnote{Arana had basically ended the rural insurgency in 1968 but the urban elements of the insurgency continued to survive in the cities. The National University was raided and three law professors were killed as well as up to one thousand others.} The guerrillas responded by killing an estimated 30 army and government officials. The climax of Arana’s campaign came when Yon Sosa, a guerrilla leader who first arose in 1960, was killed near the Mexican border in 1970.\footnote{LaFeber, \textit{Inevitable Revolutions}, 257.} Despite the apparent victory over the remaining urban elements of the first generation of insurgents by 1972 the brutal methods used
to achieve this goal resulted in the birth of a second generation of leftist insurgents in January 1972. It would be nearly a decade before the Ejército Guerrillero de los Pobres (Guerrilla Army of the Poor, EGP) matured enough to pose a challenge to the Guatemalan state but the brutality of the 1960s and 1970s ensured that Guatemala’s instability would continue.

The repressive policies and practices of Arana and the presidents that followed him, swelled the numbers of guerrillas during the 1970s. The re-invigoration of the guerrillas was assisted by the government’s failure to distinguish guerrillas from civilians, as well as its inadequate response to the massive earthquake that struck Guatemala in 1976 and the increased political activity within indigenous communities in response to the increased level of violence.\(^\text{41}\) While the insurgency regrouped and evolved throughout the 1970s, the Guatemalan government experienced what appeared to be a period of political stability that extended into the mid-1980s. This stability was maintained through the election to the presidency of former Ministers of Defense and other military commanders who had fought the guerrillas in the northeastern provinces. Their military successes shaped their political policies of the country for 15 years.\(^\text{42}\)

The second generation of guerrillas matured by the late 1970s, by this time the guerrilla groups were known collectively as the Unidad Revolucionaria Nacional Guatemalteca (Guatemalan National Revolutionary Unity, URNG) and once again these groups were poised to threaten the political stability established by the military presidents of Guatemala.\(^\text{43}\) The

\(^\text{41}\) The earthquake killed 20,000 people and the government failed to rebuild the villages. The only help came from relief groups and the Roman Catholic Church in Guatemala which by that time was speaking out against the Guatemalan Government and increasing targeted by governmental forces for disappearance and torture.

\(^\text{42}\) This fifteen year period of military rule began with Arana in July 1970. He was succeeded by his Minister of Defense, General Kjell Laugerud in March 1974, but General Ríos Montt probably won the election. President Laugerud was followed by his Minister of Defense General Romero Lucas García in March 1978. García’s Minister of Defense, General Angel Anibal Guevara, was set to replace President García but the 23 March 1982 coup led by General Montt. Montt held the presidency until August 1983 when he was overthrown by General Oscar Humberto Mejía Víctores, who was the last of Guatemala’s military president.

\(^\text{43}\) The guerrilla forces in this second generation were more organized than the first and were larger due to the merger of four guerrilla organizations—the the Guerrilla Army of the Poor, the People’s Armed Organization, the
growing threat they posed was recognized by their presence in provinces where they had never operated before and by the murder of rightist landowners and military officers in these previously “safe” areas of the country. The re-emergence of the guerrillas in the late 1970s corresponded to the beginning of the second phase of the civil war, which dates from the mid-1970s through the 1980s. The years between 1978 and 1985 were the most violent and bloody of the entire confrontation, as the war shifted from urban to rural violence aimed primarily against the indigenous peasants. The two men most closely associated with these events were Presidents General Romeo Lucas García (1977-1982) and General Efraín Ríos Montt (March 1982-mid 1983). The government responded to the re-emergence of the insurgency by significantly intensifying its anti-insurgent tactics. Military operations were concentrated in Quiché, Huehuetenango, Chimaltenango, Alta and Baja Verapaz provinces as well as along the south coast and the capital, areas heavily populated by indigenous peoples. While disappearances continued and even accelerated during this period, an additional tactic was used to remove the base of support from the guerrillas and to suppress the possible mass uprisings of indigenous people. This tactic was known as scorched-earth counterinsurgency campaigns and they included public massacres and executions intended to terrorize the population, the razing of villages and the destruction of farmlands to deny the guerrillas subsistence. The combination of a significant challenge from a reinvigorated leftist military group and the increased political activity by the indigenous majority ensured that the second phase of Guatemala’s civil war would be much bloodier than the first.

Revolutionary Armed Forces, and a branch of the Guatemalan Communist trade union—due to an agreement signed in November 1980.

44 LaFeber, Inevitable Revolutions, 260.

General Romeo Lucas García, the army-appointed president in 1977, ordered an absolute war against the guerrillas and during his term in office these new tactics generated a large number of new victims; including trade unionists, university professors and students, journalists, priests and indigenous people. They disappeared, were tortured and killed in an orgy of violence that made the late 1970s very deadly in Guatemala. University professors and students were specifically targeted by the García’s regime after universities were denounced as “centres of subversion.” This characterization was most often applied to the Universidad de San Carlos de Guatemala—the country’s only public university—which had a reputation as a hotbed for communist and guerrilla activity during the civil war. During a six month period in 1980 at least 27 members of its faculty and staff were shot and between 27 February and 1 May 1981 the Dean of the Law School and 6 other law professors were killed.\footnote{Amnesty International, *Political Killings by Governments*, (London: Amnesty International Publications, 1983), 83, AI Index ACT 03/26/82.} In addition to striking out at individuals, the Army and its paramilitary counterpart, the Ejército Secreto Anticomunista (ESA), began large-scale public killing operations.\footnote{The creation of the death squad, the ESA, on 18 October 1978 was an important factor in 1978 being characterized by many as the most violence year in Guatemalan history. On that day the ESA published a death list with thirty-eight names of journalists, trade unionists, students, and church leaders who the ESA “had tried and sentenced to death.” The ESA published additional death lists and some of those in the lists have been murdered. Amnesty testified before the Organization of American States that the ESA was an “umbrella group” of counterinsurgency forces whose goal was “solv[ing] problems related to land titles, union organizing drives or economic development projects by killing or intimidating those they oppose.” Amnesty International, *Guatemala Campaign Circular No. 6 ‘The Human Rights Year in Guatemala—A Calendar of Abuses’ 29-May 1978 – 29 May 1979* (London: Amnesty International Publications, 1979), 3, AI Index AMR 34/18/79. Ann Marie Clark, Amnesty International’s Campaign on Guatemala,” 61.} One of the most infamous of these massacres occurred on 29 May 1978 at Panzós where one hundred indigenous people, including five children, were shot in the town square by the Army for protesting in support of land rights. Villagers reported that mass graves were dug two days before the massacre occurred, perhaps to heighten the villagers’ terror but certainly indicating premeditation.\footnote{Jonathan Power, *Like Water on Stone*, 51. Following the massacre the Guatemalan Government released a statement claiming that “guerrillas were killed when they launched a surprise attack on the Panzós military garrison.}
occupation of the Spanish Embassy on 1 January 1980 was meant to protest the Panzós massacre and others within El Quiché province and bring international attention to the situation in Guatemala. García ordered the army in and only one peasant, Gregorio Yuja Xona, and the Ambassador survived. Yuja Xona did not live long enough to talk about the events of the day. His lifeless body would later be found mutilated; the government never explained how he went from protective custody in the hospital to being tortured and found dead. In addition to these high profile human rights tragedies violence was visited upon many others. During the first eleven months of 1980, three thousand “subversives” were rounded up and killed and hundreds more were disappeared and have never been accounted for.

García responded to criticism regarding Guatemala’s human rights record by arguing that such violence was normal for his country. He compared it to an allergy that one had to learn to live with and he dismissed those who argued that his government had a responsibility to protect its citizens, by saying that he would need a “magic wand” to eliminate violence in Guatemala. In addition, he disavowed his government’s complicity in the violence, asserting that his government held no political prisoners, and blaming these crimes on paramilitary groups that operated outside of his control. The civilian vice-president, Francisco Villagrán Kramer, resigned in protest in 1980 stating that “There are no political prisoners in Guatemala just

The Minister of Defense General Otto Spiegler blamed the peasant uprising on leftist guerrillas and other “subversive elements” such as “Catholic priests and Protestant pastors.” Amnesty International, Guatemala: All the Truth, Justice for All (New York: Amnesty International Publications, 1998), 12, AI Index: AMR 34/02/98.

Rigobeta Menchú’s father was one of the people killed in the Spanish Embassy. She later became a Nobel Peace Prize recipient.

García ordered the Army in despite two calls from the Spanish Foreign Minister demanding his security forces withdraw because a settlement had been reached with the occupiers. Instead police climbed the roof broke down the door and threw in Molotov cocktails which set the entire building on fire. Thirty-nine people were killed including a former Vice-President and former Foreign Minister who was visiting the Embassy. García blamed the occupiers but Spain cut off diplomatic relations with Guatemala outraged by the police attack on its territory. Alan Riding “Guatemala: State of Siege,” New York Times, 24 August 1980, sec SM 14.

Jonathan Power, Like Water on Stone, 51.

Amnesty International, A Calendar of Abuse, 3, AI Index AMR 34/18/79.

political assassinations.”\textsuperscript{54} The Guatemalan government did not deny that people it considered “subversives” or “criminals”, were seized and murdered daily, but it placed the blame on independent, anti-communist “death squads.”\textsuperscript{55} While García argued that violence was a way of life in Guatemala and that the Guatemalan state was not responsible for the state of terror and massive human rights abuse, he created another group charged with the task of eliminating the guerrillas and their supporters.

Patullas de Auto-Defensa Civil Civil (Defense Patrols, PACs), were García’s 1981 brainchild. They were made up of male campesinos—peasant farmers—from rural areas in Guatemala who are compelled to act as the Army’s civilian adjunct.\textsuperscript{56} Participations in these PACs was “voluntary but obligatory” according to a Guatemalan military commander and tactics included recruiting minors under the age of fifteen and a large number of indigenous men.\textsuperscript{57} Even with the help of these PACs, the strength of the guerrillas grew, due in part, to García’s actions and the brutality of his counter-insurgency campaign.

The Panzós massacre, the protests that followed, the massacre at the Spanish Embassy, and the widespread violence drew indigenous people to the guerrilla groups. According to a Catholic priest in Guatemala, the firebombing of the Spanish Embassy marked an important turning point for the indigenous, “The Indians sent their delegates down to Guatemala City to

\textsuperscript{54} LaFeber, \textit{Inevitable Revolutions}, 260. He had threatened to resign several times prior to 1980 stating health problems as the cause. Privately he admitted the real reason was his frustration with his government’s failure to end the violence and investigate assassinations as well as his inability to change the course of events in Guatemala. But in a 22 March 1979 interview he stated “Death or exile is the fate of those who fight for justice in Guatemala.” Amnesty International, \textit{A Calendar of Abuses}, 3, AI Index AMR 34/18/79.

\textsuperscript{55} Amnesty International, \textit{Guatemala: A Government Program of Political Murder} (London: Amnesty International Publications, 1981), 5, AI Index AMR 34/02/81. García stated that “criminals” were seized and killed by the Escuadron de la Muerte (Death Squad) and that “subversives” were killed by the Ejército Secreto Anticomunista (ESA) Secret Anti-Communist Army. He even release statistics stating that from January to June 1979 the Death Squad killed 1,224 criminals (1,142 men and 82 women) and January to October 1979 the ESA had killed 3,252 “subversives.”


beg for justice and they came back in coffins. They won’t send any down again.” The indigenous support for the guerrillas in the area increased immediately, as did international concern due to the escalating violence in Guatemala.⁵⁸

The United States also began to re-evaluate its relationship with that country as a consequence of the violence and commitments to other countries. The shift in United States policy began in 1975 when it decided not to deliver military equipment to Guatemala at the request of Great Britain. The British were afraid that the Guatemalans would use the weapons to invade Belize, Guatemala’s neighbor to the east and a British colony, due to become independent in September 1981.⁵⁹ The U. S. decision not to fill the military orders did not change the Guatemalan’s position on its right to Belize but it did inspire the Guatemalan government to look for a more dependable source of military equipment.⁶⁰ According to the Stockholm International Peace Research Institute (SIPRI) the first major military transaction between Israel and Guatemala took place in 1975; which included 11 Arava planes, artillery pieces and light weapons.⁶¹ The U.S. refusal to fill Guatemala’s military order in 1975 at the behest of the British signaled to the Guatemalan government that U.S. policy was changing. U.S. policy changed more dramatically when President Jimmy Carter decided that human rights considerations would be a central focus of his administration.

Latin American countries felt the full force of the administration’s human rights offensive in 1977, when Carter condemned several of them, including Guatemala, as gross human rights

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⁵⁹ Guatemala had always claimed that Belize was part of its country.
⁶⁰ The British attempt to deny Guatemala arms, while respected by the United States, was undermined by countries Taiwan, France, Belgium, Italy, Yugoslavia and Israel who filled the Guatemalan military orders.
⁶¹ The SIPRI was established with the support of the Swedish government in 1966 and seeks to contribute to the international understanding of the necessary conditions for peaceful solution of international conflict and for a stable peace.
violators. Carter then conditioned future U.S. assistance upon human rights improvements. The Guatemalan government quickly renounced this conditional military assistance from the United States. The Foreign Minister stated at the time that such actions “constituted an unacceptable intervention into the internal affairs of another state—something that was totally inadmissible between two sovereign states.” The Guatemalan government could reject U.S. aid because by 1977 Israel had largely replaced the United States as Guatemala’s primary military supplier. In November 1977 Guatemala replaced the U.S.-made Garand M-1 rifle used by the Army with the Israeli-made Galil rifle as part of a program that would replace all the equipment used by the Army with Israeli-made counterparts. According to the SIPRI, between 1977 and 1981 Israel was the principal supplier to the Guatemalan Army and both Taiwan and Israel provided counter-insurgency training there. Carter’s policy, meant to improve human rights abuse, had failed because Guatemala was able to circumvent the U.S. arms embargo. Despite this failure, the embargo remained in place and President García seemed determined to steadfastly resist the pressure to moderate his counterinsurgency program. The continuation of the embargo was uncertain in 1981 when Ronald Reagan assumed the presidency and appeared ready to improve relations with García’s government despite continued human rights violations.

Reagan attempted to strengthen the image of García regime following the Sandinista revolution in Nicaragua, but García, who had grown deeply suspicious of the United States, did

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62 Carter’s Latin American human rights offensive also targeted El Salvador, Brazil, Argentina, and Uruguay and made special mention of President García’s death squads. LaFeber, *Inevitable Revolutions*, 211.
64 This is according to a 1981 report by ALAI, the Latin American Information Agency established in 1977 to improve human rights in Latin America and to encourage citizen participation in policymaking. A 1981 report from SIPRI found that Israel also provided the Guatemalan military with Uzi submachine guns, 10 RBY-MK1 armored cars, grenade launchers and three Dabur patrol boats.
65 General Montt explained the easy takeover of Guatemala during the military coup in March 1982 by stating, “many of our soldiers were trained by Israelis.” F. Greve, “Israel Could Fill the Gap if U.S. Latin Aid Funds Cut,” *The Miami Herald*, 27 May 1982.
not even make “minor concessions that would mollify Congress” enough to allow more aid into Guatemala. The level of violence increased, not only because García was cracking down on the growing guerrilla movement; but also because of fractures in the oligarch-military government, due to different economic goals. Rival economic powers and the portion of the military loyal to them, fought one another for control of land and mineral rights, resulting in another war within the larger war. The professionalism which had characterized the army earlier was slowly being replaced by loyalty to economic interests. As a result, the political conditions in Guatemala were favorable for a coup, one that would usher in another strongman who would try to finish off the guerrillas.

The coup came soon after a fraudulent presidential election resulted in the election of President García’s, hand-picked successor, Minster of Defense General Angel Anibal Guevara. A powerful contingent within the military was unwilling to allow Guevara to assume the presidency and just three weeks after the elections, on 23 March 1982, a group of junior officers surrounded the National Palace and demanded the resignation of President Lucas García. The young officers’ first radio communication after surrounding the National Palace stated its grievances and the inadequate measures taken by the García administration to resolve the country’s problems.

[Given] the situation to which the country has been taken by means of the practice of fraudulent elections, accompanied by the deterioration of moral values, the splintering of democratic forces, as well as the disorder and corruption in public administration, it has become impossible to resolve these problems within a constitutional framework. All of which makes it imperative that the Army assume the government of the Republic.⁶⁶

Garcia resigned and the young military officers moved quickly to establish its dominance. It invalidated the election of General Angel Anibal Guevara, annulled the 1965 Constitution,

⁶⁶ Ibid, 56.
dissolved Congress, suspended all political parties and formed a three-man junta which was to serve as the head of the Guatemalan government. This three person junta was lead by General Efrain Rios Montt but also included two other military officers who participated in the bloodless coup; General Horacio Maldonado Schaad and Colonel Francisco Luis Gordillo. Rios Montt was no novice when it came to military coups or political intrigue in Guatemala. After he graduated from the School of the Americas in 1950 he participated in the 1954 CIA-led coup which removed Arbenz from power. After the coup he rose quickly through the Guatemalan military and by 1974 he used his military credentials to bolster his political career. Rios Montt ran as a candidate for the right-wing National Opposition Front (FNO) Party and won the majority of the country’s votes; however, these results were not officially recognized because the military preferred Rios Montt’s right-wing rival, General Kjell Eugenio Laugerud Garcia as the president. Following the election Rios Montt was sent to Spain as a military attaché where he was in de facto exile until 1977. Upon his return to Guatemala he dedicated himself to his Church of the Word ministry and waited for an opportunity to resume his political career.

The March 1982 coup provided that opportunity and after waiting eight years Rios Montt was impatient with the power sharing arrangement established by the junta. Therefore on 9 June 1982, he dissolved the junta and assumed dictatorial power and supreme command of Guatemala’s military. His reign as dictator continued many of the brutal policies established by Garcia to eradicate the leftist insurgency; however, these policies were modified to root out

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67 Montt was bitter about the outcome of the election; however, rather than blaming the military for the fraudulent elections Montt blamed his loss on Catholic priests and Catholic Mayans who did not vote for him. Montt, himself a Catholic, began to call all Catholic priests “leftist agents” and abandoned his Catholic faith while in Spain. He soon converted to a California-based evangelical Protestant religion known as the Church of the Word. Eventually he became a minister and considered Jerry Falwell and Pat Robertson as personal friends.

68 After he dissolved the three man junta he recognized only one partner, God. His advisers said at the time that they were startled when Montt would drop to his knees to pray during high-level meetings and Montt himself said that he often consulted God on policy matters. Mark Whitaker with Beth Nissen, “Beans and Bullets Politics,” Newsweek 13 December 1982, 56.
any remaining leftists and obliterate them. To that end, Ríos Montt’s planned a devastating, three-stage counterinsurgency campaign that targeted guerrillas and anyone tainted by their ideology.

The first stage lasted from March until August 1982 and has been characterized as “a declaration of war on any individual or group suspected of assisting, or even sympathizing with, the guerrilla insurgency.” During this stage, known as Operation Victory 82, Ríos Montt consolidated all state power into his hands and at the end of June he declared a state of siege. All political activity was banned and law enforcement was less subject to legal and political constraints on their actions. Ríos Montt made a national television address that announced the creation of special courts, which were in reality secret tribunals, vested with the power to execute those convicted of guerrilla activities. Anyone caught with a large number of weapons, burning buses, setting off bombs, or committing any other terrorist act was to be put to death. He struck hard at rebels by legalizing their repression and removing restraints on state agents, in order to achieve the goal of the first stage of his counterinsurgency campaign. According to AI between March and July 1982, over two thousand indigenous people were killed in 60 different acts of violence; others suggest the number was much higher.

Ríos Montt, like those who came before him, planned to deny the guerrillas the support of the indigenous people. Because some guerrilla groups had set up their insurgent base in the areas heavily populated by indigenous people, this five month campaign had a devastating effect on them. Ríos Montt implemented a scorched earth policy, which made no distinction between guerrilla combatants and the Mayan civilian populations that lived in the targeted areas. As a

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71 Lovell, *A Beauty that Hurts*, 57.  
72 Justice and Peace a Mexican Christian movement suggests the number killed in the first five months after the coup to be about nine thousand. Lovell, *A Beauty that Hurts*, 59.
result, entire villages were burned to the ground and the countryside in the north and far west were transformed from fertile farmlands to ash.\(^{73}\) When questioned about his policies during a trip to Washington in December 1982, Ríos Montt stated “We have no scorched earth policy. We have a policy of scorched Communists.” Privately he acknowledged the massacres: “We are killing people, we are slaughtering women and children. The problem is, everyone is a guerrilla there.”\(^{74}\) These comments seem to affirm the findings of Guatemala’s UN Truth Commission known as the *Comisión de Esclarecimiento Histórico* (Historical Clarification Commission, CEH) which asserted that the Guatemala Government operated under the assumption that it was facing an all-inclusive internal enemy. Montt’s first stage marked by search-and-destroy missions, massacres and scorched earth prepared the way for the second stage which would capitalize on the collateral damage of the first.

Those indigenous people who survived this five month period of intense violence were left hungry and homeless and the second stage in Ríos Montt’s plan built on that condition. The physical violence largely ended by August 1982 and was replaced with a program commonly known as *frijoles y fusiles* (beans and rifles) in which the State provided food after villages set up PACs to keep the guerrillas out in the future. This was largely successful because the guerrillas’ weakness was apparent and the indigenous people knew they could not count on them for protection.\(^{75}\) According to one Guatemalan army officer, the government’s message under President Montt to the indigenous was simple: “If you are with us, we’ll feed you, if not, we’ll kill you.”\(^{76}\) By the end of 1982 hundreds of villages created PACs under the beans and rifles

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\(^{73}\) Refugees also claimed that Montt’s forces beheaded babies, burned elder leaders, and stabbed pregnant women’s bellies. Whitaker and Nissen, “Beans and Bullets Politics,” 56.  
\(^{75}\) Lovell, *A Beauty that Hurts*, 59.  
programs, the army was 20,000 strong and Montt controlled 75% of the countryside. At this point he was ready to implement the third and final stage of his campaign to end the insurgency.

The third stage built on the concept of beans and rifles to ensure permanent security in Guatemala through economic development, social justice, and progress. Community development projects were organized primarily by Protestant evangelical groups with strong connections to the United States. President Ronald Reagan was impressed, even recommending that Guatemala be taken off the “black list” of human rights violating countries, which would have allowed military and economic assistance to Guatemala once again. This was a distorted historical view of the situation in Guatemala because Reagan focused on the reduction in deaths and violence by 1983 to justify this recommendation, but the systematic reasons for the violence had not been resolved and it continued. Reagan’s attempt to improve relations between the United States and Guatemala, which began with the García administration, also extended into Ríos Montt’s regime. In addition to highlighting the improved human rights situation in Guatemala, Reagan, the cold warrior, believed that the Soviet Union had caused all the unrest in Guatemala. However, many observers of Guatemalan history did not see an improved human rights situation or that the Soviet Union was the cause of the problems. In testimony in Washington in 1982 Maurice Dupras, chairman of the Parliamentary Subcommittee for Canada’s Relations with Latin American and the Caribbean, challenged Reagan’s assertions about the Soviet Union’s role in the Guatemalan civil war.

It hardly needs to be said that it is Washington, not Moscow, that has been for many decades the dominant outside power south of the Rio Grande, and nowhere

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77 Whitaker and Nissen, “Beans and Bullets Politics,” 58.
78 Lovell, A Beauty that Hurts, 61.
79 An estimated ten thousand were killed during Montt’s seventeen-month presidency.
more so than in Central America. Washington’s policies in the region closest to it have produced a bloody shambles rather than the intended result of social stability and political acquiescence. There is no area of the world more ripe for revolutionary change. This is the case despite decades during which the United States has not hesitated to employ its immense military, economic, and political influence in the region.\textsuperscript{81}

Others took exception to Reagan’s claims that under Ríos Montt the human rights situation had improved. Human rights’ reporting was difficult during this time because of state censorship and the Guatemalan government’s refusal to admit even the International Committee of the Red Cross. This difficulty was used by the U.S. Embassy in Guatemala and the State Department to downplay the reliability of reports that asserted that Guatemala’s violence was increasing.

The question of improvements over the previous regime is almost a measure of the sorts of data one wishes to believe. There have been conflicting reports, but most of the reports suggest that the total number of people that have been massacred in rural villages, especially in the highlands, since the coup is at least 2,500 from Amnesty International—a relatively conservative view—to as many as 10,000. Rural massacres in July were denied to be existing by the Department of State. Later in the fall, the Department of State said that the massacres have shifted from the Quezaltenango area to the San Marcos area, an area that up until now has not been affected by this in a major sort of way.\textsuperscript{82}

The shifting geographic locations of the human rights violations, combined with censorship and Reagan’s desire to see improvement in the area of human rights so he could resume aid, meant that the U.S. administration saw what it wanted to in terms of progress in Guatemala. As a result the administration attacked information that challenged their perception of Guatemala.\textsuperscript{83}

\textsuperscript{81} Lovell, \textit{A Beauty that Hurts}, 67-68.
\textsuperscript{82} Congress, House of Representatives, Subcommittee on Western Hemisphere Affairs of the Committee on Foreign Affairs, \textit{United States Policy Toward Guatemala: Hearing before the Committee on Western Hemisphere Affairs, 98\textsuperscript{th} Cong., 1\textsuperscript{st} sess., 9 March 1983}, 12. Comments from Robert H. Trudeau, director of Latin American Studies, Providence College.
\textsuperscript{83} This was the case with Amnesty International’s July 1982 report \textit{Guatemala: Massive Extrajudicial Executions in Rural Areas under the Government of General Efrain Rios Montt}. The report listed sixty-nine human rights violations beginning with the March 1982 coup that brought Montt and two others to power and continues until the end of June estimating that 2,186 had been killed. The manner of death ranged from burning people alive in their homes, “disappeared,” outright murdered, and machine-gunned and macheted to death. The Guatemalan
This was illustrated in a heated written exchange between Patricia L. Rengel, AI’s Director in Washington D.C. and Thomas O. Enders, the Assistant Secretary of State for Inter-American Affairs regarding the situation in Guatemala. Enders took issue with 7 of the 69 incidents listed in a 1982 AI report and charged that the report failed to document guerrilla violence and “gave the public a one-sided impression of what was happening in Guatemala.” Perhaps most striking was Enders assertion that the 23 March 1982 coup that brought Montt to power marked a “clear break from the country’s dark past” and that the “triumvirate’s assumption of power would be a new beginning for the country.” He asserted that progress was being made even if the pace was slow.

No one would deny the possibility of units of the military, in contravention of stated policy, having been involved in violations of human rights. What is important is that since March 23 the Government of Guatemala has committed itself to a new course and has made significant progress. But, as we know from our own experience, it takes a long time to change the bias of the past, and to convince people that the new ways are better. We must demonstrate our support for the reforms underway and for those in the government urging further improvement through meaningful, if prudent acts.

Ms. Rengel fired back at Enders and efforts by the Reagan administration to downplay the continuing violence in Guatemala. She asserted that because only 7 of the 69 violations were questioned by Enders that the “sharp contrast” laid not with the details of the human rights violations so much as the conclusions regarding who was responsible. She also addressed the U.S. Embassy’s Report was “a horror story conceived by an insane writer” and told the Guatemalan and international media that Amnesty International “was engaged in a campaign of defamation against Guatemala.” The U.S. Embassy responded that many of the incidents could not be corroborated by sources such as the press or the Army, that some of the locations of massacres listed by Amnesty could not be found on the map, that Amnesty’s information “contrasted greatly” with information obtained by the U.S. Embassy, and that Amnesty failed to report incidents of leftist violence on the Army, civil defense forces, and noncombatants. Ann Marie Clark, “Amnesty International’s Campaign on Guatemala,” 64. Amnesty International, Amnesty International Report 1983 (London: Amnesty International Publications, 1983), 141, AI Index: POL 01/01/83.

84 Letter to Patricia L. Rengel from Thomas O. Enders, Assistant Secretary of State for Inter-American Affairs found in Congress, House of Representatives, Subcommittee on Western Hemisphere Affairs of the Committee on Foreign Affairs, United States Policy Toward Guatemala: Hearing before the Committee on Western Hemisphere Affairs, 98th Cong., 1st sess., 9 March 1983, 77.
Enders’ charges of one-sided reporting by AI and the examples he produced to support this charge.

We note that each of the examples contained in your letter cites official Guatemalan government accounts of events which appeared in the Guatemalan press. While we do not intend here to comment on or characterize the U.S. Embassy’s information-gathering procedures, we would note that the Government of Guatemala is not an uninterested party, nor is the Guatemalan press entirely free. Amnesty International’s own research procedures require and rely extensively on independent testimony to corroborate reports of violations.  

Finally, Rengel addressed the organizations overall disappointment with the United States position that Montt’s rise to power marked a “clear break from the countries dark past.”

Your failure at a minimum to acknowledge affirmatively the consistent and widespread government-sponsored repression which has claimed the lives of over 2,600 Guatemalans from March to July 1982 is quite remarkable. We would note that your lack of condemnation of human rights violations perpetrated by regular army and civilian army auxiliaries and your rejection of the findings of Amnesty International’s report on Guatemala has been found ‘very satisfactory’ to the Guatemalan Government, as reported on October 20, 1982 in the Federal Broadcasting Information Service. We are deeply concerned that such a posture on the part of the U.S. Government may only serve to dim the hopes for progress in promoting and protecting human rights in the country of Guatemala.

The attempt by the Reagan administration to bolster Montt’s image in the United States so he could re-establish aid was also criticized before Congress by academics familiar with the realities of life in Guatemala. Robert H. Trudeau, the director of Latin American Studies at Providence College testified that the U.S. State Department, which was largely informed by the US Embassy, was less than objective.

It seems to me that their [the Department of State] effort has been to ignore, by and large, the sources of evidence that I am presenting, and instead turn reality on its head—a process designed to make a set of policy options seem to be the only realistic options available for our national interests. What is essentially a domestic political struggle within Guatemala is described as a conflict between the United States and the Soviet Union. A military government that has seized power in a coup d’etat and has reduced civilian

85 Ibid, 90. 
86 Ibid, 90.
participation in policymaking in Guatemala is described as leading Guatemala toward democracy.

A military government that has actually increased the level of violence in the countryside—violence largely directed at civilian populations—is described as having made sufficient progress in human rights questions to justify a resumption of military assistance. A tragic situation that can hardly be imagined to be worse in terms of the quality of life of the majority of the citizens is described as an improving situation that will be much worse in undescribed ways if the Government of Guatemala should fall.  

Despite the preponderance of evidence that Ríos Montt’s regime was not a new beginning for Guatemalans and that the violence of the war had escalated, economic assistance resumed in 1983 between the United States and Guatemala. At the same time however, the United States began to push for civilian leadership of the country, believing this would be instrumental to ending the war and the violence.

Ríos Montt had nearly succeeded in eliminating the second generation of guerrillas by the end of his presidency, which came sooner than expected, as he was removed from power in an August 1983 coup. He was replaced by General Oscar Humberto Mejía Víctores, who continued many of the same policies instituted by Ríos Montt. As a result, thousands of Guatemalans would be killed during his term of office. Once again professionals, students, workers, farmers and indigenous were disappeared, tortured and found dead along the roadsides and in clandestine graves. The white van murders were part of this campaign of disappearances, in which police and military—sometimes in uniform—disappeared thousands of student activists, teachers, business people and human rights defenders who were labeled subversives.

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87 Ibid, 13.
88 The Reagan administration requested an aid package that included $10.2 million in military assistance and $53 million in economic assistance for fiscal year 1984.
89 At least official in the Reagan administration said acknowledged the problem with the United States position on Guatemala when he lamented, “What we’d give to have an Arbenz now.”
90 During Ríos Montt’s presidency the moderate voice of Christian Democratic leader Vinicio Cerezo repeatedly requested that Guatemala not receive military assistance until the gross violations of human rights ended and political freedoms were restored. Congress, House of Representatives, Subcommittee on Western Hemisphere Affairs of the Committee on Foreign Affairs, United States Policy Toward Guatemala: Hearing before the Committee on Western Hemisphere Affairs, 98th Cong., 1st sess., 9 March 1983, 6.
Government administrators claimed this was the work of extremists on the right and left, not sanctioned by the government, but investigations discredited that assertion.\(^9\) The level of terror within the country compelled many Guatemalans to flee to Mexico to avoid the fate of loved ones who had disappeared. These refugees told horrific stories of torture and murder on a massive scale. The cross-border raids by the Guatemalan military into Mexico to attack Guatemalan refugee camps further documented the continued obsessive pursuit of “internal enemies” by the Guatemalan state.\(^9\) As a result, the international calls for significant reform in Guatemala compelled some action. Mejía Victores would be Guatemala’s last military president, igniting hope that Guatemala’s first civilian president in almost two decades would end the war and the violence.

Civilian President Vinicio Cerezo Arévalo assumed the presidency in January 1986 amid much fanfare and expectations of genuine reform. These expectations were increased when Cerezo sent armed men into the country’s most feared secret police unit, the Technical Investigations Department. All 600 agents were detained for one day and they were photographed, fingerprinted, and disarmed. The agency was then abolished by presidential decree.\(^9\) This explains in part why there was a temporary reduction in the number of human rights violations following his inauguration. Cerezo also instituted some reform programs in the areas of taxation and land re-distribution, but these were only marginally successful and failed to meet the expectation placed on this first civilian presidency. Cerezo’s inability to clean house was rooted in how he came to be president in Guatemala. The army voluntarily relinquished the presidency after it had been assured that it would be safe from criminal prosecution for its

\(^9\) A report by the Inter-Church Committee on Human Rights in Latin America (ICCHRLA) found seventy documented incursions by Guatemalan military forces into Mexico. One occurred on April 30 when a refugee camp inside Mexico was attacked resulting in tortures and death.  
actions during the war and now its political and economic interests suggested it was time to improve Guatemala’s international image.\textsuperscript{94} Guatemala’s economy was in shambles, but the Army had been successful in eliminating the guerrillas for the time being, so allowing a civilian government would cost them little but would bring significant benefits in the form of foreign aid and loans. The army’s confidence in its control of the country would once again be challenged and the relative calm would not last.

Cerezo declared soon after becoming president that he intended “to solve the problem of political violence and prevent future violations of human rights through the improvement of legal structures and processes” but this did not mean that he was going to investigate the human rights abuses of the past. He believed that “everyone was involved in violence” and that investigating past human rights abuse would just encourage revenge. He therefore asked the Guatemalan people to forget about the past.\textsuperscript{95} This ahistorical sense of the problem did not take into consideration that it would be impossible to forget the past if the human rights problems were systematic and therefore part of the present reality for thousands of Guatemalans. While human rights violations were occurring on a smaller scale than under previous administrations, there were still many cases of “disappearances” and extra-judicial executions. Often the victims were those who sought clarification of past human rights abuses in addition to the traditional victims of the State’s counterinsurgency campaigns. Cerezo’s inability to control the army and his failure to investigate the increasing human rights violations would be replicated by all the civilian presidents; revealing that the true power in Guatemala continued to be with the military.

\textsuperscript{94} Before President Mejía Víctores left office he issued Decree Law 8-86 which granted amnesty to “all people implicated in political crimes and related common crimes during the period from 23 March 1982 [when General Ríos Montt came to power] to 14 January 1986 [when President Cerezo took office]. Amnesty International, “Human Rights Abuses in Guatemala,” 3.

\textsuperscript{95} Ibid.
Two years into Cerezo’s term as president, Guatemalans lived in a similar state of terror they experienced during the García, Ríos Montt and Mejía Víctores presidencies. The coming of civilian government in Guatemala generated a great deal of support in the U. S. Congress. Democrats in Congress now believed that the military in Guatemala deserved a reward for allowing civilian control of the government so they led the movement that promoted resuming aid to the government. The belief was that this aid would be useful in civilizing the Guatemalan security forces. The bulk of U.S. aid arrived in Guatemala through Economic Support Funds “disguised security assistance insofar as it freed up local funds for counterinsurgency.” This aid would be instrumental in battling the third generation of leftist guerrillas that were posing a renewed challenge to the Guatemalan government in the late 1980s. The Guatemalan military response to this re-emergence of leftist guerrillas who numbered around 3,000 was quick and deadly.

Beginning with the November 1988 massacre at the village of El Aguacate, human rights organizations noted that human rights violations were once again escalating in Guatemala. It was also during this period that some of the most infamous of human rights violations occurred including the abduction and torture of Sister Diana Ortiz and the assassination of Hector Oqueli, Michael Devine and Myrna Mack. All of these were high profile human rights

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96 Many argued that Cerezo’s biggest failure was to capitalize on his landslide victory to wrestle control of the country from the military.
97 This was merely a cosmetic change for the Guatemalan government, since the real power rested with the military.
98 Jonas, Of Centaurs and Doves, 122.
99 This third generation was the URNG (Unidad Revolucionaria Nacional Guatemalteca, Guatemalan National Revolutionary Unity).
100 Ortiz was an Ursuline nun from Kentucky and wrote a book about her abduction, torture, and search for justice in both the United States and Guatemala entitled The Blindfold’s Eyes: My Journey from Torture to Truth.
101 Oqueli was a Salvadorian social democrat who was visiting Guatemala for two days when he was killed.
102 Devine was an American who owned a tourist resort in Petán. A private investigator discovered the vehicle and those that were driving it in the local military garrison. Six enlisted men were sentenced to thirty years, Captain Hugo Roberto Contreras Alvarado and four other enlisted men were acquitted and those acquittals were appealed by Michael Devine’s wife and the Attorney General’s office. Captain Hugo Contreras was later sentenced to a twenty-year sentence but escaped from prison in May 1993.
cases that highlighted the long tradition of impunity in Guatemala and because they involved American citizens, became a high profile case. However, there were tens of thousands of human rights violations that occurred within Guatemala in addition to this handful of Americans which did not generate much attention. In addition, these human rights violations were committed with impunity because very few perpetrators had been punished for their crimes often because they continued to hold positions of authority in Guatemala.¹⁰⁴

Along with the targeting of specific individuals such as Oqueli, Devine and Mack by the Guatemalan government, there continued to be massacres and other human rights violations perpetrated by guerrillas of the Unidad Revolucionaria Nacional Guatemalteca (Guatemalan National Revolutionary Unity, URNG). The appointment of Ramiro de Leon Carpio to the position of Human Rights Commissioner at the end of 1989 occurred during this period of high profile human rights crimes. Leon Carpio documented human rights crimes perpetrated by the guerrillas and governmental forces. These included the UNRG’s explosion of the Moca Bridge that killed two people as well as the military’s responsibility for the 2 December 1990 massacre at Santiago Atitlan.¹⁰⁵ In response to the massacre, Commissioner Leon Carpio condemned one individual and issued an institutional condemnation against the military, demanding that it leave the village immediately.¹⁰⁶ Leon Carpio’s uphill battle to improve the human rights situation in Guatemala won him admirers in Guatemala as well as the United States. Perhaps a large part of

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¹⁰³ Mack was a Guatemalan anthropologist doing research on displaced communities in the highlands of Keche in coordination with Catholic Church; she had been stabbed 27 times. In February 1993 Noel de Jesús Beteta Alvarez, an ex-sergeant in the Guatemalan army charged with presidential security, was sentenced to thirty years in prison for her 11 September 1990 murder.

¹⁰⁴ Perhaps the most disturbing example of impunity is former President Ríos Montt’s return to national office. He ran for president in 2003 and prior to that served as the President of Guatemala’s Congress despite provisions in the Constitution that leaders of coups were not legible for public office.

¹⁰⁵ The garrison in Santiago Atitlan opened fired on a crowd gathered in front of its building to protest the garrison’s culpability in an attempted abduction of a villager. At least thirteen people were killed and seventeen were wounded. Soldiers in uniform carrying M-16s proved the military’s responsibility for the massacre.

this admiration stemmed from his willingness to name the military as perpetrators of many human rights crimes despite the obvious danger.

In a country where the penalty for telling the truth about human rights could be death, Mr. de Leon is a true hero. His offices have documented 204 cases of extrajudicial killings and 105 disappearances in the first six months of this year. Of the 204 killings, most took place in the interior and most of the victims were Indians and peasants. Most of the killings were attributed to the army in the reports and, in Mr. de Leon’s opinion, at least 50 percent probably were committed by the army or by people protected by the army. 107

While the number of human rights violations was significantly less than during the late 1980s and early 1990s the fact that these violations continued to occur after two and a half decades, illustrated that violence and human rights violations were institutionalized in Guatemalan society. In addition, the continued re-generation of leftist guerrillas, despite the no holds barred approach espoused by counterinsurgency forces to eliminate them, revealed the perpetual stalemate that the Guatemalan civil war had become. While the army could badly damage the rebels, it could not suppress them completely, so it became clear that a political settlement had to be arranged to end this deadly war. 108

Peace talks to end the civil war resumed under President Jorge Serrano Elias, the second civilian president of Guatemala. 109 According to Human Rights Commissioner Leon Carpio, President Serrano was openly hostile to his office and his presidency was tainted by greed and corruption. That greed and corruption led to congressmen blackmailing the president in order to secure their votes and Serrano’s attempted coup d’ etat to abolish Congress and the Supreme

107 Congress, House of Representatives, Subcommittee on Western Hemisphere Affairs of the Committee on Foreign Affairs, Options for United States Policy Toward Guatemala: Hearing before the Committee on Foreign Affairs, 101st Cong., 2nd sess., 17 July 1990, 2.
108 The Central American Peace Accords of August 1987 which ended the wars in Nicaragua and El Salvador coupled with the beginning of the end of the Cold War began to change the Guatemalan military mind about peace.
109 Peace talks had begun under President Cerezo but progress was slow.
Court, the institutions that had blocked his corrupt business dealings. His coup attempt failed and he fled the country in 1993. The Constitutional Court refused to allow Serrano’s vice-president to assume the presidency and ordered the Congress to elect a new president. While peace talks began during Serrano’s administration, little progress was achieved because they were not prioritized by the administration. That would change when Leon Carpio was unanimously elected president by the Guatemalan Congress in 1993.

When Leon Caprio assumed the presidency in 1993, he developed a National Peace Plan, which had three main components; national reconciliation, fighting poverty, and ending the internal armed conflict. He planned to end the war through the help of the international community, specifically the United Nations and the Group of Friends—Venezuela, Colombia, Mexico, the United States, Spain, and Norway. The pressure on the government and the guerrillas generated by these two groups led to significant progress in peace talks and included an invitation to the United Nations to freely move about the country and verify the peace process. It was called the _Misión de Naciones Unidas de Verificación en Guatemala_ (United Nations Verification Mission in Guatemala (MINUGUA)). The agreement that invited the UN—the Oslo Accord Also took aim at impunity and created a timetable for future negotiations between the URNG and the government. Other agreements between the URNG and the government led to the creation of the Historical Clarification Commission (CEH), which would serve as a truth commission documenting the human rights violations of the war. The violence in Guatemala continued during these negotiations in the form of massacres, disappearances and torture but both sides continued to work toward the formal end of the war. That formal end came on 29 December 1996 when the _Acuerdo de Paz Firme y Duradera_ (The Agreement on a Firm

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110 Alvaro Vargas Llosa and Santiago Aroca, _Riding the Tiger_, 91 and 95.
111 Approximately 400 people from the United Nations were in Guatemala verifying compliance on human rights on the part of the government and the guerrillas.
and Lasting Peace) was signed, officially ending the Guatemalan civil war. The signing of this document brought into force a number of agreements negotiated during peace talks, including the disarming and ceasefire process.

The relationship between the United States and Guatemala changed in some important ways during the last phase of the civil war, which began in the late 1980s. At that time the Cold War was ending and President Reagan was succeeded in office by his Vice-President George H. W. Bush. Reagan’s belief that the war in Guatemala had important implications for the Cold War had led him to support the Guatemalan government despite its horrible human rights record. As the Cold War ended the United States began to re-evaluate its policies with a number of countries. One of the countries subjected to this re-evaluation was Guatemala. The fall of the Soviet Union made it impossible for the United States to continue to claim that the Guatemala civil war was tactically related to that communist regime. As a result, unlike Reagan, President Bush could stop sweeping Guatemalan human rights problems under the rug. To that end, the Bush administration improved its human rights reporting on Guatemala, withheld military aid due to lack of progress on specific human rights cases, and for the first time voted to upgrade Guatemala to special rapporteur status on UN Human Rights Commission. President Bush’s concern about human rights in Guatemala was shared in theory, if not always in practice, by William Clinton, who was elected to the U.S. presidency in 1992.

The United States became a member of the Group of Friends in 1994 to advance the peace progress in Guatemala. It also provided damning documentation to the CEH of the Guatemalan and United States actions during the war. However, Clinton’s commitment to

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112 Congress, House of Representatives, Subcommittee on Western Hemisphere Affairs of the Committee on Foreign Affairs, *The Situation in Guatemala and Nicaragua and Options for United States Policy: Hearing before the Committee of Foreign Affairs, 102nd Cong., 1st sess., 13 March 1991*, 2. One specific case the Bush administration suspended military aid over was the assassination of Michael DeVine in December 1990. However, while overt military aid was suspended, secretly CIA funds were used in their place.
addressing human rights problems and ending the war were complicated by the continued belief held by many in Washington that the military was the only functional institution in Guatemala. Because of this belief the United States did not work hard to make sure the civilian government was actually “civilianized” and used the military to work on anti-drug operations and expanded its role in public works projects throughout the country. Funding for the military in these capacities continued even after 1995 when aid was cut once again to Guatemalan military and security forces after the CIA Scandal in 1995.\footnote{This scandal broke on 3/23/1995 involved a high-ranking Guatemalan military officer who was on the CIA payroll, Colonel Julio Alpirez, who was involved in the early 1990s deaths of US citizen Michael DeVine and guerrilla commander Efrain Bámaca Velásquez, who was married to US attorney Jennifer Harbury. This connection between the CIA and the Guatemalan military proved to be just the beginning as many more connections were revealed about the connections between the two over the previous four decades. The Clinton administration faced increasing pressure to declassify documents that linked the CIA and other US agencies with human rights violations in Guatemala.} In addition, when almost everyone else, the UN, the OAS and the EU demanded the elimination of the PACs (Patullas de Auto Defensa Civil) the United States never did. Rather it quietly approved of the Guatemalan government’s plan to convert these PACs into “peace and development committees” – units of local power.\footnote{Jonas, Of Centaurs and Doves, 123.} For this and other actions many observers wondered about Washington’s commitment to demobilizing the military in Guatemala. Clinton was also criticized at the time the Peace Accords were signed in 1996 because he did not acknowledge, much less, apologize for the role the United States played in the devastating civil war in Guatemala.

Those critics were satisfied in March 1999 when, on a presidential trip to Guatemala, President Clinton offered the apology to the Guatemalan people that many believed should have been given over two years earlier. His visit took place less than two weeks after the release of the Historical Clarification Commission Report (CEH), which placed the blame for most of the violence with the Guatemalan government and gave a harsh assessment of the United States’ role
in the four decades of violence in Guatemala. The release of the report just prior to Clinton’s visit required him to respond in some way and he chose to apologize.115

For the United States, it is important that I state clearly that support for military forces or intelligence units which engaged in violent and widespread repression of the kind described in the [Truth Commission] report was wrong, and the United States must not repeat that mistake. We must, and we will, instead, continue to support the peace and reconciliation process in Guatemala.116

Many Guatemalans, who had lived through the war, believed this was an apology forty-five years in the making; a bittersweet moment that would do little to heal the physical and emotional wounds of the past or provide much hope for Guatemala’s bleak future.

The CEH report published in 1999, which compelled Clinton’s apology, examined and analyzed the events, reasons and consequences of the war. Its conclusions were largely based on evidence provided by the United States. The United States was under pressure from the CEH to declassify documents due to its close ties to the Guatemalan government and the CEH realized that the U.S. records would certainly be more complete than those of either side of the war. Pressure to declassify U.S. documents also came from within the United States, including the National Security Archive among others who invoked the Freedom of Information Act.117 Some departments and agencies provided more or better information than others. The fact that the information came from the United States, and was therefore deemed credible, meant that the United States could not challenge the CEH’s findings and Clinton’s only appropriate response was to apologize. The report published by the CEH was entitled Guatemala: Memory of Silence and it exposed the tragic and widespread devastation of the Guatemalan civil war.

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115 He received quite a bit of criticism for this, especially from conservatives, such as Oliver North.
116 Jonas, Of Centaurs and Doves, 128.
117 Many in the human rights community believed the release of this information would be useful in debates regarding the Human Rights Information Bill, which would have required U.S. foreign policy and intelligence agencies to release, within 150 days, all human rights records regarding Guatemala and Honduras and obviously would have been helpful to the CEH. The full CEH report is available on the internet at http://shr.aaas.org/guatemala/ceh/report/english
The CEH’s report concluded that over 200,000 had been killed or disappeared during the thirty-six year war, which it characterized as genocidal in at least four specific areas against the indigenous people who constituted 83% of its victims.\textsuperscript{118} The CEH also named the perpetrators and victims of the war.

Through its investigation, the CEH discovered one of the most devastating effects of this policy: state forces and related paramilitary groups were responsible for 93% of the violations documented by CEH, including 92% of the arbitrary executions and 91% of forced disappearances. Victims included men, women, and children of all social strata: workers, professionals, church members, politicians, peasants, students, and academics; in ethnic terms, the vast majority were Mayans.\textsuperscript{119}

The guerrillas, according to the report were responsible for 3% of the human rights violations—these were perpetuated on men, women, and children and included 5% of the arbitrary executions and 2% of the forced disappearances—demonstrating that the guerrilla groups did not have the “military potential necessary to pose an imminent threat to the State.”\textsuperscript{120}

The threat posed by the guerrillas stemmed more from their ideology than their military power. The guerrillas’ comparative weakness defined its methods and explained why they were responsible for so few human rights violations compared to the state. While the number of violations was significantly less than those of the State, the actions of the guerrillas were no less devastating to their victims. The guerrillas’ enemies and victims included not only the army and paramilitary units but also some economic and politically powerful civilians whom they believed responsible for governmental repression. The guerrilla groups also killed defenseless civilians, disappeared people, and forcibly recruited civilians into their groups with the threat of

\textsuperscript{118} Commission for Historical Clarification, \textit{Guatemala: Memory of Silence}, Conclusion I, para 1. The case for genocide was bolstered by the Commission’s findings of at least 626 massacres which accompanied the destruction and razing of indigenous villages. In addition, 17% of victims were Ladinos.

\textsuperscript{119} CEH, \textit{Guatemala: Memory of Silence}, Conclusion I, para 15.

\textsuperscript{120} CEH, \textit{Guatemala: Memory of Silence}, Conclusion I, para 15, 21, 24.
“revolutionary justice” if they attempted to desert. The guerrillas’ withdrawal from villages, which they had temporarily occupied, left villagers unprotected when governmental forces attacked; this resulted in high civilian death rates. In addition, thousands of people were displaced when the government razed these villages that had been temporarily occupied by the guerrillas. The Guatemalan government justified these civilian deaths by conflating the indigenous population and the guerrillas organizations but the CEH found that the Guatemalan government had “intentionally exaggerated” the connection between the Mayan communities and the insurgency.

The CEH concluded that the State deliberately magnified the military threat of the insurgency, a practice justified by the concept of the internal enemy. The inclusion of all opponents under one banner, democratic or otherwise, pacifist or guerrilla, legal or illegal, communist or non-communist served to justify numerous and serious crimes. Faced with widespread political, socio-economic and cultural opposition, the State resorted to military operations directed towards the physical annihilation or absolute intimidation of this opposition, through a plan of repression carried out mainly by the Army and national security forces. According to the CEH, “The magnitude of the State’s repressive response, totally disproportionate to the military force of the insurgency, can only be understood within the framework of the country’s profound social, economic and cultural conflicts.”

The CEH’s findings also placed the Guatemalan civil war in international context regarding the Cold War and the country’s relationship with the United States.

The cold war also played an important role. Whilst anti-communism, promoted by the United States within the framework of its foreign policy, received firm support from right-wing political parties and from various other powerful actors in Guatemala, the United States demonstrated that it was willing to provide support for strong military regimes in its strategic backyard. In the case of

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Guatemala, military assistance was directed towards reinforcing the national intelligence apparatus and for training the officer corps in counterinsurgency techniques, key factors which had significant bearing on human rights violations during the armed confrontation.\textsuperscript{122}

The United States bore some responsibility for the human rights tragedy in Guatemala. This connection was exposed by Amnesty International in its long campaign to end the human rights violations occurring in Guatemala during this war. We now turn to AI’s human rights campaign in Guatemala.

\textsuperscript{122}CEH, \textit{Guatemala: Memory of Silence}, Conclusion I, para 13.
CHAPTER III. AMNESTY INTERNATIONAL’S CAMPAIGN AGAINST THE GOVERNMENT PROGRAM OF POLITICAL MURDER IN GUATEMALA

Six years after the Peace Accords were signed formally ending the civil war in Guatemala; Amnesty International (AI) announced that Guatemala was experiencing a “human rights melt-down.”\(^1\) There was significant evidence from a variety of sources to support AI’s assertion, including the U.S. State Department, the Inter-American Commission on Human Rights (IACHR), MINUGUA, GAM and the UN Special Rapporteur. The “melt-down” manifested itself in the form of death threats, torture, extra-judicial executions, assassinations, and vigilante violence, especially against those who worked to implement the provisions of the Peace Accords. The Guatemalan state’s failure to combat impunity and discrimination combined with the re-emergence of the civil defense patrols (PACs) in 2002 contributed to the continuation of the “national trauma.”\(^2\) MINUGUA forecasted 2003 to be the most violence year since the signing of the Peace Accords. Information from GAM appeared to support that assertion; as it reported that in the first nine months of 2003 it had information pertaining to at least 2,101 human rights violations.\(^3\) Impunity, the failure to redress social inequity and a legacy of violence compounded to create Guatemala’s most recent human rights “melt-down.”

The State’s failure to act on all but a few hard-fought, high profile human rights abuse cases emboldened perpetrators to commit additional crimes as well as to intimidate or eliminate those who were working to ensure that those responsible for past violence were punished. In addition, the gap between the very rich and very poor persisted, reinforced by a universal tax

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burden in 2001 of only 8.7 percent. Finally, Guatemalan society in general had been distorted by the violence of the last five decades.

The armed conflict left a country awash in weapons and people accustomed to using them; it left widows, orphans, and whole communities traumatized, and the general population deeply distrustful of public authority; and it left a large number of human rights violators determined to escape justice for their crimes.

This produced a legacy of violence, especially in areas that had experienced the most violence. The UN-sponsored Historical Clarification Commission (CEH) found that between 1962 and 1996, El Quiché department had absorbed 45.52% of the human rights violations and acts of violence that it had investigated and that this department was the site of 344 of the 669 massacres it had examined. This high level of violence transformed El Quiché in significant ways. Perhaps the most tragic transformation was the high number of vigilante lynchings documented by MINUGUA within the department following the formal end to the civil war. The continuing violence in El Quiché and throughout the country suggested that securing peace in the aftermath of Guatemala’s civil war would be difficult. According to AI, that difficult task was further hampered by the policy of impunity followed by the Guatemalan government. AI insisted that it was dangerous to ignore past human rights abuses; “when questions of responsibilities and accountability for past human rights violations are not adequately addressed, they will not just disappear. They will resurface at later stages, presenting the risk of renewed violations and

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4 The tax burden in the United States at the same time was twenty percent. As a result, the country’s public institutions are chronically under-funded. For example, forty-five percent of primary school children in Guatemala have no access to schools. Tina Rosenberg, “The Erosion of Political Reform in Guatemala,” New York Times, 3 June 2001, sec WK16.


6 Huehuetenango Department suffered the second highest number of human rights violations and acts of violence accounting for 15.60% and eighty-eight massacres. Commission for Historical Clarification, Guatemala: Memory of Silence, Annexes, table, “Total percentage of human rights violations and acts of violence, by department.” Authorized posting on-line by the American Association for the Advancement of Science, at http://hrdata.aaas.org/ceh.

further pain and suffering.\textsuperscript{8} Impunity, continued social injustice, and the legacy of violence contributed to a further erosion of respect for the rule of law in Guatemala, even after the implementation of the Peace Accords meant to guide the country to a lasting peace.\textsuperscript{9} Anyone familiar with Guatemala’s past knew that the road to peace would be a difficult one. This included AI, which had been campaigning for Guatemalan human rights for over forty years. This chapter will detail AI’s human rights campaign in Guatemala, its efforts to compel the United States to use its influence with Guatemalan leaders to end the widespread human rights abuse there, as well as document the effects on Guatemala as AI’s testing ground for a new human rights strategy.

AI’s Guatemalan campaign from the beginning presented a challenge to the organization because it had no national chapter in the country and civil society was weak.\textsuperscript{10} Hampered by these realities, its work in Guatemala required a long-term commitment, which had to be firmly centered on respecting the rule of law in order to ensure international support. Therefore it stressed the importance of international human rights norms in order to build an international consensus regarding the improvement of human rights conditions in Guatemala. This international consensus building was important because it played to AI’s strength as an information collector and disseminator, tactics which could bring pressure to bear on the Guatemalan government and would help co-opt more powerful entities to intercede on behalf of

\textsuperscript{9} The Peace Accord signed on 29 December 1996 is formally known as the Agreement on a Firm and Lasting Peace.
\textsuperscript{10} As of this writing there still is no AI national chapter in Guatemala although there are numerous examples of civil society—domestic nonstate actors—in operation in Guatemala sponsored by religious organizations and private associations representing human rights and many other causes as well. These domestic organizations and groups have often worked in connection with INGOs with which they shared a common objective. For example, AI worked in conjunction with “\textit{Donde estan los ninos?}” (Where are the children?), which was involved in the search for children who disappeared during the armed conflict. Adriana Portillo-Bartow, the founder of Where are the Children? was awarded AIUSA’s Ginetta Sagan Award and now works for AIUSA’s Midwest office in Chicago. AI also worked with a number of other human rights organizations within Guatemala including GAM, CERJ and CONAVIGUA to name a few.
the victims of human right abuse. AI’s work in Guatemala can be traced over the course of four decades and demonstrates that its strength rested in its abilities to generate continual, persistent and increasing pressure to compel change.

AI’s appeal to international human rights norms ensured that the Guatemalan war was not only seen as a battlefield of the Cold War, but increasingly as a location of massive human rights abuse. Consequently the parameters of the debate regarding how the Guatemalan situation should be handled changed over time. The simple contention that this war represented a struggle between the forces of freedom and those of oppression was complicated by questions regarding international human rights law and the identity of the forces of freedom and oppression in Guatemala. This complication of “good” and “evil” was strengthened by information that increasingly challenged the characterization of this war as a part of the Cold War. Those who pushed this agenda were increasingly challenged by evidence that contradicted that belief and fundamentally changed the arguments about Guatemala’s war. It became clear that although this war was said to be operating under the guise of a communist insurgency in the western hemisphere, in reality it was an intra-state conflict waged for control and consolidation of national power. The most pressing task therefore was to discover the source of the majority of the human rights abuse in Guatemala. That discovery would be instrumental in re-casting the conflict in Guatemala as a brutal civil war.

AI’s interest and involvement in Guatemala began shortly after the government had nearly wiped out the guerrilla forces in the country in the late 1960s. This victory did not mean the war was over. President Arana placed the country under a State of Siege beginning in November 1970 and high-level government sources acknowledged that over seven hundred executions were administered by governmental and unofficial paramilitary groups in its first two
months. This State of Siege lasted until October 1971 and with this second wave of violence, AI placed Guatemala on a list of countries it believed to be in a “state of emergency.” It also made its first submission of information about human rights violations to the Inter-American Commission on Human Rights (IACHR) of the Organization of American States (OAS) in February 1971. The information provided to the IACHR was related to the arrests, disappearances and political murders that had occurred during the 1970-1971 State of Siege. AI, and other organizations, regularly provided the IACHR with information on cases involving the illegal detention and disappearance of individuals by official security forces. The accumulated information provided to the IACHR by 3 November 1973 led it to request that the Guatemalan Government allow an investigative IACHR mission into the country to look into the charges leveled against it by AI and other human rights organizations.

By 1972 AI was assigning individual cases of disappearances to local groups throughout the world. Its Annual Report stated that the Guatemalan situation was “tragic” and noted with increasing concern the high number of disappearances within the country as well as the little information it had on POCs. This bedeviling lack of information led AI to appoint a Latin American field secretary in 1974 to “build membership in Latin America, make contacts with sympathetic organizations in the region, and develop Spanish-language publications.” The little information it received regarding POCs was complemented by the volumes of information it collected on “disappearances” and extra-judicial executions. It recorded over one thousand

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12 Ibid., 16.
14 Ibid.
15 Disappearances are the practice of abducting opponents of a political regime. AI placed “disappeared” in quotation marks because it considers this a form of state kidnapping. “The word is placed in inverted commas to indicate that AI does not accept the official explanation usually provided—that the victims have indeed vanished.
names of the executed or disappeared before 1972. It also issued a report in 1976 which stated that some twenty thousand people had been killed or were missing between 1966 and 1976 and that the government’s security forces or paramilitary groups were responsible. Further, the report asserted that these groups operated with “the knowledge of, and at times, close cooperation of government authorities.”

In 1976 and 1977 AI groups were assigned seventy cases of “disappearances” for which AI had information that official governmental forces were involved. As a result, AI’s mission to Guatemala in 1976 focused on the government as the likely source of much of the human rights abuse within the country. The delegates of this mission met with senior members of the government, but were unable to conduct research and investigatory work while in the country due to the high-level of ongoing violence. Human rights conditions in Guatemala suggested that AI needed to develop new strategies to counter the kinds of human rights abuse that were ongoing in Guatemala. By the late 1970s AI was positioned to expand its mandate and to evolve to meet the challenge presented by different forms of human rights abuse. The “forgotten prisoners” upon which Peter Benenson had founded the organization were becoming rare in countries such as Guatemala. Adoption of a POC required an investigation into the prisoner’s case to determine if that individual was indeed a prisoner because of his or her beliefs and also to ensure that the individual had not advocated or used violence. Once established as a POC, that

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(17) Amnesty International, _The Death Penalty_, 189 and “20,000 Reported Slain or Missing in Guatemala Over Last Ten Years,” _New York Times_, 12 December 1976, 22. This number was based on reports from Guatemalan and international press, government and opposition statements, and its own statistical findings. Later exhumations would bear this out.
(18) It did not however report that assertion regarding governmental responsibility until 1981; reflecting its commitment to deliberate methods.
(19) The three delegates met with the Minister of the Interior, General Leónel Vassaux Martinez, Vice-Minister of Foreign Relations, Sr Alfredo Obiols Gomez, the head of the judiciary and President of the Supreme Court, Hernan Hurtado Aguilar.
individual case was assigned to local AI groups that publicized the case and worked for the prisoner’s release. This process of investigation and exposure was designed to put cumulative pressure on governments that held POCs to release them. But this took time and it was increasingly clear, especially by the late 1970s, that alternative methods which would have the same effect but worked faster were needed in Guatemala.20 A look at the numbers made this clear. According to AI, from 1972 until April 1976 there were 1,105 individual cases of executions and disappearances; 786 were abducted before being found dead, and 320 were shot outright.21 Adoption of POCs would not help these people so new methods had to be implemented.

One new tactic was the establishment of the Urgent Action (UA) network in the mid-1970s, which was discussed in the introductory chapter. UA’s took advantage of high-speed modes of communications and AI’s mobilized membership to provide direct and swift communication with governmental leaders regarding very recent human rights abuse. This was a valuable tool in Guatemala because the window of opportunity to save someone who “disappeared” was short. By the end of the 1970s AI was relying heavily on this method in Guatemala. Nonetheless, the level of violence continued to escalate. In order to improve the human rights situation in Guatemala, AI first had to define the problem: who was responsible, what was happening, where it was happening, and why it was happening. AI did not have an office in Guatemala so it depended on information provided by the Guatemalan press and organizations such as the Committee of the Relatives of the Disappeared Persons to provide information about the victims and the types of human rights abuse. These sources began to reveal important information about the source of violence in Guatemala. For example, of the

21 Amnesty International, Briefing Paper No. 8, 11.
1,105 killed or disappeared between 1972 and April 1976, 43% were identified by name only and largely believed to be petty criminals, peasants, or urban poor; 25% were clearly identified as peasants, 21% were unidentified and 11% were opposition—leaders of political parties, trade unionists, journalists, students and teachers. A small number of this total was identified as businessmen, and government administrators. For this same time period a study of leftwing political violence found 149 murders of security forces, government workers, businessmen or large landowners. The numbers of reported violence seemed to indicate that the majority of the violence was directed against the poor and those opposed to the Guatemalan government; thus indicating that the government, its auxiliary forces, or both, were the likely source of the violence. Therefore any attempt to improve the human rights situation would require a shifting of AI’s efforts away from a singular focus on individual human rights abuse to tactics designed to deal with abuse perpetrated against a large group of people by their government.

The United Nations declared 1978 to be its Human Rights Year, but events in Guatemala made a mockery of that effort, as this year was characterized by some as the most violent in Guatemala’s history. The ascent of General Romeo Lucas García to the presidency and the creation of yet another death squad known as Ejército Secreto Anticomunista, (ESA) (Secret Anti-Communist Army) during that year contributed significantly to the escalation of violence. The number of violations increased and so did the number of people subjected to these abuses. The government’s complicity in these human rights violations and the scale of violence resulted in AI’s 1979 Guatemalan country campaign—a period of intense publicity and action directed at “countries whose record on human rights” justified “full publicity.” It was designed to focus

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22 Ibid, 11-12.
24 The ESA appeared to be the latest name for the White Hand (Mano Blanca).
attention on persistent, systematic human rights violations and concentrated on publicizing the
pattern of repression and organizing international appeals that urged the authorities to stop the
killing. Prior to launching the country campaign AI sent a mission to the country to collect
information about what was happening there. The objectives of this mission were presented to
the Guatemalan government prior to its 10 August 1979 arrival.

The objectives of the mission were to investigate at firsthand reports of political
violence received from Guatemala and to press the government for information
about the steps being taken to control such violence. Amnesty was particularly
concerned about widespread reports of violence directed against trade unions
and their leaders during the term of office of the present government [General
Romeo Lucas García], which assumed power in July 1978—to some extent
apparently in reaction to the growing strength of the trade union movement in
Guatemala.

The delegation also made plans to meet with leaders of all major trade unions, campesino
confederations, individuals included on “death lists,” employers, senior ministers of the
government, diplomatic representatives and representatives of democratic political parties. In
addition, the delegates met with the Vice-President Francisco Villagrán Kramer, Minister of the
Interior, and the Minister of Labor. During the five-day mission to Guatemala, the delegates
met with these groups and governmental officials, and monitored the press for information
regarding the human rights situations. During this five-day period the Guatemalan papers
reported that forty-two bodies were found throughout the country, many bearing the marks of

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imprisonment, detention without trial, torture, ‘disappearances,’ and extrajudicial executions cannot be confronted
solely by highlighting individual prisoner cases. In countries where a pattern of abuse warrants sustained and
increased international pressure, AI organized country campaigns or actions.” Amnesty International, Amnesty
26 Amnesty International, Memorandum presented to the Government of the Republic of Guatemala following a
27 Members of the delegation were Dan Gallin, General Secretary of the International Union of Food and Allied
Workers’ Association, Deputy Fernando Alvarez de Miranda, former President of the Spanish Cortes and in 1979 he
was Deputy of the Unión del Centro Democrático (UCD), and a researcher from AI’s International Secretariat. One
member of the delegation also met with the President of the Guatemalan legislature. Amnesty International,
Memorandum, 1 and Amnesty International, Focus on Workers and Trade Unionists in Prison (London: Amnesty
International Publications, 1979), 2, AI Index ACT 73/08/79.
violence. The information collected was then provided to AI’s International Secretariat for processing and ultimately used to decide what action the organization would take as a result.

AI’s analysis of the situation in Guatemala was provided to the Guatemalan Government in the form of a memorandum prior to international release. The memorandum revealed the information AI had obtained, stated its concerns, asserted what it thought was happening, gave recommendations to the government for improving the human rights situations, and called for an OAS investigation. The memorandum also included a letter to President García and declared AI’s “willingness to make public any response received from the Guatemalan authorities concerning the memorandum, as well as to actively publicize evidence of concrete action taken to implement the suggested courses of action which conclude the memorandum.”

Additionally, García was made aware of AI’s intention to publicize its findings through a 5 December 1979 international press release and advised that “A response from your government before that date would therefore be most appreciated.” García did not respond to the memorandum, although his government did move to restrict the publication of information about killings to those authorized by the police.

AI’s international press release asserted that there were “widespread ‘disappearances’ and political murders in Guatemala” in violation of the international human rights instruments to which it was a party, including the Universal Declaration of Human Rights, the American Convention on Human Rights, and its own Constitution. Further, AI stated that it was not convinced that the government was “doing everything in its power to ensure that all Guatemalans were accorded their rights; nor did the government appear to be taking steps to bring to an end the violence by conducting genuine and systematic investigations of the recent cases of attacks,

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29 Ibid.
kidnappings, disappearances, and political murders which would restore the faith of the citizens in the rule of law.”

While García never responded to this memorandum, he and his government aggressively campaigned against AI’s sources, credibility and intrusion into its domestic affairs. According to Guatemala’s Vice-President Francisco Villagrán, speaking later while in exile in the United States, government officials did not let a week go by without denouncing AI. In addition, he thought AI’s actions were, at least in the short term, counter-productive because the government killings actually increased after AI began taking an active interest in Guatemala.

This memorandum and the Guatemalan government’s attacks on AI came during the country campaign initiated by AI to draw international attention to the situation in Guatemala. The Guatemalan government’s dismissive attitude to this memorandum underscored the need for a concentrated campaign in order to arrest the escalating violence.

AI launched its 1979 international campaign to call attention to the “wave of political murder, torture and abduction in Guatemala that is known to have taken the lives of at least 2,000 people in the past 16 months.” This wave of violence was acknowledged by the National Police who reported that more than 1,000 victims were found in the first four months of 1979, many of them unidentified. Those that were identified included prominent opposition politicians, trade union and student leaders, journalists, priests, lawyers and indigenous people many whose names first appeared on death lists before their murder.

AI’s five-month long country campaign kicked-off amidst this violence on 15 September 1979, the 141st anniversary of Guatemalan independence. On that day AI made available to the public its “Calendar of

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31 Amnesty International, Memorandum, 5.
32 Jonathan Power, Like Water on Stone, 57.
34 Ibid, 2.
Abuses.” The strategy of publishing Guatemalan human rights abuses in the form of a calendar played to AI’s strength and relied on the shocking regularity of abuse to compel action.

The calendar documented 365-days of human rights violations in Guatemala beginning on 29 May 1978 with the massacre at Panzós where over one hundred indigenous people had been killed and buried in mass graves prepared two days earlier.\(^\text{35}\) AI began its calendar on this day because its general conclusions on the human rights situation agreed with a statement made by the Democratic Front Against Repression on the first anniversary of the Panzós massacre:

> The massacre at Panzós not only constituted an act of genocide, but also marked the beginning of one of the most bloody escalations of repression in Guatemalan history. Starting from that date, threats, arrests, kidnappings, assassinations and land seizures increased dramatically.\(^\text{36}\)

The calendar documented human rights violations reported by a number of sources including Guatemalan and the international press between 29 May 1978 and 29 May 1979. Almost every day on the calendar between these dates listed at least one human rights violation and documented the escalation of violence in Guatemala. There are also several “red letter dates” included in the calendar that marked a “particularly shocking abuse of human rights,” such as the entry for 12 December 1978 which noted that “Pedro Quevedo y Quevedo, former president and serving financial secretary of the Guatemalan Bottling Plant Union, was murdered in Guatemala City by unknown assailants as he did his rounds in his Coca Cola delivery truck.”\(^\text{37}\) Many of the documented abuses were unsettling, with details on the grizzly death of dozens of people. The 1 December 1978 entry advised that “The head of a man aged about 25 is found with five bullet wounds in San José Pinula, Mataquescuintla.”\(^\text{38}\) This was not meant to be an exhaustive list of

\(^{35}\) Amnesty International, \textit{A Calendar of Abuses}, 1.  
\(^{36}\) Ibid.  
\(^{37}\) Ibid, Appendix.  
\(^{38}\) Ibid, Appendix.
human rights abuses or violent acts, but to illustrate the prevalence and regularity of violence as well as the climate of fear, lawlessness and impunity in which Guatemalans lived. AI also asserted that it was unaware that any of the crimes listed in its calendar had been officially investigated or that the responsible party had been brought to justice.

The absence of the rule of law guaranteed new victims everyday and ensured a continuation of the systems that produced those violations. This situation was problematic for the long-term protection of human rights in Guatemala. During the country campaign AI testified before the OAS about the human rights situation and issued press releases and paid advertisements to highlight the situation. All these activities raised international awareness of the human rights crisis in Guatemala but did not translate into a reduction in human rights violations. Incidents of disappearance, torture and extrajudicial executions increased significantly under García’s regime. García’s government responded that AI’s campaign had slandered the country and that it was trying to destroy the country’s tourist trade. However, it did appear that García would meet one of AI’s recommendations—an investigation by the IACHR—and he entered into negotiations to settle on a date. His willingness was probably encouraged by the Vice-President’s threat to resign if García did not invite the IACHR to visit Guatemala. However, after several attempts to set a date failed, the Guatemalan government ceased negotiations and the IACHR came to believe the Guatemalan government would not permit a visit. Vice-President Francisco Villagrán Kramer resigned citing “serious differences” with the President and “the lack of any institutional forums to debate the grave national problems which affect Guatemala” as a result. The country campaign was an important first step in AI’s long-term Guatemalan campaign to raise international awareness and put pressure on Guatemalan authorities to change their policies. The short term success of the country campaign

39 Ann Marie Clark “Amnesty International’s Campaign on Guatemala,”, 63.
was limited because of AI’s inability to collaborate with civil groups within Guatemala. Most of these groups had been systematically eliminated by counterinsurgency forces, but the increased international attention on Guatemala would enable these groups to gradually re-emerge by the mid-1980s.

The pressure on Guatemala did not subside with the end of the country campaign. The 1980 Annual Report included Guatemala in a list of six Latin American countries where “violations of human rights seemed to be a permanent feature of government policy in dealing with dissent.” While AI, as an organization, did not have a list of countries it considered the worst human rights offenders—human rights violations anywhere were violations of international law—this did not prohibit it from concentrating on specific countries in an attempt to prevent continued human rights abuse. The 1979 country campaign demonstrated this focus. AI’s Secretary-General, Thomas Hammerberg, encouraged this focus in 1981 when he labeled the human rights crisis in Guatemala as AI’s number one priority. His explanation echoed the words of Guatemala’s former Vice-President when he resigned a year earlier, “Guatemala is not a typical Amnesty country—there are no political prisoners, only political killings.” As a result, AI would not return to its traditional POCs strategy after the country campaign ended. Instead it continued to gather evidence and issue reports and press releases on the human rights situation and these reports and press releases continued to ratchet up the pressure on the Guatemalan government. AI had been building its body of knowledge regarding what worked and what did not in Guatemala. This body of knowledge grew with each new tactic tried in Guatemala. It learned about collecting evidence in Guatemala—who to trust, where to get information and how to double-check information—and what impact its actions would have in

40 “Amnesty International Reports Widespread Abuse,” New York Times, 10 December 1980. The other countries included were Argentina, Chile, El Salvador, Uruguay and Paraguay.
41 Jonathan Power, Like Water on Stone, 46.
Guatemala as well as internationally. The Calendar of Abuse, which provided a lengthy, detailed, yet partial list of victims was an important component of AI’s effort to raise awareness and was an effective tool in that pursuit. It would use this tool again in 1981 when it released another list; this time a partial list of clergy and churchworkers killed in Guatemala since 1978. Again it was disarming in its matter-of-fact tone which underscored that these crimes were commonplace: “Santos Jimenez Martinez: Protestant pastor shot dead on 21 November 1980 while holding a service in Santo Domingo Suchitepequez.” This report also documented a geographical change in the location of the war, especially to the El Quiché Department, as well as the changing targets of the war including the indigenous and the churchworkers and priests who assisted them.\footnote{Amnesty International, \textit{List of Cases of Killed and ‘Disappeared’ Clergy and Churchworkers in Guatemala} (London: Amnesty International Publications, 1981), 5, AI Index: AMR 34/33/81.} As AI’s body of knowledge and archive of information grew, it was able to move beyond simply collecting and reporting on events in Guatemala. The information and evidence it gathered over the years would place it in a position to analyze why all of these people were dying and to assert who it believed was ultimately responsible for the human rights crisis in Guatemala.

The García government, considered one of the most violent during the war, denied it had made a single political arrest and that it held a single political prisoner but a report published by AI on 18 February 1981 challenged that contention. Until the release of this report, AI had stopped short of placing responsibility on the Guatemalan government and its auxiliary forces for the majority of the violence and death in Guatemala. That changed when it released \textit{Guatemala: A Program of Political Murder:}

This report contains information, published for the first time, which shows how the selection of targets for detention and murder, and the deployment of official forces for extra-legal operations, can be pin-pointed to secret offices in an annex.
of Guatemala’s National Palace, under the direct control of the President of the Republic.\textsuperscript{43}

AI based this assertion on its collection of evidence over the years in Guatemala as well as from information obtained from the United States government under the Freedom of Information Act. It found that a special agency of the Guatemalan president then known as the Centro Regional de Telecomunicaciones (Regional Telecommunications Centre), located in the Casa Presidencial (Presidential Residence), was the key installation of the country’s security network and coordinated “Guatemala’s extensive and extra-legal security operations.”\textsuperscript{44} AI reported that this agency’s task was to “coordinate civil and military security operations in the political sphere” and that “abuse attributed by the Government of Guatemala to independent ‘death squads’ were perpetrated by the regular forces of the civil and military security services.”\textsuperscript{45} The existence of this agency was general knowledge to informed Guatemalans and it was widely accepted that the headquarters for the security forces’ secret operations were located in the annex of the National Palace.\textsuperscript{46}

AI also had information from Elías Barahona y Barahona, the former press spokesman of the Minister of the Interior, regarding how death lists were prepared. He stated that “the ‘definitive lists’ were prepared ‘in a dependency of the army called ‘military transmissions,’ on the fourth floor of the National Palace and were approved at meetings held there and attended by the Ministers of Defense and Interior, and the Chief of the General Staff of the Army.” In


\textsuperscript{44} Ibid, 7. When it was first formed in 1964 it was called \textit{Agencia de Inteligencia de la Presidencia} (Presidential Intelligence Agency). By the mid-1970s it was referred to as the \textit{Policía Regional} (Regional Police); its existence was denied by governmental authorities. Manuel Colom Argueta, 1978 mayor of Guatemala City called the Regional Police a “death squad” in 1978 and was assassinated on 23 March 1979 while police helicopters flew overhead. In the 1980s the agency’s name again changed to \textit{Servicios Especiales de Comunicaciones de la Presidencia} (Presidential Special Services for Communications) or \textit{Servicios de Apoyo de la Presidencia} (Presidential Support Services).

\textsuperscript{45} Ibid, 5-7.

\textsuperscript{46} This location was heavily-guarded and monitored by closed-circuit television.
addition, he stated that Major Hecht Montalvan, the Chief of the Presidential Staff and of Military Intelligence as well as the head of the Military Intelligence Archive was responsible for coordinating operations.\textsuperscript{47} These operations were then carried out by the army and police forces including the *Kaibiles* (Special Forces), paratroops, *Policía Militar Ambulante*, (mobile military police, PMA), *comisionados militares* (civilian agents of the army), the *Policía Nacional* (National Police), the *Cuerpo de Detectives de la Policía Nacional* (National Police Detectives Corps), and the *Guardia de Hacienda* (Treasury Police).

AI’s assertions were also corroborated by eye witnesses that survived the violence as well as testimony from a torture survivor and a former army conscript. Witnesses to the Panzós massacre during which one hundred indigenous were killed stated that government forces were visible from their positions on rooftops and inside buildings. The occupation of the Spanish Embassy, meant to draw international attention to incidents such as the Panzós massacre, was violently ended by the fire bombing of the building by the army. In another incident on 10 June 1980 two men attempted to abduct Víctor Manuel Valverth Morales, a student from the Universidad de San Carlos, but were overcome by a number of students.\textsuperscript{48} One of the would-be kidnappers was killed by students during a struggle between themselves and uniformed army troops. The dead would-be kidnapper’s name was Adán de Jesús Melgar Solares; his identification card identified him as a military intelligence agent from the “General Aguilar Santa María” army base in Jutiapa Province. His accomplice’s name was Baldomero Medoza, Mendoza was not hurt and his identification card identified him as a *Guardia de Hacienda* (Treasury Police) for “*Servicio Especial*” (Special Service). The Guatemalan government denied

\textsuperscript{47} Amnesty International, *A Government Program of Political Murder*, 8. Elías Barahona had defected to Panama and later became a member of the *Ejércita Guerrillero de los Pobres* (Guerrilla Army of the Poor).

\textsuperscript{48} Valverth Morales was treated for bullet wounds and later granted political asylum in Costa Rica.
that either man worked for the Security Services but Melgar’s widow confirmed his identity to
the press. 49

AI also had a transcript of an interview from a man who claimed to have escaped from a
military base after being abducted by soldiers dressed as civilians and tortured for eleven days as
well as testimony from a former conscripted soldier who provided details of his two-year service
in the army. He explained that he and others in his unit would go out at night in private vehicles
with dark windows, find individual who had been “black listed” by their superiors and kill them.
When asked “But where do they capture and kill the people? In the countryside? In the towns?”
He responded, “In the towns. Like the students that ‘disappear.’ It’s definitely them [the army]
that do it and they come and take them away at night, they seize them at night and kill them just
like that; then they turn up just dumped anywhere.” 50 He also spoke of collecting information on
“black listed” individuals and send that information in to “bring them to justice” at a later time.
This former soldier concluded that “the army is a school for murderers; it’s as simple as that.” 51

The Guatemalan government denied the charges leveled in AI’s report and the
Guatemalan Secretary for Public Relations of the Presidency told a Guatemalan newspaper that it
“had set out to undermine the prestige of Guatemala’s institutions and headed up an orchestrated
campaign to damage the image of Guatemala for the simple reason that its government is not
disposed to permit the activity of international communism.” 52 The Reagan administration
withheld comment on the report until it received a copy, but AI’s report drew attention from
major newspapers such as New York Times, the International Herald Tribune, the Economist, the

50 Ibid, 23.
51 Ibid, 21.
52 Jonathan Power, Like Water on Stone, 58.
London *Times* and Mexico’s *Excelsior*. When asked about the report former Guatemalan Vice-President Francisco Villagrán Kramer, who was living in exile in the United States, stated that it was “absolutely accurate.” He explained that while he served as Vice-President he had learned how the system worked and had no doubt that the majority of the killings were decided in the presidential palace; if he wanted to save someone from their decided fate he would go to one of three people; Major Hecht Montalvan (chief of the president’s staff and intelligence), the army chief, or the Interior Minister.

AI complemented information distribution with action in December 1981 when it created “a worldwide campaign to expose and halt the use by governments of ‘disappearances’ as a means to eliminating suspected opponents.” It involved international and regional bodies in the effort to protect and enforce the rule of law in Guatemala when it provided information and testimony at these forums. It provided the United Nations Working Group on Enforced and Involuntary Disappearances with information about Guatemala’s disappearances. The UN Commission on Human Rights, concerned about the continuing deterioration of the human rights conditions in Guatemala, resolved to appoint a Special Rapporteur to study the problem in March 1982. The IACHR of the Organization of American States sent a delegation to Guatemala in September 1982, something they had been trying to achieve since October 1973. By this time García had fallen out of favor with the military oligarchy due to widespread corruption, loss of

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53 At a news conference to discuss the report Miguel Angel Albizures, a labor leader representing the Guatemalan Democratic Front Against Repression stated that since January two university professors, a journalist and a member of the Executive Board of the National Workers Confederation were killed. When questioned about whether the United States should resume military aid to Guatemala he stated that such aid would “worsen the already violent situation.” Juan de Onis, “Guatemalan Leader Accused by Rights Group in Killings,” *New York Times*, 18 February 1981, A3.

54 Jonathan Power, *Like Water on Stone*, 55. Villagrán did say that independent death squads were a piece of the puzzle that AI seemed to downplay in its report.

international prestige, and his failure to eliminate the guerrillas. He was replaced with a three-man junta led by General Efraín Ríos Montt, who would assume sole power in June 1982.

After the war ended in 1996 observers found that Ríos Montt’s reign was the bloodiest period of the thirty-six year war. The CEH asserted that in four regions of the country between 1981 and 1983—predominately the years of Rios Montt’s dictatorship—the State participated in massacres and other acts that constituted genocide.\(^{56}\) AI returned to the method of raising awareness and pressuring the Guatemalan government to improve its human rights record. Once again AI released a report that included a list of more than sixty massacres and other human rights violations reported to it from the date of the coup in March 1982 until the end of June 1982. The report entitled *Guatemala: Massive Extrajudicial Executions in Rural Areas under the Government of General Efraín Ríos Montt*, was released in July 1982. Some of the violations listed were characteristic of Rios Montt’s scorched earth campaign.

31 March 1982: Fifteen campesinos were shot dead and four burned to death in the village of Estancia de la Virgen, San Martín Jilotepeque municipality, Chimaltenango department, by heavily armed men who pulled them out of their homes. Most of the huts in the village were burned to the ground. Campesino groups blamed the army for these killings.\(^{57}\)

Other entries in AI’s list focused on the types of people who were victims during this period. For example the 6 April 1982 entry which noted that “In the village of Palamá, San José Poaquil, department of Chimaltenango, army troops murdered a 100-year-old woman.”\(^{58}\)

The report also included remarks from government officials admitting involvement in massacres of non-combatants and offering a rationale for the continuing violence in Guatemala.

\(^{56}\) CEH, *Guatemala: Memory of Silence*, Conclusions II, para. 110  Authorized posting on-line by the American Association for the Advancement of Science, at http://hrdata.aaas.org/ceh
\(^{58}\) Ibid, iii.
When pressed further about reported massacres of civilians, including women and children, since the coup which brought him [Ríos Montt] to power, Guatemala’s new military leader replied: ‘The problem of war is not just a question of who is shooting. For each one who is shooting there are ten working behind him.’ The President’s Press Secretary Francisco Bianchi continued: ‘The guerrillas won over many Indian collaborators. Therefore, the Indians were subversives. And how do you fight subversion? Clearly you had to kill Indians because they were collaborating with subversion. And then it would be said that you were killing innocent people. But they weren’t innocent, they had sold out to subversion.’

Statements such as these seem to indicate that the Guatemalan Government did not take issue so much with AI’s facts but rather that AI failed to understand why it was justified in taking such actions. AI’s 1982 report followed the same line of thinking as the 1981 report and provided further evidence of governmental responsibility for human rights abuses in Guatemala as it concluded that since the time of the coup “security forces continued to kill, unlawfully and deliberately, large numbers of rural non-combatants and people suspected of sympathy with violent or non-violent opposition groups.” This claim of governmental responsibility was buttressed by former high level government leaders who confirmed the government’s responsibility for a variety of human rights violations. The former Vice-President, Francisco Villagrán Kramer, and the former head of the National Police Detective Corp, Jesús Valiente Téllez, both in exile “have unequivocally stated that killings in the past were carried out on orders from the highest levels of the Guatemalan government and then officially blamed ‘on extremist groups of the left and the right.’” AI continued the drumbeat of government responsibility for human rights violations the following year with the publication of Political Killing by Governments. The report featured Guatemala in its analysis of political murder and extrajudicial executions around the world it also included the proceedings of an international conference organized by the Dutch national section of AI regarding possible remedies. The

59 Ibid, 6-7.
60 Ibid, 9.
61 Ibid, 8.
release of these related reports happened to coincide with the Reagan administration’s aggressive campaign to resume unrestricted military and economic aid to Guatemala and as a result these reports were not received well by the executive branch of the U. S. government. Some members of the U.S. Congress, however, were receptive to AI’s reports and therefore unwilling to resume aid during the early 1980s.\(^{62}\)

AI’s annual reports throughout the early 1980s also documented human rights violations each year, summarized events, provided historical context, and highlighted new challenges. These contributed to AI’s overall objective of pressuring the Guatemalan authorities to improve their human rights record, not only by highlighting current abuses but also by demanding investigations into past human rights violations. The past was not forgotten in these reports as current problems were contextualized within a long standing pattern of human rights abuse meant to shame the Guatemalan government. AI also continued to prepare detailed lists of victims of human rights abuse including a list of nearly 200 unresolved cases of ‘disappearances’ between 1981 and 1984.\(^{63}\) It also followed the development of organizations linked to torture, “disappearances” and extrajudicial execution. Organizations such as the *Patrullas de Autodefensa Civil*, (Civil Defence Patrols, PACs)—formed under García’s regime and strengthened under Ríos Montt and his successor General Mejía Víctores—and also the *tribunals de fuero especial*, special military tribunals, established by Ríos Montt under Decree 46-82 in which he declared Guatemala in a state of siege on 1 July 1982. These tribunals had the power to impose the death penalty for a wide range of crimes while severely restricting the defendant’s

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legal safeguards. AI sent a letter to Ríos Montt addressing its concerns with Decree 46-82 but received no response.

AI also followed the human rights abuses under General Mejía Víctores who came to power in August 1983 following a successful coup that unseated Ríos Montt. Once again “disappearances” occurred at a high rate and witnesses consistently identified the perpetrators as likely connected to government. The government typically explained these disappearances as having simple explanations: the missing person had joined the guerrillas, had gone abroad for economic reasons, or had left with another woman. The Deputy Head of State General Rodolfo Lobos Zamora also offered another reason for the disappearances, claiming this notion of “disappearances” was invalid because of the cultural peculiarities of the indigenous. He explained that “the ‘lack of family feeling’ and ‘fanaticism’ of Guatemala’s Indian people meant that if Indians were killed in armed combat, families did not reclaim the bodies and the relatives were then incorrectly numbered among the ‘disappeared.’”

*Grupo Apoyo Mutuo*, Mutual Support Group for Relatives of the Disappeared (GAM) was founded in June 1984 to resolve cases of ‘disappearance” and its work would result in the Mejía Víctores’ government forming the *Comisión Tripartita* (Tripartite Commission) in November 1984 composed of representatives from the Public Ministry and from the Ministries of the Interior and Defense to investigate “disappearances.” Prior to the establishment of the Tripartite Commission, GAM had been very busy; it appealed to the Constituent Assembly in July to form a commission to investigate “disappearances,” to create an office of the Human Rights Attorney, and to enforce the rights guaranteed under the provisions of the Fundamental Statute of 1982, which had replaced the suspended Constitution. GAM also met with General

65 GAM was formed by Guatemalan wives, mothers, and other relatives; it was immediately labeled a Marxist front organization by the Guatemalan military.
Mejía Victores on 1 August 1984 and presented cases of the ‘disappeared.’ He promised an exhaustive investigation into these cases but little came of this pledge. In addition, little came from the Tripartite Commission, which was described by high officials of the church as being “stillborn” and self-dissolved by summer 1985 after it reported it was unable to locate any of the hundreds of people who had been reported as “disappeared.”  

Just prior to the dissolution of the Tripartite Commission, AI received permission to send another mission to Guatemala. That mission arrived in April 1985 and found evidence which implicated all branches of the military and security services in human rights abuse supervised by the army. The delegation met with military and security officials, representatives of NGOs, and individuals. It collected information about the 1985 deaths of Hector Gomez Calito and Rosario Godoy de Cuevas, leaders of GAM, and found that government officials’ statements contradicted one another as well as the evidence available. AI concluded that their deaths were “highly indicative of official involvement.” The mission also investigated allegations of clandestine cemeteries and torture and detention centers as well as cases of “disappearances.” This mission was followed up by a report and recommendations to the outgoing government, the incoming civilian government and various bodies within the United Nations and the OAS.

President Vinicio Cerezo Arévalo became Guatemala’s first elected civilian president in almost twenty years in January 1986, but the transition failed to bring justice. Before the switch to civilian government, the outgoing military leaders issued Decree Law 8-86 which granted amnesty to “all people implicated in political crimes and related common crimes during the period from 23 March 1982 [when General Ríos Montt came to power] to 14 January 1986

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68 Ibid, 160.
The transition to a civilian government was in many ways cosmetic, as the military retained much of its control. Guatemala, however, improved its international standing, making its eligible for foreign aid and loans. Before taking office Cerezo declared that his administration would promote a return to respect for human rights and that he intended “to solve the problem of political violence and prevent future violations of human rights through the improvement of legal structures and processes.” He added, however, that he would not investigate past human rights abuses because “everyone was involved in violence” and because he believed such investigations would only encourage revenge. Nevertheless, there was a temporary reduction in human rights violations, probably assisted by his abolition of the Technical Investigations Department, the most feared of the secret police units, one month after he assumed office. AI remained concerned about the situation in Guatemala because “the security and military units responsible for past human rights violations were still functioning virtually untouched.” Cerezo’s had established several human rights commissions which seemed to be a step in the right direction but AI placed these commissions in context when testifying before the UN Commission on Human Rights in February 1989:

> Sometimes governments set up mechanisms with the declared aim of investigating human rights violations but the mechanisms fail to produce results. One example, where there is a plethora of such mechanism is Guatemala. Here the bodies in question even invoke confusion regarding their respective competences to justify their lack of success. The judiciary, the Congressional Human Rights Commission and the Human Rights Attorney and various short-lived presidential investigatory commissions have all made this claim when explaining to Amnesty International why they have not been able to clarify any of

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70 Ibid.
71 Stephen Kinzer, “Walking the Tightrope in Guatemala,” New York Times, 9 November 1986, sec SM 32. All 600 agents were detained for 24 hours, photographed, fingerprinted, and disarmed.
The impotence of Cerezo’s legal structures and processes combined with the continuing strength of the security and military forces resulted in a return to violence despite the hopes many had for the civilian reformist president to change the conditions in Guatemala.

The relative respite from the violence ended with a resurgence of torture, “disappearances,” and murder by the end of the 1980s, which corresponded to the re-emergence of leftist guerrillas. The perpetrators of a majority of these crimes remained the same as did the victims, largely identified as trade unionists, clergy, journalist, peasants, human rights workers and members of the judiciary. The pánel blanca (“white van”) murders of February and March 1988 ushered in a wave of disappearances and killings reminiscent of the atmosphere of terror produced by the García and Ríos Montt regimes of the late 1970s and early 1980s. During these two months heavily armed men in plainclothes, traveling in a white van with dark windows abducted scores of people whose lifeless bodies were sometimes found later. A member of the judiciary who wished to remain anonymous summed up the situation well in 1989 when he stated, “We have not made any progress. We are going back to the past and perhaps this time it will be worse. There is more violence, more insecurity.” The creation of five new “death squads” in 1989 bolstered this assertion and helped explain the increase in violence. AI captured this sentiment of escalating violence in its June 1989 report entitled Guatemala: Human Rights

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74 One trade union activists stated, “Those who do trade union work have one foot in the trade unions and one foot in the grave.” Another STINDE (Electrical Workers union) member stated, “They haven’t killed very many yet but it’s only because of the protests about the death threats made by groups such as AI that some of our workmates are still alive. If the situation doesn’t change through, they’ll do what they’ve been threatening.” Amnesty International, “Human Rights Abuses in Guatemala,” 4.

75 Ibid.
Violations under the Civilian Government. This report included a list of 222 unresolved “disappearances” reported to AI since President Cerezo assumed the presidency in which evidence suggested official complicity in the crime.\(^{76}\) This official complicity was linked to Cerezo’s inability to wrestle control from the military. He anticipated this while on a visit to the United States in 1987 when he stated that his was a “transitional regime,” adding that “civilians will not be able to consolidate true power, but will be able to survive in office, gradually managing to curb the armed forces.”\(^{77}\) Cerezo left office in 1991 leaving it to his successor, Jorge Serrano Elias, to advance the transition to a full civilian government and thereby gain control of the deteriorating human rights situation.

When Serrano assumed office, he promised to ensure the protection of human rights in Guatemala but death threats, “disappearances,” and extrajudicial executions continued. There appeared to be some hope that the war would end soon when talks between the government and umbrella guerrilla organization, Unidad Revolucionaria Nacional Guatemalteca (URNG) (Guatemalan National Revolutionary Unity) opened in April 1991. That hope was dampened considerably when the talks broke down six months later over human rights issues. This hope was further spoiled in 1993 when Serrano attempted to seize dictatorial control with the help of the army. He was deposed after a week by a coalition backed by the United States and business leaders who feared the coup would hurt foreign trade.\(^{78}\) Thus Cerezo’s belief that civilians would wrestle control of the government from the military was nearly ended by the civilian leader charged with that task. This unsuccessful coup brought the former Human Rights Ombudsman Ramero de León Carpio to the presidency in 1993.


When President Serrano left the country after his attempted coup to assume dictatorial power his Vice-President was not permitted to assume the presidency. Instead the National Congress elected the man who would serve out the remainder of Serrano’s term. It chose the former Human Rights Commissioner. Human rights violations continued under his Presidency for a number of reasons related to Guatemala’s institutionalized violence, widespread impunity, and the Congressional power held by former President Ríos Montt. The majority of León Carpio’s term (1993-1996) coincided with a Guatemalan Congress dominated by Ríos Montt and his party the Frente Republicano Guatemalteco, (FRG) (Guatemalan Republican Front)—an ultra right wing party—a situation that made major reform unlikely. In addition, León Carpio served only one-half a term therefore many expected little reform. However, he did issue Government Agreement 434-95 which ordered the decommissioning of the military leaders who had trained and controlled the Civil Defense Patrols, PACs, which were to be disbanded beginning in August 1996. AI was pleased with this but remained concerned that “former military commissioners and PAC members, under different names, continue to commit serious human rights violations with the guaranteed protection of the army.” Also during León Carpio’s term peace talks with the URNG produced a number of agreements which would come into effect once the final peace accords were signed. Under León Caprio Guatemala appeared to have turned an important corner leading it to a less violent future. However, it was up to

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79 AI stated: “The human rights violations documented in this period [1994-1996], in contrast to those which occurred from the late 1970s to the early 1990s, do not result from a counter-insurgency strategy planned at the highest levels of state and designed to eliminate thousands of real or suspected government opponents. Nevertheless, human rights violations committed by state agents, or individuals linked to them, continue to occur in Guatemala in a more selective manner and with the authorization and acquiescence of officials at certain levels of the state. The Guatemalan government is responsible for all human rights violations committed by state agents, whether past or recent. The government has a duty to ensure, therefore, that the perpetrators are brought to justice. The authorities’ apparent lack of political will, which allows impunity to continue in the country” results in lack of investigation of past and recent violations. Amnesty International, Guatemala: State of Impunity (New York: Amnesty International Publications, 1997), 5, AI Index: AMR 34/02/1997.


On 29 December 1996 President Arzú and representatives of the URNG signed the Acuerdo de Paz Firme y Duradera (Agreement on a Firm and Lasting Peace), officially ending the war. On this day all the other agreements between the URNG and the Guatemalan Government negotiated during the protracted peace negotiations went into effect; including agreements on human rights, the identity and rights of indigenous peoples, displaced people, historical clarification of human rights violations, reincorporating the URNG into society, social and economic matters and the role of the army in a democratic society. The signing of the Accords was greeted with cheerful euphoria throughout the country; however, the optimism of that day soon gave way to frustrations and disappointment.\(^{81}\) Many Guatemalans and human rights activists, who expected improvement in the human rights situation, were disappointed with President Arzú’s leadership regarding the implementation of the human rights provisions of the Peace Accords.

He did acknowledge the state’s participation in human rights violations during the war and asked for the Guatemalan peoples’ forgiveness on the “Day of Forgiveness” in 1998.\(^{82}\) But at the same time President Arzú suggested that all sectors of Guatemalan society bore equal responsibility for seeking forgiveness and that the army’s human rights abuses were merely “excesses.”\(^{83}\) Arzú’s commitment to human rights protection and willingness to provide leadership on human rights issues provided for by the Peace Accords was in question after this statement. Three months earlier he had said that “those critical of his government’s supposed

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81 After the Accords were adopted AI focused its efforts on ensuring its provisions were implemented.
82 The “Day of Forgiveness” was 29 December 1998, the second anniversary of the signing of the Peace Accords.
83 Amnesty International, Guatemala: Those who forget the past are condemned to relive it AI News Service No. 256/98, 30 December 1998, AI Index: AMR 34/37/98.
advances in human rights protection and implementation of the 1996 Accords were ‘traitors to the country’” which suggested that growing concern about Arzú’s human rights leadership was warranted.\textsuperscript{84} His apparent animosity for human rights issues was also on display before the OAS in 1999 when he told the General Assembly that human rights groups in his country were being used as tools of foreign governments.\textsuperscript{85} Predictably, during his tenure human rights defenders were harassed and threatened and he left office having achieved little on human rights issues. While he did not achieve much, the international community learned a lot about the human rights atrocities committed throughout the civil war due to the work of two truth commissions, one sponsored by the United Nations, the other by the Human Rights Office of the Archbishop of Guatemala (ODHAG). The UN-sponsored Historical Clarification Commission (CEH) \textit{Comisión de Esclarecimiento Histórico} began its work on 31 July 1997 and was only to revealing “general responsibility” for the atrocities without naming individuals. The ODHAG was planned by an inter-diocesan group and their investigation and report was meant to address that omission. A crew of eight hundred people worked for three years to complete 5,465 testimonies which documented 52,427 human rights violations in a total of 14,291 incidents.\textsuperscript{86} The ODHAG published its finding in April 1998 in the report of the Recovery of Historical Memory Project (REMHI) entitled \textit{Guatemala: Never Again!} According to the REMHI:

\begin{quote}
The cumulative government responsibility (including the army, police forces, civil patrollers, military commissioners, and death squads) is a staggering 47,004 victims, or 89.65 percent of the total violations. The army was found to be directly responsible for 32,978 victims of all types of violations (62.9 percent), and for an additional 10,602 victims (20.22 percent) in conjunction with paramilitary groups (civilian patrollers and military commissioners). A total of 3,424 victims (6.53 percent) were attributed to paramilitaries acting alone.
\end{quote}

\textsuperscript{85} Ibid.  
A total of 2,523 victims of all types of violations are attributed to guerrilla organizations (4.81 percent). These guerrilla violations are divided into three groups of essentially equal proportions: killings, cruel treatment, and threats against groups or institutions (members of paramilitary groups of communities considered hostile).  

Auxiliary Archbishop Juan José Gerardi— the Coordinator of the ODHAG and driving force behind the REMHI project from its conception to completion—presented this report on 24 April 1998. Bishop Gerardi was found brutally murdered two days after he presented this report to the world, an act reminiscent of the assassination of Archbishop Romero on 24 March 1980 in El Salvador. Many in the international community were outraged by Gerardi’s assassination and demanded that the perpetrators be brought to justice. AI expressed “deep shock and sorrow” at the news of his murder and said “in the interest of building a true and lasting peace in Guatemala, a complete in-depth investigation into the circumstances surrounding Auxiliary Archbishop Gerardi’s death must be an absolute priority for the Guatemalan authorities at this tragic moment for all Guatemalans.” This high profile murder of such a prominent human rights advocate illustrated the continued danger for those who worked to combat impunity and continued human rights violations in Guatemala. According to AI, Gerardi’s murder also reminded the world that Guatemala’s past was still with us today.”

A report released by AI soon after Bishop Gerardi’s murder, entitled Guatemala: All the Truth, Justice for All also reminded the world of continued human rights abuse in Guatemala. In addition, it urged the Guatemalan government to fulfill its obligations to establish the rule of law and to fully cooperate with the Historical Clarification Commission, which was to release its

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87 Ibid, 290.
88 In an ironic twist of fate, Bishop Mario Ríos Montt, the brother of former Guatemalan dictator General Efraín Ríos Montt, succeeded Gerardi as the head of the Catholic Church’s human rights office in Guatemala.
report on human rights violations in 1999. This report, released during the presidency of Álvaro Arzú, took aim at the Guatemalan Government’s failure to make progress in the implementation of human rights provisions stipulated by the Peace Accords in 1996:

Over the next few years, Guatemalans are likely to ask themselves whether Guatemala is actually experiencing a period of real transition toward true reconciliation and an end to violence and human rights violations, or whether history will record this period as a moment of lost opportunities for lasting change. The answer to this question depends largely upon how the Guatemalan authorities choose to address one of the most crucial issues in any transition period: the state’s debt and obligation to the victims of past human rights violations, their relatives and society as a whole, generated as a consequence of the long legacy of grave or systematic human rights violations in this country.  

At the heart of this question was the fact that it would take more than signing a peace agreement to end human rights violations. In the case of long-term and widespread violence, such as in Guatemala, positive action, governmental leadership, and a wholehearted commitment were required. In other words, real improvement in human rights can only be achieved when impunity ends.

The battle against impunity has been AI’s primary concern in Guatemala since the signing of the Peace Accords because it believed that impunity encouraged new abuses and reduced citizens’ faith in the rule of law. The high level of impunity in Guatemala resulted in a significant rise in new human rights violations and diminished the average Guatemalan citizens’ faith in the rule of law. AI’s belief that there was a correlation between impunity and continued human rights abuse was supported by evidence. According to the World Bank, in 1997 Guatemala’s homicide rate was 150 per 100,000 people, fifteen times higher than in the United

States for the same period.\textsuperscript{93} Some of those included in the homicide statistics were victims of modern day lynchings; according to MINUGUA there were 347 lynchings between 1996 and mid-2000.\textsuperscript{94} AI’s struggle against impunity continued in Guatemala through the presidencies of Alfonso Portillo and the current president Oscar Berger. According to AI, in 2002, five years after the Peace Accords were signed, Guatemala was continuing down the path of lawlessness and terror.”\textsuperscript{95} The deteriorating situation in Guatemala caused some observers to state that since May 2000 the country appeared to be in a “human rights melt-down” with most of the violence directed against those who were struggling against impunity, such as survivors, witnesses, NGOs, journalist and politicians. AI stated that the human rights community in Guatemala was “living under siege.”\textsuperscript{96} Hopes for improvement in human rights protections rose once again in January 2000 when the new president announced his intentions to improve the human rights situation in Guatemala.

When President Alfonso Portillo assumed office he made many promises including, that the Peace Accords would be state policy, that the recommendations from the REMHI and CEH would be implemented, that the notorious \textit{Estado Mayor Presidencial} (EMP) (Presidential High Command) would be disbanded, and that the murder of Bishop Gerardi would be resolved in the first six months of his presidency.\textsuperscript{97} However, early in his presidential term progress on human rights issues once again stalled. Portillo announced that the EMP would not be disbanded until 2003 and it took seventeen months and a tremendous amount of international pressure before

\textsuperscript{93} The United States homicide rate was 10.1 per 100,000. Angelina Snodgrass Godoy, “Lynchings and the Democratization of Terror,”\textsuperscript{643}.

\textsuperscript{94} The rate of these lynchings would increase during the next president’s term in office. According to MINUGUA in 97.7 percent of these cases, no one was brought to justice. Amnesty International, \textit{Guatemala’s Lethal Legacy}, 61.

\textsuperscript{95} Ibid, ii.

\textsuperscript{96} Ibid, 13.

\textsuperscript{97} The EMP was intended to offer security to the president and his family. However, over the years it evolved into a center of military intelligence, regularly implicated in some of Guatemala’s most high profile abuses, including the murder of Bishop Juan Gerardi in 1998. Ibid, 6.
three military officers were sentenced to thirty years imprisonment for Bishop Gerardi’s murder. 98 Some have attributed this stalling on human rights to President Portillo’s loss to General Ríos Montt in a power struggle for FRG party loyalty while others suggest that this should have been expected because Portillo was Montt’s protégé. 99 In 2003 AI said that the Portillo administration had “spectacularly failed to deliver on early promises” and attributed the rise in political violence and deteriorating human rights situation to its “persistent lack of will to improve the human rights situation.” In addition to AI’s harsh words for Guatemala, it also had a message for the international community.

In conclusion, Amnesty International recognizes that there have been limited areas of progress in Guatemala’s protracted and, at times, violent peace process. AI would like to make clear that it is not calling on the international community to abandon its cooperation programs in Guatemala; these programs are needed more than ever if the human rights situation is to improve and impunity be surmounted. However, it does call on donor countries and institutions to ensure that their contributions are focused upon programs which further the aims of the Peace Accords and the CEH and support initiatives particularly as regards combating impunity and protecting human rights. 101

This message, while meant for the international community as a whole, almost certainly was intended for specific countries, such as the United States, which had a long and troubled history with Guatemala.

The United States has been intervening in Latin American affairs for over a hundred and fifty years. These interventions became more militaristic and less conventional during the Cold

98 The case of others individuals implicated in his murder remain unresolved.
War. Perhaps the most notorious example of the United States military involvement in Latin American states is the creation of the School of the Americas in 1946. The School was based in Panama until 1984 and some 60,000 security force agents and civilians in Latin America and the United States received training there. According to AI, seven manuals written in Spanish were used at the School “which described torture, executions and beatings as useful tools in certain circumstances.”

While the United States has been involved in many Latin American countries in the Cold War Era, its involvement in Guatemala has been extensive since the CIA-led 1954 coup against President Arbenz. It is impossible to know how many Guatemalan soldiers and auxiliary forces received training from the U.S. military or at the School of Americas but some who now have charges pending against them are believed to have received this professional training. The training provided by the United States to Guatemalan governmental forces and their auxiliaries was confirmed early in the war by Colonel John Webber, an U.S. attaché at the time of the Izabel-Zacapa campaigns.

Webber, in a *Time* magazine article, acknowledged that the campaigns had been his idea and due to his initiative, anti-terrorist methods had been implemented in the Izabel area by the Army. The United States involvement in Guatemala continued through all stages of the war and even led to U.S. participation in some of the serious human rights violations committed by Guatemalan security forces, such as the 1989 abduction and torture of Sister Dianna Ortiz in 1989.

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102 In 1984 the School was transferred to Fort Benning, Georgia. On 4 October 1996 AI called on the United States to carry out an investigation into the manuals and their authors and to bring them to account for the content within these documents. Amnesty International, *Guatemala: State of Impunity* (New York: Amnesty International Publications, 1997), 13-14, AI Index: AMR 34/02/1997.

103 Ibid, 13.

104 These campaigns began in October 1966 and continued until March 1968 and it was estimated that between 3,000 and 8,000 Guatemalans were killed. Webber’s comments appeared in 26 January 1968 *Time* magazine. He was killed in 1968 by leftist guerrillas in Guatemala.

In her 2002 memoirs Sister Ortiz, an American nun who was “disappeared” and tortured in Guatemala in 1989 stated “That’s the tragedy of U.S. foreign policy. Not enough Americans suffer the consequences of it. And foreigners, those whose lives are touched and devastated by decisions our government makes, can’t vote. Too often they can’t even tell their stories to anyone who will listen.”

However, because Ortiz was an American her abduction and torture at the hands of the Guatemalan military, which were supervised by an American referred to as Alejandro, generated interest and outrage in the American public. This outrage was instrumental in prodding the U.S. government into action to investigate her case and pursue those responsible. Several years would pass before the U.S. government was willing to take action on her behalf.

Sister Ortiz was abducted in November 1989 from her convent in Guatemala and was tortured for two days before an American told the torturers that they had “disappeared” and tortured the wrong person. She was released but was profoundly changed by what she had experienced and what she had seen. After she began to heal she sought the truth about what had happened to her and why and the truth about the American who at first supervised and then ended her torture and captivity. That pursuit of justice led her to confrontations with the highest levels of the U.S. government as well as her participation in an international effort to publicize what was happening in Guatemala.

Sister Ortiz was not the only American who was victimized in Guatemala in the late 1980s and she worked closely with Jennifer Harbury whose husband Everard was “disappeared” in Guatemala because he was a guerrilla leader. Together they sought justice for themselves and clarification regarding the U.S. role in widespread human rights abuse. The U.S. government and the U.S. Embassy in Guatemala did not cooperate with their efforts therefore

they took their cause to the public. They engaged in highly visible and highly publicized hunger strikes and rallies to raise awareness about their cases and others. The newsmagazine *Sixty Minutes* interviewed both of them in 1995 and the audience response to Ortiz and Harbury’s stories was overwhelming. According to Ortiz following the story on *Sixty Minutes* both Harbury and herself were no longer completely dismissed by the Clinton administration. Harbury received information about the status of her husband. Until this time the U.S. government denied having any information about his case; however, it was slowly revealed that not only did the U.S. know that he was dead, but also that the CIA was implicated in his death. AI accompanied Harbury on a trip to Guatemala to recover his body in 1996. The U.S. government was then forced to act due to the increased pressure from American citizens who were growing increasingly concerned about U.S. complicity in these human rights violations.

This pressure resulted in Attorney General Janet Reno ordering an investigation into Ortiz’s case among others under the Anti-Terrorism Act and the CIA was forced to publicly defend itself against growing evidence that it was involved in massive human rights violations in Guatemala. Ortiz continued her efforts to identify the American responsible for her torture and she provided testimony to various U.S. committees and agencies about what she had experienced in Guatemala. In addition, she lobbied for declassification of documents that would shed light on the U.S. participation in Guatemalan human rights abuses. AI joined her in this pursuit and as a result of their efforts 103 members of Congress signed a petition asking Clinton to declassify all U.S. government information related to human rights violations in Guatemala.\(^\text{107}\) Ortiz’s campaign for U.S. accountability continued into the new millennium. In 2001 she was the keynote speaker as AIUSA’s Annual General Meeting and stirred the crowd with her demand for

\(^{107}\) Sister Dianna Ortiz with Patricia Davis, *The Blindfold’s Eyes*, 381.
“an accounting of U.S. action in all of Latin America.”

AI members gave her a standing ovation.

The United States was not the only country that provided the military means for Guatemala to wage its brutal counterinsurgency but incidents such as Sister Ortiz’s abduction suggested the United States was more deeply involved than these other supplier countries. As a result, the United States was an obvious target in AI’s call for governments to provide information to the CEH in 1998:

Verifying allegations that foreign government officials were implicated in serious human rights violations in Guatemala is difficult as both recipient and donor states often go to great lengths to conceal the transactions related to these crimes. However, Amnesty believes that reports linking foreign governments to incidents of serious human rights violations should be thoroughly and impartially investigated. The results of such investigations, and any other information that may clarify such violations, should be immediately made available to the Guatemalan authorities and the Historical Clarification Commission in accordance with international standards.

The United States did supply the Commission with information for its report and as a result President Bill Clinton found himself in Guatemala apologizing for forty-five years of U.S. policy that had contributed to the death of over 200,000 Guatemalans.

So was AI successful in Guatemala? After its five-month long country campaign ended in March 1980 violence, human rights violations and war continued. The United States government was increasingly aggressive in publicly defending the Guatemalan government and attacked AI’s credibility, accuracy and judgment as well as the United Nations. The Guatemalan people would endure an additional sixteen years of war that varied in degrees of intensity. Therefore AI’s success is not apparent in a short-term analysis of its work. In order to accurately gauge its work one must look at its cumulative effect over the duration of its four decade

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campaign. This approach is appropriate because the study of INGOs examines soft rather than hard power. Hard power, if sufficient, ensures a desirable outcome within a short timeframe. INGOs depend on soft power to get the outcome they desire and because they rely on persuasion and moral suasion, it takes a longer period of time for the cumulative efforts to achieve the desired outcomes. The methods AI used were very important in shaping that desired outcome. Those methods revolved around telling the truth about what was happening, interpreting its significance, and cultivating pressure to achieve change.

Telling the truth about Guatemala required gathering accurate information and publicizing those facts, arguably the most important aspect of AI’s campaign in Guatemala. While this publicity did not end the war it did bring international attention to the vast, largely government-sponsored violence in the country. The importance of continual, persistent, and growing pressure cannot be underestimated in this case. This attention raised the political costs of the war for the Guatemalan government and its allies. AI had a variety of intended audiences for this publicity and created different strategies to create international consensus on the need to compel the Guatemalan government to improve its human rights record. This consensus, which was rooted in international human rights laws, generated increasing pressure on Guatemala and its powerful benefactor the United States and began to restrict U. S.- Guatemalan relations and aid programs as well as the public support for the activities which resulted in human rights violations. Pressure was not only coming from international sources, but also from internal dissenters who began to re-build Guatemalan civil society. This two-way street of human rights work further cemented the connection between international human rights laws and local communities. It became increasingly difficult to violate human rights with impunity even in the most isolated areas of Guatemala because local groups made this information available within
the country and to human rights INGOs such as AI that then publicized this information around the world.

During the Cold War publicizing the truth was not understood as a neutral act because governments believed that truth depended on the political ideology of the person, organization, or government telling the “truth.” Therefore the act of spreading “truth” represented at the very least naiveté, or worse was considered an act of politically motivated propaganda. International law largely took a backseat to the geopolitical concerns of the Cold War and powerful countries and to a lesser extent their allies could resist pressure to abide by it. They felt pressure from a number of sources but only when that pressure was combined with diminishing returns for its efforts, did the United States change its policies toward Guatemala. The mid-1980s marked the beginning of diminishing returns for the United States and a re-thinking of its relationship with Guatemala. The crumbling of the Soviet system defanged the threat posed by leftist guerrillas throughout the world, including in Guatemala. It was no longer necessary to give unwavering support to the government there and the U.S. had begun to play a more constructive role in Guatemala by the late 1980s.

In addition, by this time the political costs to the United States for its continued support of Guatemala increased due to greater interest in human rights. When the United States began to see the world outside the parameters of the Cold War, it could come around to AI and others’ positions on the human rights situation in Guatemala. This illustrated one of the problems with soft power; AI could provide all the damning evidence it had, but unless global events or a country more powerful than Guatemala compelled the government there to change, AI’s work was in a sense academic. However, this academic component is a large part of AI’s soft power. While it did not have a military division at its disposal to prevent human rights abuses, it
provided accurate information to governments which enabled them to act under the jurisdiction of international law. One could argue that the failure to prevent these human rights abuses lay not with AI but with the governments which failed to live up to the standards of international human rights laws.

AI’s bold conclusions and general assessment of the human rights violations that occurred during the war have been vindicated by post-war international investigations. The CEH report confirmed many of AI’s assertions including government complicity in human rights violations, its connection to “death squad” activities, and acts of genocide. AI’s 1981 report Guatemala: A Government Program of Political Murder stated:

The human rights issue that dominates all others in the Republic of Guatemala is that people who oppose or are imagined to oppose the government are systematically seized without warrant, tortured and murdered and that these tortures and murders are part of the deliberate and long-standing program of the Guatemalan government.110

The CEH report came to the same conclusion almost twenty years later when it stated:

During the armed confrontation, the State’s idea of the “internal enemy,” intrinsic to the National Security Doctrine became increasingly inclusive. At the same time, this doctrine became the raison d’être of the Army and State policies for several decades. Through its investigation, the CEH discovered one of the most devastating effects of this policy: state forces and related paramilitary groups were responsible for 93% of the violations documented by the CEH, including 92% of the arbitrary executions and 91% of forced disappearances. Victims included men, women, and children of all social strata: workers, professionals, church members, politicians, peasants, students and academics; in ethnic terms, the vast majority were Mayans.111

The same 1981 report from AI stated:

This report contains information, published for the first time, which shows how the selection of targets for detention and murder, and the deployment of official forces for extra-legal operations, can be pin-pointed to secret offices in an annex

111 CEH, Guatemala: Memory of Silence, Conclusion I, para 15.
of Guatemala’s National Palace, under the direct control of the President of the Republic.\textsuperscript{112}

Those charges were aggressively denied by the Guatemalan and U.S. government at the time; however, the CEH found this charge to be accurate as well.

The majority of human rights violations occurred with the knowledge or by order of the highest authorities of the State. Evidence from different sources all coincide with the fact that the intelligence services of the Army, especially the G-2 and the Presidential General Staff (\textit{Estado Mayor Presidencial}), obtained information about all kinds of individuals and civic organizations, evaluated their behavior in their respective fields of activity, prepared lists of those actions that were to be repressed for their supposedly subversive character and proceed accordingly to capture, interrogate, torture, forcibly disappear or execute these individuals.\textsuperscript{113}

Further, the testimony AI reproduced in this report from a former conscripted soldier and torture survivor were found credible.

Some of the human rights violations were committed by means of covert operations. The military had clandestine units called “commandos” or “special squads” whose supplies, vehicles, arms, funding and operational instructions were provided by the regular structures of the Army, especially military intelligence. The work of these squads not only included execution and kidnapping, but also the development of counterinsurgency tactics of psychological war, propaganda and intimidation.\textsuperscript{114}

Finally, AI’s overall understanding of the human rights situation in Guatemala matched conclusions reached by this international investigatory body.

Based on the fundamental conclusion that genocide was committed, the CEH, in keeping with its mandate to present an objective judgment on the events of the internal armed confrontation, indicates that, without prejudice to the fact that the active subjects are the intellectual and material authors of the crimes in the acts of genocide committed in Guatemala, the State is also responsible, because the majority of these acts were the product of a policy pre-established by a command superior to the material perpetrators.\textsuperscript{115}

\textsuperscript{112} Amnesty International, \textit{A Government Program of Political Murder}, 3.

\textsuperscript{113} CEH, \textit{Guatemala: Memory of Silence}, Conclusion II, para 105.

\textsuperscript{114} Ibid, Conclusion II, para 92.

\textsuperscript{115} Ibid, Conclusion II, para 124.
This report provided a check on AI’s truth and the similar conclusion it reached provides evidence not only of AI’s accuracy but also its dedication to the rule of law.

William Schulz’s statement that “human rights are not for the faint of heart they are not the province of wimps but the stubborn and the robust” can be seen in its Guatemala campaign.\textsuperscript{116} AI’s determined protest over four decades despite powerful challenges to its information and credibility gradually helped to reshape the U.S. position on Guatemala. That reshaping was instrumental in ending the war. Thus AI’s long-term campaign in Guatemala can be judged moderately successful. That being said, the deteriorating conditions in Guatemala call into question the ability of that success to endure without the sustained help of governments such as the United States.

CHAPTER IV. EVOLVING STANDARDS OF DECENCY AND THE DEATH PENALTY IN THE UNITED STATES

The technology, methods and rationale for capital punishment have changed over time in the United States; these changes can be explained as attempts to balance the demands of punishment with the ideals of justice. American concepts of justice have evolved throughout its history but it has also been influenced by the United States religious background, which created a tradition of an “eye for an eye,” old testament-style justice. This tradition has relatively recently been confronted by human rights advocates and the like, who argue that in the words of Gandhi, “an eye for an eye leaves the whole world blind.” As a result of international and domestic pressure, during the last quarter of the 20th Century, many countries have abandoned their use of capital punishment. However, the United States has defied this international trend and strongly advocates its right to administer the death penalty. Consequently, this domestic policy has affected the ambitions, construction and implementation of U.S. foreign policy, even with its strongest allies. This chapter seeks to put the United States use of capital punishment in historical context, to evaluate its evolution and support in the United States, as well as the efforts to modify this domestic policy.

The politically charged atmosphere surrounding the capital punishment debate in the United States includes not only local, state and national politicians, but an increasing number of pro- and anti-death penalty citizen groups. Both of these groups claim the moral high road on this issue consequently the debate between these two groups has been very heated and confrontational. As a result, each group has hardened its position and the entire issue has become a zero sum game within which, any loss, perceived or real, to the other side, amounts to a call to arms to prevent further losses. Both sides of the pro- and anti-death penalty debate have a large number of advocacy groups which work to influence official and public opinion. These
groups share several common sources, including people affiliated with religious and victim
groups, as well as humanitarian and civil rights groups and journalists that operated at the state,
regional, national or international level.\(^1\) The United States retentionist policy is strongly
supported by the general public; therefore anti-death penalty groups face an uphill struggle. The
tactics of anti-death penalty groups have been to raise awareness and educate the general public,
but also to actively challenge the constitutionality of capital punishment. The Eighth
Amendment, which states “Excessive bail shall not be required, nor excessive fines imposed, nor
cruel and unusual punishments inflicted” has therefore been an important and central tool in
attempting to abolish the death penalty in the United States.\(^2\) However, the history and traditions
of the United States, coupled with governmental and public support for the death penalty
combined to create a formidable obstacle to abolition. This chapter will detail the clash with this
domestic U.S. policy which violates international human rights norms.

Early in American history the reasons for execution as well as the manner and location of
an execution were designed to have maximum impact on the public. One could be executed for a
number of offenses including; arson, manslaughter, murder, rape, theft, counterfeiting and
treason. The imposition of one’s death sentence was swift and administered publicly. The most
common form of execution was hanging; a condemned individual stood on the trapdoor of a
gallows and when the trapdoor was opened, he or she fell several feet breaking their neck or

\(^1\) Some of the anti-death penalty groups are: the American Civil Liberties Union, Amnesty International, the
Campaign to End the Death Penalty, Catholics Against Capital Punishment, Citizens United for Alternatives to the
Death Penalty, Hands off Cain, Journey of Hope, Murder Victims Families for Reconciliation, National Coalition to
Abolish the Death Penalty, Sant’Egidio Community of Italy (promoted by Sister Helen Prejean), The Innocence
Project and The Moratorium Campaign. Some of the pro-death penalty groups are: Justice for All, Justice Against
Crime Talking and Throw Away the Keys. The New York Times stated its position as follows: “This paper
welcomes the push for competent lawyers and DNA testing in capital cases. But we also hope that the current
national dialogue will lead to a new consensus that ‘reforming’ the death penalty, a practice abhorrent to a civilized
society, is ultimately an unsatisfactory quest. Abolition should be the goal.”

\(^2\) United States Constitution, amend. 8.
“dangling between heaven and earth” until they suffocated.\(^3\) Until an infrastructure was established to contain the criminal population, punishment for serious criminal acts centered on using the gallows and came in a matter of degrees. Individuals who needed to be punished, but whose crimes did not warrant death, could be sentenced to a “mock” public execution.\(^4\) Those condemned of horrific crimes would not only be hanged but after death their bodies could be subjected to a number of grizzly punishments; including dissection, quartering or gibbeting.

Support for capital punishment, especially in cases other than murder, waned in the years preceding the American Revolution, coinciding with the rise of the Enlightenment. Cesare Beccaria, an Italian philosopher, provided support for this growing concern about the legitimacy of capital punishment in his *Essay on Crimes and Punishment* (1764). His conclusion was that the certainty of imprisonment was a far more effective deterrent than a possible death sentence. He arrived at this conclusion by asserting that the state’s goal was undermined by this kind of punishment and that it did not have the right to take anyone’s life: “Is it not absurd, that the laws, which detest and punish homicide, should, in order to prevent murder, publicly commit murder themselves?”\(^5\) Also he stressed that the history of mankind proved “that the punishment of death has never prevented determined men from injuring society.”\(^6\) His argument in favor of imprisonment focused on the duration and certainty of punishment.

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\text{It is not the intenseness of the pain that has the greatest effect on the mind, but its continuance; for our sensibility is more easily and more powerfully affected by weak but repeated impressions, than by a violent, but momentary impulse. The death of a criminal is a terrible but momentary spectacle, and therefore a less efficacious method of deterring others, than the continued example of a man deprived of his liberty, condemned, as a beast of burden, to repair, by his labor,}
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\(^4\) When criminals were sentenced to a “mock” execution they were required to stand on the gallows’s trapdoor with their neck in a noose for a specified time while the community watched and jeered them.
\(^6\) Ibid, 65.
the injury he has done to society. A much more powerful preventive than the fear of death, which men always behold in distant obscurity.  

Other European Enlightenment thinkers such as Voltaire embraced the “tender but unbending” form of punishment advocated by Beccaria. In 1766 when Beccaria’s essay was translated into French it included an anonymous commentary that was attributed to Voltaire. The author of the commentary argued that capital punishment did not serve the state because it caused its citizens to grow cautious and afraid of its government. In addition, he asserted that the lack of legal uniformity was a source of political and community instability and questioned the ability of a man to sentence another to death. He reminded the reader that France was not founded on ideas such as death and oppression and that a system of social service for criminals that benefited the community was a more appropriate punishment. Voltaire’s arguments against the death penalty were rooted in his belief in humanity and his uncertainty of the ability of law to provide justice. Another thinker of the Enlightenment, Rousseau supported capital punishment but believed the law placed restrictions on its use.

Rousseau supported capital punishment in order to protect the state from its enemies; he understood criminals to be the enemies of the state. In addition, his support for capital punishment reflected “eye for an eye”-style justice. His Social Contract (1762) stated that “it is in order that we may not fall victims to an assassin that we consent to die if we ourselves turn

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\text{7 Ibid, 65-66.}
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\text{8 James Q. Whitman, Harsh Justice: Criminal Punishment and the Widening Divide between America and Europe (Oxford: Oxford University Press, 2003), 50.}
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\text{9 A British translator of this 1766 French edition provided the following statement regarding this supposition. “With regard to the commentary, attributed to Mons. de Voltaire, my only authority for supposing it his, is the voice of the public, which indeed is the only authority we have for most of his works. Let those who are acquainted with the peculiarity of his manner judge for themselves.” Cesare Beccaria, An Essay on Crimes and Punishments, 9. Voltaire’s manner strongly suggests that he was the source of this commentary; for example, he was known to have said, “It is better to risk saving a guilty person than to condemn an innocent one.”}
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assassins."\textsuperscript{10} Rosseau’s support for the death penalty does however have its limits. Also in his \textit{Social Contract} he stated,

\begin{quote}
We may add that frequent punishments are always a sign of weakness or remissness on the part of the government. There is not a single ill-doer who could not be turned to some good. The State has no right to put to death, even for the sake of making an example, any one whom it can leave alive without danger.\textsuperscript{11}
\end{quote}

This qualification suggests that if super maximum prisons existed in Rosseau’s time he would have opposed the death penalty in favor of using such institutions, which would have allowed violent criminals to live without posing a danger to society. However, support in general for milder punishments were blunted until intermediate forms of punishment were established to ensure society would be safe from convicted criminals.\textsuperscript{12} These Enlightened ideas had a tremendous impact on the American colonists during and immediately following the revolution. Several states declared their intention to create constitutions that limited the number of capital crimes; however, the implementation of that intention varied from state to state.\textsuperscript{13}

After the American Revolution and throughout the first half of the 19\textsuperscript{th} century, anti-death penalty advocates were increasingly located in the northern states that had begun to limit the use of capitol punishment to treason and murder. Michigan became the first state in the union to abolish the death penalty for all crimes in 1846; within seven years Rhode Island and Wisconsin did as well.\textsuperscript{14} Rather than pursuing abolition, southern states made race a central factor in determining punishment. The number of executions increased in most southern states because the number of capital crimes for blacks increased.\textsuperscript{15} Slaves in Texas could be executed

\begin{itemize}
\item[\textsuperscript{10}] Jean Jacques Rosseau, \textit{The Social Contract}, Book II Chapter 5.
\item[\textsuperscript{11}] Ibid.
\item[\textsuperscript{12}] Milder punishments required the state to create uniform criminal codes and prison system which could house the criminal population and thus ensure that society would be protected from them without having to execute them.
\item[\textsuperscript{13}] Stuart Banner, \textit{The Death Penalty}, 94-95.
\item[\textsuperscript{14}] Alexis de Tocqueville opined in his work \textit{Democracy in America} that “in no country is criminal justice administered with more mildness than in the United States.”
\item[\textsuperscript{15}] At the same time the number of capital offense for Southern whites was reduced.
\end{itemize}
for insurrection, arson, and for murder, rape, attempted rape, robbery, attempted robbery and assault with a deadly weapon, if the victim was white. Attempted rape of a white woman was punishable by death, not only in Texas, but also Virginia, Florida, Louisiana, Mississippi, South Carolina, and Tennessee. As a result, blacks were hanged more frequently than whites and a divergence between the North and the South—in terms of their use of the death penalty—emerged. As the country moved ever closer to the Civil War, the South continued to use the tradition of public hangings to frighten citizens and non-citizens to comply with social norms.

The South used these long lists of capital crimes to maintain control over its slave population and those who encouraged slavery insurrections, such as John Brown—the first American hanged for treason since the founding of the country. Victor Hugo warned the United States prior to the 2 December 1859 hanging of John Brown that his death would have long-term political costs for the entire nation.

Politically speaking, the murder of John Brown would be an irrevocable mistake. It would penetrate the Union with a secret fissure, which would in the end tear it asunder. It is possible that the execution of Brown might consolidate Slavery in Virginia, but it is certain that it will convulse the entire the American Democracy. You preserve your shame but you sacrifice your glory.

The immediate force that threatened to “convulse the entire American Democracy” was the issue of slavery; however, in time, the death penalty issue would also pose a threat. His execution was guarded by 1,500 soldiers and numerous other witnesses, but by the turn of the century, public executions were being replaced by private executions, attended by a select few, behind the

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16 John Brown’s crime was attempting to cause a slave insurrection by leading an assault against the federal arsenal at Harpers Ferry, Virginia in the hopes of sparking a massive slave rebellion after arming them.
17 On 30 March 1860 Hugo wrote, “Slavery in all its forms will disappear. What the South slew last December was not John Brown, but Slavery. The American Union must be considered dissolved. Between the North and South stands the gallows of Brown. Union is no longer possible: such a crime cannot be shared.” Barrie Stavis, John Brown: The Sword and the Word (New York: A.S. Barnes and Company, 1970), 168.
18 Ibid.
19 This is not to suggest that the United States would engage in another civil war over the issue of the death penalty; however, the current heated divisions in the country suggest that this issue convulses the country in a similar manner.
walls of the prisons. The government rather than “the people” was now executing criminals and it used modern technology to make executions more efficient, scientific and arguably, more humane.

New York was the first state to employ electricity to administer the death penalty in 1890, but this first electrocution did not go as planned. William Kemmler, convicted of his girlfriend’s murder, was the first condemned men scheduled to be electrocuted. While it was believed that electrocution would be a quick and humane form of execution Kemmler’s death suggested otherwise. He survived the first interval of electric current, which lasted for seventeen-seconds, much to the warden’s surprise. Therefore to ensure he died after the second interval of current was administered, the warden let the current flow into Kemmler’s body for a full minute. The 25 witnesses were horrified by this gruesome execution. Electrocution was meant to provide a humane death that was easier to witness than a hanging because human error was significantly reduced. This botched electrocution could hardly be characterized as humane and demonstrated that human error remained a problem. Despite the unpredictability of electrocution, by 1913 15 states adopted this technology to administer death sentences and replaced their gallows with electric chairs. By 1950 another 11 states and the District of Columbia adopted electrocution as its primary method of execution.

Nevada opted for an alternative method of execution in 1921—the gas chamber—and ten other states by 1955 would as well. The gas chamber had existed prior to the electric chair, but it was believed that the latter was more humane because it killed instantly whereas death by gas

20 Because the current was administered for so long the capillaries in Kemmler’s face ruptured and his face began to bleed. In addition, the smell of burnt flesh and hair filled the room.
21 Hanging could be quite barbaric. Much of the barbarity stemmed from human error because a “proper” hanging required correct placement of the knot to snap the neck resulting in a quick death rather than a slow death by strangulation. Other elements subject to human error during a hanging was the length of the rope, the distance of the drop and the quality of the rope; failure to correctly calculate these factors could result in bloody and visually disturbing scenes.
took several minutes. The two methods of state execution in Nevada prior to 1921 were firing squad and hanging, neither of which appeared to be very humane; therefore it was relatively easy to persuade the state legislature to adopt lethal gas as the new method of execution.\textsuperscript{23} Vaporized hydrocyanic acid was the lethal gas used in the 1924 execution of Gee Jon, a Chinese immigrant; unlike the gruesome death of William Kemmler in New York’s electric chair, Gee Jon appeared to die painlessly. Human error, however, continued to be a factor in lethal gas executions as these executions remained unpredictable and caused humanitarian concerns. For instance, Gee Jon’s execution, which appeared to be painless, had encountered problems. These problems did not have the grizzly consequences of the first electrocution, but they did raise some questions about the use of this technology.\textsuperscript{24} The heater in the chamber failed; therefore, the liquid hydrocyanic acid concentrated on the floor rather than vaporizing. Doctors stated that Gee Jon had died quickly, but removal of the body was delayed for three hours due to the concentration of poison liquid on the floor of the chamber. The efficiency of this method was questioned and many were concerned about the safety of witnesses and guards because the invisible gas could pose a danger to anyone present, not just the condemned. Perhaps because of these concerns Nevada was the only state to have a gas chamber until 1933 when Colorado and Arizona constructed their own gas chambers. The gas chamber was predominantly used in the western and southern regions of the country. Despite some early, relatively flawless executions, there were several executions that did not go smoothly; calling into question the humanity of lethal gas executions.

\textsuperscript{23} Proponents of the use of lethal gas got around the less humane argument posed by advocates of the electric chair by arguing it was more humane because prisoners would die in their sleep as the lethal gas was pumped into their jail cells at a time unknown to the prisoner. This “surprise” date of execution was quickly dismissed as impractical. Ibid, 197.

\textsuperscript{24} Some of those concerns were connected to the United States history with lethal gas. The nation’s first experience with the use of poison gas was on the battlefields of World War I, not something the nation wanted to remember; the connection between the gas chamber and the battlefield was too close for many. The use of the gas chamber was also undercut by the Nazis’ use of gas during the Holocaust.
Both electrocution and death in the gas chamber were believed to be more humane on the condemned and more palatable visually for witnesses than hanging, which by the turn of the century was considered barbaric, a relic of an old world. Both methods also de-personalized the process of execution and the dependence on technology allowed executioners to detach themselves from the work of executing the condemned. The use of technology was also driven by the public’s search for humane ways to punish the condemned; in exchange for humane executions, the public no longer witnessed the punishment of a criminal in a public setting. Executions were moved indoors and administered by trained state employees who managed the technology of death. The rationale for executions in the past had been based on deterrence and it was believed that criminals would refrain from committing criminal acts if they saw a public demonstration of the end result of a criminal life. Therefore an essential component of any execution was its public display and ceremony. This deterrent effect was now blunted, as executions took place behind closed doors and were administered by professionals rather than community representatives. The local community had been removed from the center of the justice process and replaced by the state; capital punishment had made an important and permanent transition.

The number of executions in the United States peaked in 1935, when 199 people were executed, but the number of executions steadily declined and 1951 was the last year during which at least 100 executions were carried out. A decade later the number of executions dropped to 42 and 1963 witnessed only twenty-one. Nineteen sixty-eight, while remembered in American history for famous deaths by assassination, marked the first year in U.S. history

25 This addressed concerns about some executioners’ willingness to act as the “hand of God.” The use of technology created a sense of distance making the job of the executioner easier. Of course, not all executioners were troubled by their jobs and this was not the primary force driving the implementation of technology in the administration of death sentences. Stuart Banner, The Death Penalty, 204.
without any state executions. These declines were matched by changing public attitudes about capital punishment, as opposition to it was championed by such public figures as Clarence Darrow, Lewis Lawes, Henry Ford and William Randolph Hearst. There were also civic organizations dedicated to ending the United States use of the death penalty; one of these organizations was the League to Abolish Capital Punishment. It collected and publicized the statements of death penalty opponents and followed major events in the legal system to achieve its objective, abolition of the death penalty in the United States. The warden of Sing Sing Prison from 1920 to 1941, Lewis Lawes, served as the League’s chairman for a time and in the 1930s Clarence Darrow was its President. These two men demonstrated another important capital punishment transition in the United States. Lawes and Darrow were both justice system insiders with intimate knowledge of, and experience with, the death penalty process and its implementation.

As the warden of Sing Sing, Lewis Lawes modernized the prison facility, made conditions more humane for the inmates and oversaw many executions. Despite the requirements of his job, he was a prominent anti-death penalty advocate. After administering one of many executions, he wrote an article that reflected some of the very arguments advanced by Beccaria nearly two hundred years earlier.

If you ask me what society gained by putting that young man to death, I am frankly puzzled. Very little, I think, because the crime he committed has been repeated scores of times since his execution, which, like all executions, is supposed to act as a deterrent, if there is any logic at all in capital

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26 Ibid, 208.
27 It was also reported that during Franklin Roosevelt’s first year in office that he said he “would like to see capital punishment abolished throughout the country.” Ibid, 224.
28 The League was founded in 1925 and its headquarters were in New York City. Another important anti-death penalty organization was founded two years later by the wife of one of the associate attorney’s to Sacco and Venzetti in their capital case and was headquartered in Boston. Sara R. Ehrmann founded the Massachusetts Council for the Abolition of the Death Penalty—it remains the oldest, active anti-death penalty organization in the United States—Ehrmann assumed leadership of the League to Abolish Capital Punishment in 1949. The League ceased to function around 1969.
punishment…We know by every means of reckoning, that the death penalty does not deter any more than the penalty of life imprisonment. Indeed, the latter is probably more effective when rigidly enforced.29

Lawes’s opposition to capital punishment seemed at odds with his job as a warden, whose prison conducted the most executions in the country. However, the League to Abolish Capital Punishment sought out people such as Lawes to champion its cause, because he had personal experience with executions and his job experiences bestowed credibility to his claim that the death penalty was cruel and ineffective in preventing crime. Lawes’s critics took full advantage of the seeming incompatibility of his job responsibilities and personal beliefs; citing, for instance, his refusal to look at the condemned as they were electrocuted, as a publicity stunt. Perhaps more important in getting Americans to question capital punishment were a number of nationally watched capital cases beginning with the 1924 trial of Nathan Leopold and Richard Loeb through the 1936 execution of Bruno Hauptmann for the kidnap and murder of the Lindbergh baby.

Clarence Darrow, the most well-known criminal defense attorney of his time and anti-death penalty advocate, represented Leopold and Loeb in their capital case for the abduction and murder of Bobby Franks. The pair had confessed their guilt in the face of irrefutable evidence but Darrow argued that, due to their age, the teenage “thrill” killers should not receive the death penalty.30 His defense summation lasted some twenty hours as he passionately argued for the lives of his young clients and indicted the justice system that aggressively pursued executions was a danger to the country not just his clients.

I am not pleading so much for these boys as I am for the infinite number of others to follow, those who perhaps cannot be as well defended as these have been, those who may go down in the storm, and the tempest, without aid. It is of them I am

30 They had committed the crime to see if they could commit the perfect crime, thus they were dubbed teenage “thrill” killers.
thinking, and for them I am begging of this court not to turn backward toward the barbarous and cruel past.\textsuperscript{31}

Darrow’s arguments persuaded the judge to impose long prison terms rather than death sentences for the thrill killers. They were guilty, but Darrow had argued successfully that there was more at stake then just the punishment of these two criminals, such as the future of the U.S. justice system. Other cases during this period would challenge the legitimacy of capital punishment because factors other than guilt appeared to be the reason behind the imposition of a death sentence.

Nicola Sacco and Bartolomeo Vanzetti, foreigners and anarchists, were executed in 1927 for armed robbery and murder, but many at the time believed they were innocent of these crimes and were instead victims of a hostile justice system. Thousands signed clemency petitions on their behalf. Perhaps one of the most well-known of these signatories was Alfred Dreyfus, the Jewish artillery officer in the French army at the center of the Dreyfus Affair. He was convicted of treason and sentenced to life imprisonment on the infamous Devil’s Island but he was exonerated four years after his conviction. There was significant symbolism attached to Dreyfus’s signature on that clemency petition. He was a famous survivor of an unfair justice system, speaking out on behalf of two victims of another tainted justice system, those that believed Sacco and Vanzetti were innocent as well as anti-death penalty advocates capitalized on this connection. These petitioners, both abroad and within the United States, were rooted in the belief that nativism and anti-immigrant fervor following World War I condemned these two men to death rather than proof of actual guilt. These petitions failed and Sacco and Vanzetti were executed on 23 August 1927; protests erupted in London, Moscow, Berlin, Madrid and San Paulo at the time of their executions. Similarly, the death sentence imposed against the

\textsuperscript{31} Available at www.law.umkc.edu/faculty/projects/ftrials/leoploeb/leopold.htm
“Scottsboro boys” in 1931 for the rape of two white women on a train bound for Scottsboro, Alabama, appeared to be punishment for their race rather than their guilt.

Twelve days after the alleged rape, the nine “Scottsboro boys” were sentenced to death in Alabama’s electric chair by an all-white jury. That sentence was overturned by the Supreme Court a year later because the defendants did not have a proper defense. By the time of the second trial the State’s case had largely fallen apart; there was no physical evidence of rape and one of the rape victims recanted her testimony; but an all-white jury once again convicted the nine. The Supreme Court once again overturned the verdict on the grounds that the defendants were denied due process. The State then dropped the charges against four of the “Scottsboro boys” in 1935, but the remaining five served long prison terms. If the Supreme Court had not interceded, these young men would have been executed despite their innocence.

The case of Bruno Hauptmann also eroded support for capital punishment, because the evidence that convicted him of the abduction and murder of Charles Lindbergh’s son was largely circumstantial. Moreover, his German ancestry and the fact that he had been a German machine-gunner against American forces during World War I appeared to be a factor in the investigation and trial which led to his conviction. He maintained his innocence until the end when he spoke his last words on 3 April 1936, the date of this execution.

I am glad that my life in a world which has not understood me has ended. Soon I will be at home with my Lord, so I am dying an innocent man. Should, however, my death serve for the purpose of abolishing capital punishment—such a punishment being arrived at only by circumstantial evidence—I feel that my death has not been in vain. I am at peace with God. I repeat, I protest my innocence of the crime for which I was convicted. However, I die with no malice or hatred in my heart. The love of Christ has filled my soul and I am happy in Him. 32

After his execution his wife took up the case of his innocence and attempted to clear her husband’s name until her death.

32 Available at www.law.umkc.edu/faculty/projects/FTrials/Hauptmann/hauptmannletter.html
The momentum generated by these high-profile capital cases began to erode general support for capital punishment and there was a reduction in executions in the 1950s and 1960s. During this time the United States was seemingly participating in a global trend toward abolition. This period contained more court cases, which further eroded support for the death penalty and an international clamor for the United States to move to abolish this punishment. Infamous court cases continued in the 1950s—most notably the 1953 execution of Julius and Ethel Rosenberg. In addition, the onset of the civil rights movement produced international interest in the United States justice system and its questionable use of the ultimate punishment. The abuse of authority and the sense that the death penalty was inconsistent with civilized government were also important factors in increasing international attention. This attention was also generated by dramatic anti-death penalty advocates, who in the tradition of Lawes and Darrow, were death penalty insiders. The most famous death penalty insider in 1950 was a man condemned to this punishment, Caryl Chessman. While awaiting imposition of his death sentence, Chessman spent twelve years on death row and he used that time to write four books and gave several interviews.\textsuperscript{33} The Vatican’s official newspaper called upon California Governor Edmund G. Brown to pardon Chessman and demonstrators marched outside the American consulate in Montreal. Petitioners on his behalf collected 90,000 signatures in Stockholm, 50,000 in Oslo, and 9,000 in Geneva. His execution in 1960 provoked an outpouring of foreign criticism. The Eisenhower administration was so worried about the ramifications of Chessman’s execution, that it was delayed until after the President’s trip to Latin America.\textsuperscript{34}

The execution of Julius and Ethel Rosenberg in 1953 for conspiring to commit espionage drew widespread international attention, including clemency petitions from the mayor of Rome,

\textsuperscript{33} His first book, an autobiography, entitled \textit{Cell 2455, Death Row} was so popular it was translated and published in Milan, Oslo, Buenos Aires, Mexico City, Tokyo, Taipei, and Athens. Stuart Banner, \textit{The Death Penalty}, 241.

\textsuperscript{34} Ibid.
two former prime ministers of France, eight Danish judges, and ordinary people from around the world. Jimmy Wilson, an African-American was sentenced to death in Alabama in 1958 for the theft of $1.95 from a white woman; was widely covered in the international press. The American Embassy in London received six hundred letters a day and the American Embassy in Dublin received four hundred a day requesting clemency. At a press conference, Alabama’s governor James Folsom said he was “snowed under” by more than 3,000 letters he received in a single box from Toronto. The American Ambassador at The Hague received death threats in the event Wilson was executed. Secretary of State John Foster Dulles complained to Folsom about the “international hullabaloo” and Folsom commuted Wilson’s death sentence.\footnote{35 Ibid, 243-244.}

In addition to these infamous cases, international intellectuals and governments began weighing in on the United States use of the death penalty. Albert Camus, the 1957 Nobel Laureate for Literature, took up the issue of capital punishment in his essay \textit{Reflections on the Guillotine.}

But what then is capital punishment but the most premeditated of murders, to which no criminal’s deed, however calculated it may be can be compared? For there to be equivalence, the death penalty would have to punish a criminal who had warned his victim of the date at which he would inflict a horrible death on him and who, from that moment onward, had confined him at his mercy for months. Such a monster is not encountered in private life.\footnote{36 Albert Camus, \textit{Resistance, Rebellion and Death} (New York: Alfred A. Knopf 1961), 199.}

Arguments such as these were persuasive to an increasing number of western European governmental officials and many of these countries followed the global trend toward abolition. The number of executions slowed or even stopped and laws inched several nations closer to abolition; these nations in turn appealed to the United Nations to pressure the United States to do the same. The UN General Assembly passed Resolution 2857 on 20 December 1971 affirmed that:
In order fully to guarantee the right to life, provided for in article 3 of the Universal Declaration of Human Rights, the main objective to be pursued in the field of capital punishment is that of progressively restricting the number of offenses for which the death penalty may be imposed with a view to the desirability of abolishing this punishment.\(^{37}\)

A year later the United States Supreme Court decided that capital punishment, as it was practiced, was unconstitutional.

There had been momentum building toward abolition in the United States throughout the twentieth century. The United States and several European countries appeared to be moving toward abolition, even the U.S. Department of Justice endorsed abolition in 1965 and by 1969 twelve states had abolished the death penalty.\(^{38}\) Movement toward abolition during the 1950s and 1960s was complemented by legislation which made it easier to appeal a capital case to the U.S. Supreme Court. This legislation provided additional legal grounds upon which condemned inmates could base their appeals. The appeals process put a temporary hold on executions, as inmates had their sentences postponed while they awaited decisions on their appeals. The average death row inmate in 1967 spent forty-one months on death row; five years earlier the average was only seventeen months.\(^{39}\) The last execution in the United States for a decade occurred on 2 June 1967 when Luis Morgan died in Colorado’s gas chamber. Five years later the Supreme Court’s decision temporarily ended capital punishment in the United States.

On 29 June 1972, more than six hundred condemned prisoners had their sentences commuted to life imprisonment when the U.S. Supreme Court ruled on a collection of cases known as \textit{Furman v. Georgia}. The ruling found that capital punishment, as then practiced in the


\(^{39}\) Stuart Banner, \textit{The Death Penalty}, 247.
United States, was unconstitutional because it violated the Eighth Amendment prohibition against cruel and unusual punishment. The basic question regarding the overall constitutionality of capital punishment was not ruled on by the court. Only two justices, William J. Brennan and Thurgood Marshall, found capital punishment unconstitutional in any form. Three justices—Potter Stewart, Byron Raymond White, and William Orville Douglas—found only the manner in which the death penalty was administered to be unconstitutional. 40 Justice Stewart’s opinion stated that “death sentences were cruel and unusual in the same way that being struck by lightning was cruel and unusual.” Therefore his position that capital punishment was unconstitutional was based on its imposition on “a capriciously selected random handful” of criminals rather than the premise that as a policy, capital punishment was unconstitutional. Therefore, the opportunity to reinstate capital punishment rested on the state’s ability to design sentencing guidelines which removed its arbitrary application. The period of abolition was brief, as states quickly got to work re-writing statutes to provide test cases for the Supreme Court, which would lead to the re-introduction of the death penalty.

By 1976 thirty-five states enacted new death penalty statutes and the trend toward abolition was reversed. States took a number of steps to remove the randomness that Stewart, White and Douglas declared as unconstitutional. As a first step toward a remedy for capriciousness, states instituted mandatory sentences—fixed punishments that were attached to specific offenses. North Carolina, for example, created a death penalty statute that made death the mandatory punishment for first-degree murder and aggravated rape. The next remedy was state adoption of the Model Penal Code, which separated the guilt and sentencing of a criminal

40 The four remaining Justices that dissented were: Chief Justice Warren B. Burger and Justices Harry Blackmun, Lewis F. Powell, and William Rehnquist. The split decision and the strong public support in America suggests that the United States move toward abolition may have been overblown but was certainly superficial when tested in the general public.
into two proceedings. During the first phase, or guilt phase, the guilt or innocence of the accused was established. If a guilty verdict was handed down, the defendant proceeded into the second phase of the Model Penal Code. During this phase, known as the sentencing phase, both the State and Defense would introduce evidence and testimony regarding a list of aggravating and mitigating circumstances. The Model Penal Code listed eight aggravating circumstances—factors that made the death penalty more appropriate—and eight mitigating circumstances—factors that made the death penalty less appropriate. The jury was then to weigh the aggravating and mitigating circumstances and hand down a sentencing recommendation to the judge. The states implemented the Model Penal Code differently in their death penalty statutes. For example, Florida’s capital punishment statute had eight aggravating factors but only seven mitigating and Georgia’s statute provided ten aggravating factors but no mitigating factors. These states were joined by Alabama, Arizona, Arkansas, Colorado, Connecticut, Nebraska, Ohio and Texas in enacting death penalty legislation ahead of the 1976 Supreme Court decision that would reinstate capital punishment. In 1974, 149 people and in 1975 nearly 300 people would be sentenced to death under these new statutes. These sentences however could not be imposed until the Supreme Court ruled on the constitutionality of these new sentencing guidelines and statutes.

The first test case came from North Carolina in 1974 regarding the mandatory death sentence of Jesse Fowler, who had been convicted of murder. The federal government, which had stayed out of the *Furman* decision, filed an *amicus curiae* brief supporting the constitutionality of capital punishment for the *Fowler* case. When North Carolina changed its sentencing statute, the impact of the *Fowler* case would be limited and so the Court took up a

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41 Stuart Banner, *The Death Penalty*, 270.
The High Court decided to hear arguments in cases from Georgia, Florida, Texas, North Carolina, and Louisiana; collectively these five would be known as *Gregg v. Georgia* 428 US 153 (1976). The federal government again filed an *amicus* brief in favor of re-instating capital punishment. The Court’s 2 July 1976 ruling reinstated the death penalty in a seven-to-two majority; Justices Brennan and Marshall dissenting. The death penalty was ruled constitutional; however, mandatory death sentences were found to be unconstitutional. Six and a half months later Gary Gilmore was executed by firing squad in Utah, the first person executed in the United States in a decade. After the *Gregg* decision, twenty-one additional states enacted death penalty legislation or modified their statutes to conform to the court’s ruling.\(^\text{43}\) Public polls indicated that capital punishment was strongly supported following the 1976 decision.\(^\text{44}\)

At the same time that the United States re-instituted the death penalty many countries around the world continued moving in the direction of abolition. As of May 1979 eighteen nations had abolished the death penalty for all offenses and eight nations abolished it during peacetime and seven retained capital punishment, but were abolitionist in practice.\(^\text{45}\) Therefore when the United States reinstated the death penalty, it was one of a few democracies that still used capital punishment. Until the *Gregg* decision the United States appeared to be following the same path as many nations around the world and was a part of the abolitionist trend; after *Gregg*, the United States became their largest target.

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\(^\text{43}\) Those states were: California, Delaware, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Montana, Nevada, New Hampshire, North Carolina, Oklahoma, South Carolina, Tennessee, Utah, Virginia, Washington and Wyoming.

\(^\text{44}\) Polls taken between 1977 and 1998 recorded 66 to 76 percent of Americans favored the death penalty. Stuart Banner, *The Death Penalty*, 275.

\(^\text{45}\) Abolitionist countries: Austria, Brazil, Columbia, Costa Rica, Denmark, Dominican Republic, Ecuador, Fiji, Finland, Federal Republic of Germany, Honduras, Iceland, Luxembourg, Norway, Portugal, Sweden, Uruguay, and Venezuela. Abolitionist in peacetime: Canada, Italy, Malta, the Netherlands, Panama, Peru, Spain, and Switzerland. Retentionist but abolitionist in practice: Algeria, Belgium, Greece, Guyana, Ivory Coast, Seychelles, and Upper Volta. Amnesty International, *The Death Penalty* last page.
After the *Gregg* decision, defense attorneys did what they could to slow the imposition of capital sentences, relying heavily on the appeals process. One of the ways that opponents of the death penalty tied up the courts was by challenging the contention that the current methods of execution were humane. There was visual evidence to suggest that electrocution and death by lethal gas were not painless and so appeals were largely based on the claim these methods of capital punishment were cruel and unusual and therefore barred by the Eighth Amendment. While the courts were not often persuaded by these arguments, the number of botched executions did persuade others to look for alternative methods of execution, which would be or at least appeared to be more humane. Oklahoma and Texas adopted lethal injection as their new method of execution in 1977 which intended to address these concerns.

The origins of lethal injection can be traced to Dr. Karl Brandt, Adolf Hitler’s personal physician. He devised lethal injection in October 1939 as a method to eliminate “life unworthy of life” in the Nazi’s euthanasia program, known as *fuhrerdecree*, which killed children and adults during World War II. The method of lethal injection adopted by Oklahoma and Texas in 1977 was therefore a descendent of the Nazi’s program. William Wiseman Jr., an Oklahoma legislator, sought a way to make executions more humane and he was joined in his efforts by Jay Chapman, the state medical examiner, his job was to pronounce inmates dead after being electrocuted. The method of lethal injection was welcomed and Wiseman was sometimes referred to as an “Angel of Mercy,” for his advocacy of more humane methods of execution. But he also had his critics. One of those critics was author Norval Morris, who stated that

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46 They filed appeals which lengthened the time a condemned prisoner spent on death row increased from 51 months in 1977-1983 to 95 months by 1990 and 134 months by 1995. Stuart Banner, *The Death Penalty*, 293.
48 Chapman was eager to help anyone who was trying to stop the horrors of death by electrocution calling it the “ghastliest mode of death he could have conjured, short of slow torture.” William J. Wiseman, Jr., “‘An Angel of Mercy’s’ Confession: How Oklahoma Re-invented Execution,” *Amnesty Now* Fall 2001, 16.
Wiseman’s bill to adopt lethal injection as Oklahoma’s method of execution was “a notion worthy of Nuremberg.” A news reporter also questioned Wiseman’s praise as an “Angel of Mercy.” The reporter suggested that the shocking visual images of electrocution sometimes prevented juries from sentencing a convicted criminal to death. The removal of that shocking visual would then result in more death sentences, suggesting that this Angel of Mercy might more appropriately be referred to as the Angel of Death. Despite this criticism Wiseman voted with the majority in Oklahoma to adopt lethal injection as the state’s method of execution, a vote he came to regret. Charlie Brooks, a Texas inmate, was the first person executed through this means, which used the drugs sodium thiopental, pancuronium bromide, and potassium chloride to bring a humane death.

There were a few obstacles to implementing this method, the most significant being that the American Medical Association (AMA) barred its doctors from participating because it believed executions were a violation of the Hippocratic Oath to “do not harm.” Trained prison employees, rather than medical professionals, therefore administered the lethal injections, sometimes with the assistance of machines that delivered the lethal dose of chemicals. Lethal injection was quickly adopted by thirty additional states as well as the federal government as the primary method of execution. Many people were satisfied that lethal injection was a humane way to execute a condemned inmate because they appeared to fall asleep and die peacefully.


50 There were numerous gruesome electrocutions that provided evidence that death by electrocution was a horrible way to die. One was the execution of Pedro Medina in Florida in 1997. He arrived in the United States from Cuba as part of the Mariel boatlift and was sentenced to death for the murder of his former teacher in Orlando in 1982. During his electrocution flames appeared on his body. Jesse Tafero’s 1990 electrocution in Florida had similar results. Six-inch flames emerged from his head and it took three jolts of electricity to kill him. His common-law wife Sunny Jacobs is featured in *The Exonerated* they were both sentenced to death for the murder of a Florida police officer. He died in Florida’s electric chair she was exonerated by the Supreme Court in 1992 when it overturned her conviction; Jesse Tafero was very likely innocent of the crime for which he was executed.
Just as the news reporter who questioned Wiseman suggested, the number of death sentences significantly increased with the adoption of lethal injection but this increase can also be linked to the increased rate of violent crimes in the United States, especially in the South. The murder rate in Texas, Louisiana, Arkansas, and Oklahoma between 1976 and 1998 was three to four times higher than in New England and two to three times higher than the northern Midwest. Juries in the South had more opportunities to impose the death penalty and they did; of the 598 executions in the United States between 1977 and 1999 almost all of them took place in the South. In addition, of the eighteen states that sentenced over one hundred people to death between 1973 and 1998 thirteen of them were in the South.\textsuperscript{51}

Because lethal injection was seen as such an improvement over other methods, claims that it was cruel and unusual did not get much traction in the courts.\textsuperscript{52} This limited the types of appeals open to condemned prisoners. Many defense attorneys turned to claims of ineffective counsel or some form of misconduct to delay execution, but these kinds of appeals were not going to overturn capital punishment statutes. Therefore anti-death penalty advocates began working to end capital punishment a piece at a time. This strategy was reflected in an 8 December 1977 United Nations Resolution on capital punishment which reaffirmed the UN’s pursuit of “progressively restricting the number of offenses for which the death penalty may be imposed with a view to the desirability of abolishing this punishment.”\textsuperscript{53} Within the United States, a number of states still had statutes that allowed for the death penalty in the case of rape alone. Because rape does not in and of itself result in death, the imposition of death as

\textsuperscript{51} Texas conducted 199 executions, Virginia 73 Florida 44, Missouri 41, Louisiana 25, South Carolina 24, Georgia 23, Arkansas 21, Alabama 19, Arizona 19, Oklahoma 19, North Carolina 15. Illinois had the most executions among Northern states with its 12 executions. Stuart Banner, The Death Penalty, 278.

\textsuperscript{52} The humane characteristics of lethal injection are increasingly under attack currently. The argument being that the intense pain experienced cannot be revealed because the individual is paralyzed due to the pancuronium bromide in the lethal injection.

\textsuperscript{53} United Nations General Assembly Resolution 32/61 of 8 December 1977 on Capital Punishment.
punishment seemed excessive. Therefore anti-death penalty advocates began to chip away at the death penalty by attempting to eliminate rape as a crime which could garner a death sentence.

The same year that the UN adopted this Resolution, the U.S. Supreme Court issued a decision which imposed limits on the death penalty. Erlich Anthony Coker was serving a number of sentences at Ware Correctional Institution near Waycross, Georgia for murder, rape, kidnapping and assault when he escaped and raped a woman before he was found and arrested. He was found guilty of raping an adult woman and was sentenced to death for this crime. His death sentence appeal, *Coker v. Georgia* 433 US 584 (1977), was heard before the U.S. Supreme Court on the grounds that his execution would be a violation of the Eighth Amendment prohibition against cruel and unusual punishment. The High Court’s decision was issued on 29 June 1977 and found in favor of Coker. The seven-to-two decision found that the death penalty was “grossly disproportionate and excessive punishment for the crime of rape, and was therefore forbidden by the Eighth Amendment as cruel and unusual punishment.” Because rape did not result in the loss of life, the court found it excessive “in its severity and revocability.”

The Court noted that by 1977 Georgia was the only state that actually sentenced rapists to death; other states that had similar statutes refused to impose the death sentence in the case of rape alone. After the Coker ruling, the death penalty was largely limited to the capital crime of murder and opponents of the death penalty focused on chipping away at the edges of capital punishment, rather than mounting another frontal assault as they had in the 1972.

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54 The majority opinion was written by Justice White. Chief Justice Burger and Justice Rehnquist were the two minority votes in this case.
55 The death penalty is largely restricted to capital murder at this point but it can also be imposed for treason in Colorado, Louisiana, Arkansas, California and Georgia; for capital drug trafficking in Florida; for aircraft hijacking in Georgia; for perjury resulting in death in Idaho; for train wreacking in California; and aircraft piracy in Mississippi. The federal government has 39 statutes that outline the various types of murder for which capital punishment can be imposed and four non-homicide crimes which can carry the death penalty: espionage, treason, trafficking in large quantities of drugs, and attempting, authorizing or advising the killing of any officer, juror, or
Anti-death penalty advocates and defense attorneys began to address specific groups within the death penalty population, who because of specific characteristics and evolving standards of decency, it seemed especially cruel and unusual to execute—such as the mentally retarded, the mentally ill, juvenile offenders and factually innocent individuals. The logic in championing these groups rested on their belief that these groups had diminished mental capacity and therefore reduced culpability in their crimes; or in the case of an innocent person, no culpability. If capital punishment was reserved for the worst of the worst, people with diminished abilities to fully understand or appreciate their actions should not be included in this group. Work on behalf of individuals in these groups provided inroads that would begin the process of undermining the institution of capital punishment in the United States. The tool that would be most useful in this quest to chip away at capital punishment, would be the Eighth Amendment. Chief Justice Earl Warren’s decision in *Trop v. Dulles* 356 U.S. 86 (1958) regarding “evolving standards of decency” is the frequently cited precedent in the Court’s interpretation of the Eighth Amendment and has been at the heart of anti-death penalty advocate attempts to place limits on the death penalty.

The exact scope of the constitutional phrase ‘cruel and unusual’ has not been detailed by this Court. But the basic policy reflected in these words is firmly established in the Anglo-American tradition of criminal justice. The basic concept underlying the Eighth Amendment is nothing less than the dignity of man. While the State has the power to punish, the Amendment stands to assure that this power be exercised within the limits of civilized standards. The Court recognized in that case that the words of the Amendments are not precise, and that their scope is not static. The Amendment must draw its meaning from the evolving standards of decency that mark the progress of a maturing society.56

What Americans found to be “cruel and unusual punishment” changed as the country’s justice system and its citizens matured; anti-death penalty advocates saw this as the key to imposing witness in cases involving a Continuing Criminal Enterprise, regardless of whether such killing actually occurs. Bureau of Justice Statistics, Capital Punishment 2003 Report; “Federal Death Penalty Resource Counsel Project.” 56 *Trop v. Dulles*, 356 U.S. 86 (1958).
limits on capital punishment. They set out to convince the courts that various death row populations should be excluded from capital punishment because society no longer benefited from these executions. As a result, opponents of capital punishment were active not only in the courts, but in legislatures and other areas where they could change policy, which could demonstrate an evolution in standards to the court.

Armed with the powerful tool of the Eighth Amendment, death penalty opponents pursued a strategy that would narrow the imposition of the death penalty and gradually bring an end to capital punishment one group at a time. An early example of this strategy came in 1986, when the U. S. Supreme Court considered whether the Eighth Amendment prohibited the execution of the insane, in the case of *Ford v. Wainwright* 477 U.S. 399.\(^{57}\) Alyin Bernard Ford, the petitioner in this case, manifested no sign of mental illness at the time he was sentenced to death for murder in 1974. However, in early 1982 he demonstrated behavioral characteristics of mental illness and was diagnosed with paranoid schizophrenia. The Court ruled that “the Eighth Amendment prohibits the State from inflicting the death penalty upon a prisoner who is insane.”\(^{58}\) Justice Thurgood Marshall, writing for the majority, concluded

> Whether the aim is to protect the condemned from fear and pain without comfort of understanding, or to protect the dignity of society itself from the barbarity of exacting mindless vengeance, the restriction finds enforcement in the Eighth Amendment.\(^{59}\)

This decision reflected Chief Justice Warren’s precedent regarding the Eighth Amendment and was strategically successful in imposing a limit on capital punishment, but there were problems with the decision that would curb the anti-death penalty advocates’ initial excitement. The ruling

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\(^{57}\) It was argued 22 April 1986 and was decided on 26 June 1986.  
failed to provide guidelines for determining insanity; as a result, individual states set standards which made it almost impossible for any individual to be declared insane. As a result, very few mentally insane people have been spared under the *Ford* decision; two examples of this are the cases of Larry Keith Robinson and Scott Panetti. Robinson was sentenced to death for the murder of five people in Fort Worth, Texas in 1982. He had been diagnosed in 1979 with paranoid schizophrenia; more evidence of his insanity emerged during the appeals process, but failed to meet the high standards demanded by the appeal courts to meet the condition that his insanity made his execution unconstitutional.\(^{60}\) He was executed on 21 January 2000. Scott Panetti was sentenced to death for the murder of his in-laws in 1992 several years after he was diagnosed with schizophrenia. There was evidence that suggested he was incompetent to stand trial yet, he not only stood trial, he was allowed to act as his own attorney, during which time, he dressed as a cowboy and presented a rambling narrative in his defense. The jury’s verdict and sentencing survived the appeals process, during which time Panetti’s appellate attorney initiated *Ford* claims that were dismissed without a hearing.\(^{61}\) The U.S. Supreme Court refused to hear his case on 1 December 2003 and as of August 2006 he remains on death row in Texas but does not have a scheduled date of execution.\(^{62}\)


\(^{62}\) In a letter from AI to President Clinton in 1995 the organization stated that it had documented over fifty cases of death row inmates suffering from serious mental impairment—including mental retardation, brain damage or a history of mental illness—that had been executed in the United States since 1982. It later published a major report entitled *The United States of America: The Execution of Mentally Ill Offenders* which listed one hundred men and women executed in the United States since 1977 who suffered from some form of serious mental illness or mental impairment other than mental retardation. This number represents one out of every ten executions in the United States. One of those on the list was Monty Delk, a mentally ill man who was executed in Texas in 2002. His last words give some indication of his mental impairment; “I’ve got one thing to say, get your Warden off this gurney and shut up. I am from the island of Barbados. I am the Warden of this unit. People are seeing you do this.” He
In addition, in the aftermath of the *Ford* decision, a number of states interpreted the decision in a manner which allowed for an insane person to be medicated, establishing sanity, so the state could then execute them. Charles Singleton was on death row beginning in 1979 for the capital murder of Mary Lou York. By 1987 his mental health was deteriorating and he was diagnosed as a likely schizophrenic and placed on antipsychotic medication; sometimes he voluntarily took it, other times he was forcibly medicated. The Eighth U.S. Circuit Court of Appeals in a six-to-five decision lifted Singleton’s stay of execution in February 2003 because the medically induced sanity made him eligible for the death penalty.

The findings below support a conclusion that the state was under an obligation to administer antipsychotic medication, thus any additional motive or effect is irrelevant. *Ford* prohibits only the execution of a prisoner who is unaware of the punishment he is about to receive and why he is to receive it. A State does not violate the Eighth Amendment as interpreted by *Ford* when it executes a prisoner who became incompetent during his long stay on death row but who subsequently regained competency through appropriate medical care.\(^{63}\)

Writing for the minority Judge Gerald Heaney had a different interpretation of *Ford*.

Based on the medical history in this case, I am left with no alternatives but to conclude that drug-induced sanity is not the same as true sanity. Singleton is not ‘cured,’ his insanity is merely muted, at times, by the powerful drugs he is forced to take. Underneath this mask of stability, he remains insane. I believe that to execute a man who is severely deranged without treatment, and arguably incompetent when treated, is the pinnacle of what Justice Marshall called ‘the barbarity of exacting mindless vengeance.’” *Ford v. Wainwright*, 477 U.S. 399, 419 (1986).\(^{64}\)

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\(^{63}\) Charles L. Singleton v. Larry Norris, 00-1492 (8th Cir. 2003)

\(^{64}\) Charles L. Singleton v. Larry Norris, 00-1492 (8th Cir. 2003) In a footnote Heaney noted, “Singleton, in fact, exhibits some of the very same manifestations of psychosis that Ford himself did, including a belief that his sentence has been overturned and that he cannot be executed.
Charles Singleton was rendered medically sane and executed in Arkansas on 6 January 2004. The disconnect between the *Ford* decision and its implementation by individual states, provided grounds for appeal, as well as an area for anti-death penalty advocates to shame states that impose death sentences on the insane. Once the Court took up the issue of mental competency as grounds for exclusion from the death penalty, it seemed logical that any person with diminished mental capacity should also be categorically excluded from the ultimate punishment on similar grounds. Therefore the next major case which attempted to limit capital punishment in the United States was focused on mentally retarded inmates.

The premise that diminished mental capacity reduced the level of culpability and therefore barred capital punishment also formed the basis of efforts to prohibit the execution of the mentally retarded in the wake of the *Ford* decision. The death sentence of Johnny Paul Penry, who had a mental age of around seven, would again compel the U.S. Supreme Court to rule on the constitutionality of executing a category of people, based on the Eighth Amendment provision against “cruel and unusual punishment.” The Court’s decision in *Penry v. Lynaugh* overturned Penry’s death sentence, but held that executing persons with mental retardation was not a violation of Eighth Amendment because “there was insufficient evidence of a national consensus against executing mentally retarded people convicted of capital offenses, for us to conclude that it was categorically prohibited by the Eighth Amendment.”

The Court did suggest that a national consensus could emerge in the future; “while a national consensus against executing the mentally retarded had not emerged, it was possible that it might emerge in the future.”

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65 The Court not only considered the question of categorically prohibiting the execution of the mentally retarded in this case it also had to rule on the assertion by Penry’s attorney that his death sentence for murder should be reversed because the jury was not instructed that his mental retardation should be considered a mitigating circumstance when imposing sentence.

consensus against execution of the mentally retarded may someday emerge reflecting the ‘evolving standards of decency that mark the progress of a maturing society,’ there is insufficient evidence of such a consensus today.”67 Justice Scalia, who wrote for the majority, made it clear that the Court’s decision was based on the United States ideas of decency, not other countries, when deciding “evolving standards of decency.”68

The Warren precedent was evident in this decision and explained why the Court allowed these executions; U.S. society had not yet demonstrated itself to be against them. When the Court ruled on *Penry v. Lynaugh*, only two states had banned the practice and President Reagan banned such executions in the federal system, but the Supreme Court interpreted this as inadequate proof of a national consensus.69 Because of these facts the Court left open the possibility that such a consensus could emerge that did not exist in 1989. The consensus would build during the 1990s and the Court would revisit the constitutionality of executing the mentally retarded in 2001.

On 12 June 2001, Florida became the fifteenth state to prohibit the execution of the mentally retarded. As Governor Jeb Bush signed this legislation into law, he stated, “This legislation will provide much-needed protection for the mentally retarded in the judicial process.”70 On that date Florida joined Arizona, Arkansas, Colorado, Georgia, Indiana, Kansas, Kentucky, Maryland, Nebraska, New Mexico, New York, South Dakota, Tennessee and Washington in a growing national consensus that it was inappropriate to execute the mentally retarded.

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69 The American Bar Association in 1989 stated that it opposed capital punishment for mentally retarded offenders because it believed such executions had no place in civilized society no matter if the offender was guilty or innocent of capital crimes. The continued executions of the mentally retarded and juveniles into 1997 contributed to the ABA call for a national moratorium on the death penalty.
retarded. Texas considered similar legislation at the same time as Florida; however, Texas Governor Rick Perry vetoed Texas legislation that would provide for a similar ban.\footnote{\textsuperscript{71} Perry’s predecessor, George W. Bush, as governor of Texas had vetoed similar legislation; however, on 11 June 2001 President Bush said “we should never execute anyone who is mentally retarded.” The timing of Bush’s comments is interesting because they came at the beginning of his first trip to Europe also the date of Timothy McVeigh’s execution. The first federal execution since Victor Feguer was hanged for kidnapping on 15 March 1963. His first Europeans trip was marked by heavy protest by European death penalty opponents. Raymond Bonner, “President says the Retarded should never by Executed,” \textit{New York Times} 11 June 2001, sec A1.} While there was evidence of a move toward a “national consensus” against executing the mentally retarded, as the Texas veto illustrated, this move toward consensus was not universal. The Supreme Court would take up this issue in 2001 to determine if a “national consensus” did indeed exist which would find the execution of the mental retarded cruel and unusual.

The case that was to test the existence of this “national consensus” was \textit{McCarver v. North Carolina} 533 U.S. 975 (2001). Ernest P. McCarver, who’s IQ was sixty-seven, was sentenced to death in North Carolina for the murder of a 71-year-old co-worker in 1987. The Supreme Court halted his execution on 1 March 2001, after his last meal had been served, to consider the question of whether execution of the mentally retarded now offended society’s “evolving standards of decency.” A number of \textit{amicus curiae} briefs were filed on behalf of McCarver in the Supreme Court, including one from nine former U.S. diplomats, who called for an end to the execution of the mentally retarded in the United States.\footnote{\textsuperscript{72} The nine diplomats included: Thomas R. Pickering (who held more ambassadorial post than anyone else in U.S. history, including Russia, El Salvador, Israel, Jordan, and the UN, also undersecretary of state for political affairs), Felix G. Rohatyn (former ambassador to France 1997-2000), Morton I. Abramowitz (former ambassador to Thailand and Turkey), Stephen W. Bosworth (former ambassador to South Korea, the Philippines, and Tunisia), Stuart E. Eizenstat (former ambassador to the European Union), John C. Kornblum (former ambassador to the Organization for Security and Cooperation in Europe and Germany), Phyllis E. Oakley (retired in 1999 after 42 years as an} This group of diplomats served under Democratic and Republican administrations in eighteen nations around the world and had a total of nearly 200 years of experience between them.\footnote{\textsuperscript{73} Additional briefs were filed by the American Civil Liberties Union, the European Union, the American Psychological Association, the American Association on Mental Retardation, the American Orthopsychiatric Association, Physicians for Human Rights, the American Academy of Psychiatry and the Law, and the American Psychiatric Association.} Their argument for abolition
was based on ideals, as well as pragmatism and stated that execution of the mentally retarded was “cruel and uncivilized.” These diplomats asserted they had first hand experience with the diplomatic consequences of this policy, which subjected the United States to “daily and growing criticism from the international community.” Further, this practice, according to the diplomats, “put the United States at odds with the rest of the world and created diplomatic friction, especially with European allies, it tarnished America’s image as the champion of human rights and harmed broader American foreign policy interests.” According to the New York Times, other active diplomats privately agreed that the execution of the mentally retarded and the death penalty in general, interfered with foreign policy and hurt the United States moral leadership role. There would be no decision in the McCarver v. North Carolina case, because before the Supreme Court could rule on this case, North Carolina adopted a law that prohibited the execution of the mentally retarded. The Supreme Court dismissed the case as moot, but agreed to hear a similar case, Atkins v. Virginia 536 U.S. 304 (2002) to decide the constitutionality of executing the mentally retarded.

The McCarver and Atkins’s cases asked the same question of the U.S. Supreme Court, was the execution of a mentally retarded person “cruel and unusual punishment” prohibited by the Eighth Amendment? The Court’s 20 June 2002 six–three decision held that a national

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Daryl Renard Atkins was convicted of abduction, armed robbery, and capital murder.
consensus had evolved against the execution of the mentally retarded and concluded that such executions violated the Eighth Amendment ban on cruel and unusual punishment.\textsuperscript{76}

We are not persuaded that the execution of mentally retarded criminals will measurably advance the deterrent or the retributive purpose of the death penalty. Construing and applying the Eighth Amendment in the light of our ‘evolving standards of decency,’ we therefore conclude that such punishment is excessive and that the Constitution ‘places a substantive restriction on the State’s power to take the life; of a mentally retarded offender.’\textsuperscript{77}

Twenty states were forced to revise their death penalty statutes in the wake of the Court’s decision which exempted the mentally retarded from capital punishment due to their diminished personal culpability. Therefore capital punishment was further limited in 2002 due to a decision of the High Court. As was the case with the \textit{Ford} decision, the states’ implementation of the Court’s ruling still resulted in mentally retarded people being executed.\textsuperscript{78}

While the Supreme Court found evidence of a national consensus which prohibited the execution of the mentally retarded, the Texas veto and Virginia’s determination to execute Atkins, suggested there was a strong pull in the direction of retention.\textsuperscript{79} Politicians further polarized the issue, when their campaigns equated capital punishment with getting tough on crime. The American public, already predisposed to equating capital punishment with being tough on crime, increasingly elected politicians who projected this image; failure to do so was a political liability. The presidential aspirations of Michael Dukakis, the 1988 Democratic presidential candidate, failed partially due to his opponent’s ability to characterize him as weak

\textsuperscript{76} The six justices in the majority were: Sandra D. O’Connor, John Paul Stevens, Anthony Kennedy, Stephen G. Breyer, David H. Souter and Ruth Bader Ginsburg. The three in the minority were: Chief Justice William Rehnquist, Antonin Scalia and Clarence Thomas.

\textsuperscript{77} \textit{Atkins v. Virginia}, 536 U.S. 304 (2002).

\textsuperscript{78} \textit{Atkins} faced possible execution again, this case will be discussed in the following chapter.

\textsuperscript{79} In general, the American public’s sympathy for violent offenders with reduced mental capacity, especially the mentally ill, changed dramatically after John Hinckley Jr. was acquitted in 1982 for his attempted assassination of President Ronald Reagan in 1981. Many Americans felt he was let off the hook and came to believe his mental illness was a convenient and suspect excuse for acquittal. After his acquittal many states enacted legislation to restrict the use of the insanity plea toughened their laws in this area and juries increasingly were not convinced by pleas of “not guilty by reason of insanity.”
on law and order issues. Dukakis’s support of a Massachusetts weekend furlough program for prison inmates provided the evidence of this weakness as well as the danger such weakness poses for the public. Willie Horton, a convicted murderer and rapist, was a participant in this program. He failed to return from weekend furlough and raped a woman and physically assaulted her fiancée, before being captured by police. Dukakis had not started the program, but he did not veto legislation which would have made first-degree murderers, such as Horton, ineligible for the furlough program. Dukakis was soundly defeated by former Vice-President George H. W. Bush in the 1988 presidential election; his loss should not be blamed solely on this issue, but it was a factor. Political pundits at the time said that Dukakis’s presidential bid had been “Hortonized.” The next presidential election presented President Bush with another Democratic candidate who could also be charged as soft on crime.

When William Clinton was elected the governor of Arkansas in 1978, he was the youngest governor in the United States and his term in office was replete with reforms and liberal policies. As part of his agenda, he commuted approximately seventy sentences including thirty-eight life sentences for convicted murderers; one of these commutations went to a seventy-three year old murderer. Clinton was advised that the convict was terminally ill and a financial burden on the state prison system; his sentence was commuted in 1979. Within a year of his release he shot and killed a sixty-one year old man in an attempted robbery. Clinton later said “that old man was not as sick as people thought he was” and promised never to risk letting anything like this happen again. It was too late to save Clinton’s re-election bid in 1980, but his loss would become a defining moment in his life. When he was elected governor again in 1982 and until his 1992 presidential campaign, he only handed down seven commutations and

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none went to those under the death sentence. During the same period he set around seventy execution dates, many of which were stayed because he set them too early in the legal process. He had gone a long way toward repairing his image as soft on crime but his actions during the 1992 presidential campaign quashed those charges even from the most hardened retentionist opponent.

Clinton silenced his critics on 24 January 1992, when he interrupted his 1992 presidential campaign to return to Little Rock to allow the execution of Ricky Ray Rector. The Houston Chronicle remarked, “Never—or at least not in the recent history of presidential campaigns—has a contender for the nation’s highest elective office stepped off the campaign trail to ensure the killing of a prisoner.” While the Chronicle marveled at the fact that Clinton halted his campaign to oversee this execution, others commented on the kind of person Clinton was sending to the death chamber. “He [Clinton] had someone put to death, who had only part of a brain. You can’t find them any tougher than that.” Rector was sentenced to death for killing an Arkansas police officer, but that was not the end of the violence on that day. After he shot the officer Rector turned the gun on himself. His self-imposed gunshot wound took at least three inches of his frontal lobe; he survived after surgeons performed “a classic prefrontal lobotomy” that left him “totally incompetent.” The day of his execution Rector danced, sang and barked like a dog in his cell. He also declared his intention to vote for Clinton in the upcoming presidential election and following his last meal, set aside his pecan pie to finish later. Clinton

81 Ibid.
82 Ibid, 108.
83 Ibid, 124.
84 Ibid, 132.
85 Ibid, 111.
86 Ibid, 105.
could not be labeled soft on crime after such an execution. His dedication to being tough on crime was also seen throughout his presidency.

President Clinton continued to get tough on criminals, when he signed two pieces of legislation that expanded the number of federal crimes punishable with death. This legislation, combined with that passed during Bush’s presidency, positioned Clinton to be the first president since Kennedy to oversee the execution of a federal prisoner. In 1988, the United States passed the Anti-Drug Abuse Act, which contained the Drug Kingpin Statute. This statute allowed the federal government to impose the death penalty for murder committed as part of a drug-running enterprise. Juan Raul Garza was convicted of three drug-related murders in Texas under this federal statute and was originally scheduled for execution in August 2000, but Clinton delayed his execution over concerns about racial disparity in the application of the federal death penalty. Garza’s execution was again delayed on 11 December 2000 for the same reason so the de facto federal moratorium on the death penalty remained in place throughout the Clinton administration. While the actual execution was not carried out during his administration, Clinton signed legislation which expanded the number of crimes for which the federal courts could impose the death penalty.

Clinton signed the Federal Death Penalty Act into law in 1994 which significantly increased the number of crimes that were eligible for the federal death penalty, including drive-by shootings, carjacking resulting in death, destruction of a plane, car, or train resulting in death. This legislation was followed by the Anti-Terrorism and Effective Death Penalty Act of 1996; its

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87 He delayed Garza’s execution awaiting the results of a U.S. Department of Justice study he requested which was to describe the decision-making process for deciding whether to seek the death penalty, to present statistical information regarding race, and ethnic and geographical distribution of defendants and their victims at particular stages of the decision-making process. The report entitled The Federal Death Penalty System: A Statistical Survey (1988-2000) was released on 12 September 2000 and according to the Deputy Attorney General Eric Holder that it was “both personally and professionally disturbing.”
passage was hastened by Timothy McVeigh’s destruction of the Alfred P. Murrah Federal Building in Oklahoma City. This Act limited federal judicial review of state court decisions and sped up executions. McVeigh’s conviction on 2 June 1997 and waiver of all further appeals in December 2000 made him the first federally executed criminal in thirty-eight years on 11 June 2001. Garza’s sentence was imposed a week later on 19 June 2001. “Getting tough on crime” can also be seen in a Supreme Court decision that anti-death penalty advocates claimed placed priority on the procedures and process rather than justice.

The Supreme Court heard the case of Herrera v. Collins 506 U.S. 390 (1993) in order to decide whether executing a factually innocent person violated the Eighth Amendment provision against cruel and unusual punishment and due process of law provided by the Fourteenth Amendment. Leonel Herrera filed a second *writ of habeas corpus* just before his scheduled execution in Texas, which claimed that he was not guilty of the murder of two police officers in September 1981 and listed evidence which would prove his innocence. He claimed that his brother, Raul Herrera, Sr., who died in 1984, had committed the murders. Leonel Herrera’s attorney had sworn affidavits from Raul Herrera’s cellmate and former attorney that stated that Raul Herrera had confessed to both murders. In addition, Raul Herrera’s son signed an affidavit which stated that he was in the car with his father when he killed the officers and that the murders were related to his father’s drug trafficking. This second writ was a violation of procedural requirements that stated that any claim not presented in the first *writ of habeas corpus* hearing was automatically waived by the defendant.

Herrera had not presented any of this evidence at that time and the Court refused his request for another hearing. The Court held that in absence of other constitutional violations,

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88 Victor Feguer was hanged on 15 March 1963 for the abduction and murder of a doctor. McVeigh’s execution was carried out on the eve of President George W. Bush’s first trip to Europe and resulted in massive demonstrations across the continent.
new evidence of innocence was not grounds for federal courts to order a new trial. The Court found that federal habeas courts sat “to ensure individuals were not imprisoned in violation of the Constitution, not to correct errors of fact” and because of the need for finality “the threshold showing for such an assumed right would necessarily be extraordinarily high.” It further ruled that cases of factually innocent prisoners on death row were rare but in such cases an innocent inmate should seek clemency, the traditional “fail safe” in the justice system. At the time of Herrera’s clemency appeal in Texas, the Texas Board of Pardons and Paroles had never recommended clemency since reinstating the death penalty. The minority decision argued strongly against the majority’s logic, which in effect ended the Eighth Amendment prohibition against cruel and unusual punishment once a defendant was validly, but falsely, sentenced to death.

The Texas Board of Pardon and Paroles did not grant Herrera clemency and he was executed on 12 May 1993; he maintained his innocence until his death. Herrera’s claim of factual innocence was never proven in Court, but Justice Harry Blackmun’s dissent revealed his grave concern with the possibility that he was innocent.

I have voiced disappointment over this Court’s obvious eagerness to do away with any restriction on the State’s power to execute whomever and however they please. I have also expressed doubts about whether, in the absence of strict restrictions, capital punishment remains constitutional at all. Of one thing, however, I am certain. Just as an execution without safeguards is unacceptable, so too is the execution when the condemned prisoner can prove that he is innocent.

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90 According to the Death Penalty Information Center—a non-profit anti-penalty organization founded in 1990 which provides information about the death penalty to the media and the public—123 people have been released from death row after being found factually innocent from 1973 to 2006. In order to be included on the list a defendant had to have been convicted and sentenced to death: their conviction overturned and they were acquitted at a re-trial or charges were dismissed or they were given an absolute pardon by the governor based on new evidence of innocence.
91 His last words were, “I am innocent, innocent, innocent. Make no mistake about this; I owe society nothing. Continue the struggle for human rights, helping those who are innocent, especially Mr. Graham. I am an innocent man, and something very wrong is taking place tonight. May God bless you all. I am ready.”
www.tdcj.state.tx.us/herreraleonellast.htm
innocent. The execution of a person who can show that he is innocent comes perilously close to simple murder.\textsuperscript{92}

Blackmun’s dissent in this case revealed his growing disillusionment with capital punishment, as well as the “mechanical logic” adopted by the Court to speed up executions. Given the political climate in the United States at the time, the Court could easily find evidence that there was no national consensus against expediting executions even if the condemned claimed to be innocent. The majority decision revealed an important reason why this consensus did not emerge; many in the American public believed it was highly unlikely that an innocent person could be condemned to death. In addition, the American public grew tired of claims of innocence by convicted criminals who used taxpayer money to make seemingly bogus claims that amounted to delay tactics. Few Americans sympathized with this group of condemned criminals. They had multiple chances to prove their innocence in the justice system; Americans had faith in the justice system, therefore their claims were a waste of taxpayer money. This lack of sympathy resulted in a national consensus which supported execution rather than a move toward abolition; the Court picked up on this consensus, as can be seen in the Herrera decision.

While death penalty opponents lost the battle regarding factually innocent people, they continued their efforts to chip away at the death penalty through campaigns to end the execution of juveniles. The United States was one of only seven nations that imposed capital punishment on those who were juveniles at the time of their capital offense.\textsuperscript{93} The process of abolishing

\textsuperscript{92} Herrera v. Collins Justice Blackmun agreed with the reinstating of the death penalty in 1976 but by 1884 he had change his mind and wrote his famous dissent in Callins v. Collins. “From this day forward, I no longer shall tinker with the machinery of death. For more than twenty years I have endeavored—indeed, I have struggled—along with a majority of this Court, to develop procedural and substantive rules that would lend more than the mere appearance of fairness to the death penalty endeavor. Rather than continue to coddle the Court’s delusion that the desired level of fairness has been achieved and the need for regulation eviscerated, I feel morally and intellectually obligated simply to concede that the death penalty experiment failed.” Callins v. Collins, 510 U.S. 1141 (1994). After this decision he dissented in every death penalty case until he retired from the bench in August 1994. These cases included: Coleman v. Thompson, Sawyer v. Whitley, and Herrera v. Collins.

\textsuperscript{93} The other nations were Congo, Iran, Nigeria, Pakistan, Saudi Arabia, and Yemen.
capital punishment for this group began in 1988 but would not be settled until 2004. Abolition came a piece at a time throughout this period illustrating the strength of retentionists in the United States. The first case, *Thompson v. Oklahoma* 487 U.S. 815 (1988), asked the Supreme Court to rule on whether the execution of a fifteen-year-old violated the Eighth Amendment. The Court issued its ruling on 29 June 1988, which prohibited the execution of a juvenile who was under the age of sixteen when they committed their capital crime and found that such an act would violate the “evolving standards of decency that mark the progress of a maturing society.” This decision overturned some juvenile death sentences but did not settle the question of the constitutionality of executing all juvenile offenders. One year later the same question was asked regarding sixteen and seventeen year old offenders in *Stanford v. Kentucky* and *Wilkins v. Missouri* 492 U.S. 361 (1989). The Court found that the Eighth Amendment did not ban the execution of these offenders, because no consensus existed in the nation; therefore no violation of the “cruel and unusual” provision existed. That national consensus and the international pressure would have to build throughout the 1990s and early 2000s before the Supreme Court would end capital punishment for all youth offenders.

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94 Thompson was tried as an adult and convicted of the first-degree murder his ex-brother-in-law in 1983. Amnesty International filed an amicus brief on Thompson’s behalf which stressed the growing international consensus against these kinds of executions. By this time seventy-two countries that retain the death penalty had abolished it for juvenile offenders including the USSR, South Africa, Syria, Paraguay, Canada, and Libya. At the same time, countries such as Bangladesh, Pakistan, Iraq, Iran, and Barbados continued to execute juvenile offenders. Amnesty International, “US Supreme Court Ruling on Death Penalty ‘Retrograde Step’ say Amnesty International,” (London: Amnesty International Publications, 1989), 2. In his dissenting opinion Justice Antonin Scalia addressed AI’s brief and stated that “the plurality’s reliance upon Amnesty International’s account of what it pronounces to be civilized standards of decency in other countries is totally inappropriate as a means of establishing the fundamental beliefs of this Nation.” Thompson v. Oklahoma 487 U.S. 815 (1988) Scalia dissenting.


96 Since 1990 only six nations have executed juvenile offenders and by the end of the decade Yemen and the People’s Republic of China had outlawed these executions. The United States, on the other hand, executed ten juvenile offenders during the 1990s, more than the other five countries combined. The United States executed the only four known juvenile offenders in the world since 1997. Amnesty International, *United States of America: Shame in the 21st Century: Three Child Offenders Scheduled for Execution in January 2000* (New York: Amnesty International USA Publications, 1999), 1, AI Index: AMR 51/189/1999.
The pending execution of Christopher Simmons provided the test case that the Supreme Court would use to decide the constitutionality of executing juvenile offenders. The question before the High Court in *Roper v. Simmons* 03-633 (2005) was the same as it had been in 1989; did the execution of offenders who committed their crimes as minors violate the Eighth Amendment prohibition against “cruel and unusual punishment?” An impressive array of organizations and individuals filed *amicus curiae* briefs on Simmons’s behalf. Some of these briefs came from a group of Nobel Peace Prize Laureates, the European Union and members of the International Community and the same former U.S. Diplomats that had filed an *amicus* brief on behalf of McCarver regarding the execution of mentally retarded.

The argument forwarded by the former U.S. diplomats revolved around three main points: the execution of juvenile offenders offended minimum standards of decency; that this strong international consensus resulted in increased diplomatic isolation for the United States; and that this international consensus was relevant to determining evolving standards of decency under the Eighth Amendment in the United States. These diplomats summed up their argument for abolishment by stating “*Amici* believe that this continuing state practice seriously

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97 In addition to AI the other Laureates who filed the brief were: President James Earl Carter, Jr., President Frederik Willem de Klerk, President Mikhail Gorbachev, President Oscar Sanchez, President Lech Walesa, Shirin Ebadi, Adolgo Perez Esquivel, the Dalai Lama, Mairead Corrigan Maguire, Dr. Joseph Rotblat, Archbishop Desmond Tutu, Betty Williams, Jody Williams, American Friends Service Committee, International Physicians for the Prevention of Nuclear War, and the Pugwash Conferences on Science and World Affairs. *Roper v. Simmons* No. 03-633.

98 Morton Abramowitz, Ambassador to Turkey; Stephen Bosworth, Ambassador to Korea, Philippines, Tunisia; Stuart Eizenstate, Ambassador to the European Union, Deputy Secretary of Treasury; John Kornblum, Ambassador to Federal Republic of Germany; Phyllis Oakley, Assistant Secretary of State for Intelligence and Research and for Population, Refugees and Migration; Thomas Pickering, Under-Secretary of State for Political Affairs; Ambassador to Russian Federation, India, Israel, El Salvador, Nigeria, Jordon, U.S. Ambassador and Permanent Representative to UN in New York; Felix Rohatyn Ambassador to France; J. Stapleton Roy Ambassador to PRC and Singapore; Frank Wisner Ambassador to India, Egypt, Philippines, Zambia. As with the *McCarver v. North Carolina* brief Harold Hongju Koh was the counsel of record who prepared the brief. *Roper v. Simmons*, 03-633 (2005).

99 Ibid.
disservices this nation’s broader foreign policy objectives and undermines this nation’s leadership role in the world.” 100

The Nobel Laureates, the European Union and other interested countries from the international community asserted that abolition was necessary, because there was an international consensus against such executions and international law required it. In their amicus brief the Laureates framed the question of executing juvenile offenders purely as a human rights issue.

The exclusion of offenders under eighteen years old from the death penalty is so widely accepted in law and practice that it has become a rule of customary international law. Furthermore, the Inter-American Commission of Human Rights recently declared that the worldwide rejection of the juvenile death penalty ‘has been recognized as being of a sufficiently indelible nature to now constitute a norm of jus cogens.’ 101

As they concluded their brief, the Laureates argued that international human rights laws and the opinion of the international community should be a factor considered seriously by the Court.

Amici curiae respectfully ask this Court to consider the relevance of internationally accepted standards of human rights and morality when addressing the constitutionality of the juvenile death penalty, especially in light of the Inter-American Commission’s conclusion that the prohibition on that punishment has achieved jus cogens status. Norms of international law, such as the prohibitions on genocide, slavery and torture, are not merely ‘foreign moods, fads, or fashions’ that we are seeking to ‘impose on Americans.’ They protect human dignity across all of our national frontiers. 102

This brief requested the Court to look at these executions from a wider perspective than only within the United States, something the Court was often reluctant to do.

100 Ibid.
101 Norms of jus cogens “derive their status from fundamental values held by the international community, as violations of such peremptory norms are considered to shock the conscience of humankind and therefore bind the international community as a whole, irrespective of protest, recognition or acquiescence.” Roper v. Simmons No. 03-633.
102 Ibid.
The Supreme Court rendered its decision in the case of *Roper v. Simmons* (03-633) on 1 March 2005. Its five-four decision declared execution of juveniles unconstitutional because it found that standards of decency had evolved and the execution of minors was “cruel and unusual punishment” prohibited by the Eighth Amendment.\(^{103}\) Justice Anthony Kennedy, who wrote for the majority, found evidence of a national consensus: thirty states prohibited imposing the death penalty on juvenile offenders and the infrequent use of the death penalty on juvenile offenders in the states which allow it—in the last ten years only three states imposed the death penalty on juveniles; Texas, Oklahoma, and Virginia. Also the direction of change was always the same; always toward abolition for minors, never reinstating. The Court also considered scientific evidence that reduced minor’s culpability as well as the “overwhelming weight of international opinion against the juvenile death penalty” and that the UN Convention of the Rights of Child required it to make such a decision.\(^{104}\) Justice Antonin Scalia, who wrote for the minority, lamented that “the views of other countries and the so-called international community” had taken “center stage.”\(^{105}\) Scalia was right, this case had been internationalized and in fact the United States use of capital punishment in general had become a matter of international interest.

International interest in the United States use of capital punishment flows from the fact that most countries that share a western, liberal tradition consider capital punishment a violation of the international recognized human right to life. Despite the United States participation in this western, liberal tradition it tenaciously asserts that its use of capital punishment is a domestic criminal justice matter and therefore not a legitimate issue for international debate or condemnation. Other reasons that the United States use of the death penalty has become an

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103 The five in the majority were: Justices Anthony Kennedy, John Paul Stevens, David H. Souter, Ruth Bader Ginsburg and Stephen G. Breyer. The four in the Minority were Chief Justice William Rehnquist and Justices Antonin Scalia, Sandra Day O’Connor and Clarence Thomas.
105 Ibid, Scalia dissenting.
international concern is that foreign observers, especially in Europe, are concerned with the United States ravenous embrace of harsh punishment and the corresponding inadequate measure of mercy. During the last quarter of the 20th century, while the United States increased its use of the death penalty many countries in Europe were abandoning this form of punishment, such as France which abolished the death penalty in 1981 and Germany in 1987. The United Kingdom began outlawing the use of capital punishment in 1965 for all crimes except for treason and piracy with violence. In 1998 under the Crime and Disorder Act the death penalty was prohibited for these offenses as well. A year later the UK’s home secretary signed the Sixth Protocol to the 1950 European Convention of Human Rights (ECHR), which abolished the death penalty during peacetime. The UK’s absolute abolishment of the death penalty came in 2003 when it ratified the Thirteenth Protocol to the ECHR, which prohibited the use of capital punishment even during times of war and national emergency.  

Every member of the Council of Europe, with the exception of Russia, has signed and ratified Protocol No. 6, which became a pre-condition of membership in the Council in 1994. Every member of the Council of Europe, with the exception of Russia, has signed and ratified Protocol No. 6, which became a pre-condition of membership in the Council in 1994.  

Further the European Council in June 1993 established the Copenhagen Criteria which determined who was eligible for European Union membership. These criteria required countries seeking membership in the EU to have institutions that supported democratic government and human rights, a functioning market economy and to demonstrate that it intended to accept the obligations of the EU. In addition, countries that sought EU membership had to conform to the principles of Article 6 (1) of the Treaty on European Union (1993), which stated that “The Union was founded on the principles of liberty, democracy, respect for human rights and fundamental...
freedoms and the rule of law, principles which are common to the Member States.”¹⁰⁸ The respect for human rights provision included abolition of the death penalty. This was explicitly stated in the Charter of Fundamental Rights of the European Union (2000), the first instrument that defined all of the civil, political, economic and social rights held by European citizens; Article 2 (2) of that document stated, “No one shall be condemned to the death penalty, or executed.” Fulfilling the Copenhagen Criteria is a precondition for opening accession negotiations; therefore, EU policies have resulted in a number of countries ending their use of the death penalty. The difference between the United States and Western Europe is stark; ensuring that pressure on the U.S. to abolish the death penalty would be from international as well as domestic critics.

Capital punishment in the United States had been limited in significant ways from the late 1980s until 2004, but the Supreme Court has given the states quite a bit of latitude regarding how they interpreted those restrictions. Some states interpreted the High Court’s rules in such a way as to undermine the impact of the Court’s ruling and as a result mentally retarded or mentally ill people continued to be executed. In addition, some states appeared to take pride in their use of capital punishment. For example, after the botched 1997 electrocution of Pedro Medina in Florida’s electric chair, the State’s Attorney General Florida commented, “People who wish to commit murder; they better not do it in the State of Florida because we have a problem with our electric chair.” Not to be outdone, Florida Senate’s majority leader stated, “A painless death is not punishment.”¹⁰⁹ The Texas Attorney General when arguing before the Supreme Court in the Herrera v. Collins was asked, “Suppose you have a videotape which conclusively shows the

¹⁰⁸ The Treaty on European Union (TEU) integrates human rights and democratic principles into the EU’s Common Foreign and Security Policy.
person is innocent, and you have a state which, as a matter of policy or law, simply does not hear new evidence claims, is there a federal constitutional violation?” She responded, “No, Your Honor, there is not, such an execution would not be violative of the Constitution.”

The retentionists had some powerful allies at various levels of the local, state and federal levels. But they did not have much support internationally and the pressure from this source has been an important factor in beating back the resurgence of the retentionists in the United States, thus allowing the limiting of the death penalty to continue despite the polarization and politicization of the issue. Despite the limited victories that opponents of the death penalty had in narrowing those eligible for the death penalty, the backlash from retentionists will make it difficult to achieve further limiting. State officials and politicians appear to be retentionists in general, so anti-death penalty advocates while trying to make inroads in this powerful group, also developed a strategy that relied on the people to form grassroots organizations that would battle back against retentionists. They amassed a diverse array of supporters from religious groups, actors, journalists, the legal profession, law enforcement, and the international community from their government leaders all the way down to individual citizens.

The struggles connected with the death penalty were a part of the larger cultural wars that have been part of the political landscape of the United States since the 1980s. This struggle was waged in courtrooms and in the court of public opinion. Capital punishment became the subject of plays, films and books predominantly by anti-death penalty advocates to educate the public about the reality of the death penalty as they saw it. Perhaps the first widely successful example of this was the 1993 bestseller Dead Man Walking, written by Sister Helen Prejean, who detailed her experience as a spiritual advisor to two death role inmates in Louisiana. Her story was made

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into a 1995 film directed by Tim Robbins and starring Susan Sarandon and Sean Penn. Other mainstream films on this subject include Last Dance (1996), The Chamber (1996), True Crime (1999), The Green Mile (1999), and The Life of David Gale (2003). The popularity of these films, both in critical acclaim and box office receipts, testified to the salience of the topic with American audiences. The fact that many of these films appeared in the 1990s, during the Clinton administration, when capital punishment was in its ascendancy, was no accident.

By the turn of the century events focused the American public’s concern more specifically on the execution of innocent people. This may explain the success of The Exonerated: A Play (2003) by Jessica Blank and Erik Jensen, which told the story of five men and one woman freed from death row after their innocence was established. It has been performed across the country and been made into a film. The increase in the number of crime drama television series such as Law & Order and CSI: Crime Scene Investigation and their numerous spin-offs further document Americans’ interest in justice and punishment. These interests have also created success for television producers such as Bill Kurtis who franchised a host of programs dedicated to forensic science and criminal justice. According to some, the cultural trends have resulted in noticeable changes in American courtrooms, referred to by prosecutors and judges as “the CSI Effect.” How this plays out remains to be seen, but the domestic anti-death penalty movement has received much help from the international

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111 All three of these actors were nominated for Academy Awards for their work although only Sarandon won her Academy Award for her work on this film. Tim Robbins was nominated but lost to Mel Gibson as the Director of Braveheart. Penn was nominated for his portrayal of Patrick Sonnier but lost to Nicolas Cage in Leaving Las Vegas. The book written by Sister Helen Prejean tells over her work as the spiritual adviser to Patrick Sonnier in Louisiana’s Angola State Prison in 1982. Prejean has been nominated for the Nobel Peace Prize by Europeans for her work toward abolition.

112 The Green Mile was nominated for an Academy Award in the Best Picture category and Michael Clarke Duncan was nominated for Best Actor in a Supporting Role for his work on his film.

113 Governor Ryan watched this play just before he made the decision to place a moratorium on the death penalty in Illinois in 11 January 2003.

community. Amnesty International has been at the forefront of this international movement beginning in the 1970s when it made the United States an object of a theme campaign to abolish the death penalty.
CHAPTER V. AMNESTY INTERNATIONAL v. THE MACHINERY OF DEATH IN THE UNITED STATES

On 2 December 2005 the United States carried out its 1000\textsuperscript{th} execution since the death penalty was re-instated in 1976. Kenneth Boyd was executed in North Carolina for the murder of his estranged wife and her father in 1988. Boyd, a Vietnam veteran, had an IQ of 77, slightly higher then the IQ score of 70 declared by the state to mark a person as mentally retarded. Some two hundred people protested his execution, including a group from Amnesty International (AI) and the European Union. Both condemned the execution and called for the end of capital punishment in the United States.\textsuperscript{1} This landmark execution was followed less than two weeks later, by the execution of Stanley “Tookie” Williams. Williams was one of the founders of the infamous “Crips” street gang and was sentenced to death after being convicted of four murders. While in prison, Williams rejected the lifestyle that had led him to death row and he authored an award-winning series of children’s books about gangs and the reality of prison life, to prevent children from following in his footsteps. As a result of his efforts a member of the Swiss Parliament nominated him for the Nobel Peace Prize and President George W. Bush awarded him the Presidential Call to Service Award.\textsuperscript{2} As Williams’ neared the end of the appeals process, his last hope was clemency from California’s Governor, former actor Arnold Schwarzenegger.

In January 2005 Governor Schwarzenegger allowed the execution of Donald Beardslee to proceed; the last execution in California had been three years earlier. Schwarzenegger’s refusal to grant Beardslee clemency motivated some members of the Green party in his native Austria to


\textsuperscript{2} The Presidential Call to Service Award honors those who gave more than four thousand hours of service over the course of their lifetime. Amnesty International, “Death Penalty: Killing Possibility: The imminent execution of Stanley Williams in California,” (London: Amnesty International Publications, 2005), 2, AI Index: AMR 51/187/2005. His life was also depicted in the 2004 film \textit{Redemption}.  

call for the termination of his Austrian citizenship and the removal of his name from
Schwarzenegger Stadium. These actions contrasted starkly with the pride Austrians had for its
most famous citizen, following his election as California’s governor. This pride was tarnished
by his refusal to grant Beardslee clemency. The Austrians were again disappointed by
Schwarzenegger’s refusal to spare Williams on 13 December 2005 and Schwarzenegger’s name
was removed from the soccer stadium at his request. Austrians were not the only ones
disappointed by Schwarzenegger’s failure to grant clemency. Members of the German media
wondered about the incompatibility of a Christian nation that endorsed capital punishment; the
Italian media wondered why Americans had such a high tolerance for death; and a BBC reporter
stated, “I think they’re [Europeans] wondering: ‘Is a movie star, a man who was playing the
Terminator at the local theater ten minutes ago, now deciding the fate of this man?’”

These high profile and landmark executions revealed some of the problems the United
States has experienced because of its continued use of the death penalty. These executions
demonstrated the large rift between the United States, as one of the few remaining western
democracies that retained capital punishment, and the growing number of nations who had
abolished it and wanted the United States to follow suit. The conversion of the United States
could be considered the Holy Grail of anti-death penalty advocates, because its conversion would
serve as a major step toward achieving the goal of global abolition.

According to AI, as of 1 January 2006 eighty-six countries had abolished the death
penalty for all crimes, eleven had abolished it for ordinary crimes and twenty-five were

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4 When the Austrian postal system issued a postage stamp honoring Schwarzenegger’s fifty-seventh birthday
600,000 stamps were sold in the first few days of sale and many Austrians favored an amendment to the U.S.
Constitution that would allow naturalized U.S. citizens to seek the presidency.
5 Austrians noted the irony that Schwarzenegger was born near the city of Graz, whose slogan is “City of Human
6 James Rainey, “Glitz and Gore of Williams’ Case Draw Foreign Media,” Los Angeles Times 11 December 2005
sec B1.
abolitionist in practice, while seventy-four were retentionists. Only four of these seventy-four countries—China, Iran, Saudi Arabia, and the United States—account for ninety-four percent of all known executions. If one can be judged by the company it keeps, the United States, because of its use of capital punishment, found itself in the company of countries its own State Department described as having “poor,” “bleak” and “abusive” human rights records. This characterization of the United States, as a human rights abuser, contrasted sharply with the image the United States had of itself as a human rights leader. This image of the United States as a human rights leader has been under consistent attack by AI, since the Gregg decision re-instated the death penalty in the United States in 1976. AI’s efforts to abolish the death penalty in the United States reached across three decades and continue unabated. But the high level of both hard and soft power held by the United States made it a formidable challenge for AI’s ambitions for global abolition.

Perhaps the fundamental difference between AI and the United States regarding the death penalty was how each side framed the issue. AI believed that capital punishment was a violation of human rights, whereas many citizens in the United States and their government leaders, contextualized capital punishment as a criminal justice issue. This fundamental difference in understanding lay at the heart of the abolitionist-retentionist struggle in the United States. Because AI rooted the death penalty in a human rights framework, the issue was elevated above national politics and opinion into the international arena, where international law reigned supreme. Retentionists, such as the United States, rejected the supremacy of international law on

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7 Amnesty International, “List of Abolitionist and Retentionist Countries,” April 2006, AI Index ACT 50/007/2006. AI defined abolish for ordinary crimes to describe countries that only have death penalty statutes for crimes under military law or during wartime and defined abolish in practice as countries that have not executed anyone for the last ten years and are believed to have a policy or established practice of not carrying out executions.
this issue specifically, but the United States also rejected this assertion in general terms as well. The international evolution toward abolition suggested that AI’s framing was more successful internationally than the way the United States framed the issue, but that has not translated into quick or easy success in converting the retentionist ways of the United States. While AI’s goal of total abolition in the United States has been elusive, it has been successful in seeing limits placed on capital punishment and these small steps, according to the organization, would eventually lead to total abolition. This chapter will detail AI’s campaign to end capital punishment in the United States through shaming tactics and harnessing and then concentrating the efforts of other abolitionist nations and organizations to compel the United States to end this human rights violation; domestic support for the death penalty and the United States ability to resist international pressure made this a difficult challenge.

When AI began considering an abolitionist campaign, few countries had abolished the death penalty and there was no clear point of international law which disallowed its use.\(^\text{10}\)

When Amnesty began opposing executions, there was no binding international instrument that explicitly called for an end to the death penalty. This meant that Amnesty’s campaign for abolition was a departure from its usual reliance on international law. While Amnesty believed it was on solid moral grounds, it had no legal basis for this part of its mandate.\(^\text{11}\)

A non-binding document, however, did exist; the Universal Declaration of Human Rights (UDHR). Article three stated that “Everyone has the right to life, liberty and security of person” and article five stated “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”\(^\text{12}\) The UDHR was not legally binding on national governments, but

\(^{\text{10}}\) In 1899 three states abolished capital punishment for all crimes; Costa Rica, San Martino, Venezuela. In 1948, the year the UDHR was ratified, eight more abolished and by 1979 nineteen nations had abolished the death penalty. Amnesty International, *Amnesty International Report 1999* (London: Amnesty International Press, 1999), 16, AI Index: POL10/01/99.


\(^{\text{12}}\) United Nations, *Universal Declaration of Human Rights Article 3*. 
the moral authority of the document served as the foundation for AI’s abolitionist movement. AI also found international support for its anti-death penalty campaign in the United Nations. The General Assembly on 20 December 1971 adopted Resolution 2857:

> Affirms that, in order fully to guarantee the right to life, provided for in Article 3 of the Universal Declaration of Human Rights, the main objective to be pursued in the field of capital punishment is that of progressively restricting the number of offences for which the death penalty may be imposed, with a view to the desirability of abolishing this punishment.\(^{13}\)

Eventually the forces that propelled these resolutions, led international and regional governmental bodies to create binding documents that compelled signatory governments to place limits on the use of the death penalty.

The first binding document that sought to place limits on capital punishment, was the International Covenant on Civil and Political Rights (ICCPR). It was adopted by the United Nations General Assembly in 1966 and came into force on 23 March 1976; article six obligated governments which had not abolished the death penalty, to establish restrictions and safeguards on its imposition.

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes, in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.\(^{14}\)

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\(^{14}\) International Covenant on Civil and Political Rights Adopted and opened for signature, ratification and accession by General Assembly Resolution 2200A of 16 December 1966 entry into force 23 March 1976.
A Human Rights Committee was also established by this Covenant and when the instrument was ratified, this body interpreted article six to “strongly suggest that abolition was desirable.”\textsuperscript{15}

Article six of the ICCPR also influenced the human rights body of the Organization of American States (OAS)—the International American Human Rights Commission (IAHRC). Three years after the United Nations adopted the ICCPR the IAHRC created its own human rights document, the American Convention on Human Rights (ACHR) and article six of the ICCPR served as the model for article four of the ACHR.\textsuperscript{16}

In countries that have not abolished the death penalty, it may be imposed only for the most serious crimes and pursuant to a final judgment rendered by a competent court and in accordance with a law establishing such punishment, enacted prior to the commission of the crime. The application of such punishment shall not be extended to crimes to which it does not presently apply. Capital punishment shall not be imposed upon persons who, at the time the crime was committed, were under 18 years of age or over 70 years of age; nor shall it be applied to pregnant women.\textsuperscript{17}

Both the ACHR and the ICCPR place limits on the imposition of capital punishment, most notably the abolition of capital punishment for those under of the age of eighteen at the time of the crime. Once a nation became a party to these treaties, it had an obligation under article eighteen of the Vienna Convention on the Law of Treaties, to do nothing that would defeat the object and purpose of any treaty it signed. The United States signed both the ACHR and the ICCPR in 1977; yet in violation of international law, it continued to execute juvenile offenders and created legislation which expanded the number of crimes for which one could be executed.

\textsuperscript{15} Amnesty International, \textit{Amnesty International Handbook}, 35. The United States signed the International Convention on Civil and Political Rights on 5 October 1977 but did not ratify it until June 1992 after it registered a significant number of reservations. A number of countries objected to the United States reservations saying the almost completely undermined the point of the ICCPR.

\textsuperscript{16} Also known as “The Pact of San Jose, Costa Rica” adopted on 22 November 1969. It entered into force on 18 July 1978 with the eleventh ratification, Grenada. The United States has not ratified this Convention but did sign it on 1 June 1977; it is unlikely to ever ratify it.

\textsuperscript{17} American Convention on Human Rights “Pact of San Jose, Costa Rica”
In a speech before the OAS Council on 15 April 1977 President Jimmy Carter praised the IACHR and promised to sign and seek ratification of the ACHR.

The Inter-American Commission on Human Rights has performed valuable services. It deserves increased support from our governments. The United States will work toward coordinated and multilateral action in this field. The United States will sign and I will seek Senate approval of the American Convention on Human Rights.\textsuperscript{18}

Carter, however, made it clear in this speech that the Panama Canal Treaty was a priority for his administration. President Carter followed through on part of his promise on 1 June 1977 when he signed the ACHR. Following the signing Carter expressed his pleasure in signing the “blank space on this page [that] has been here for a long time” but did not mention potential problems with Article IV, which protected the right to life from conception. A writer for the \textit{New York Times} offered that the Supreme Court had recently made abortion legal in the United States and a similar point could be made about the reinstatement of the death penalty just the year before Carter signed this document. At that time Carter stated he expected to ask the Senate to “reserve” American approval of that portion of the treaty but he left unsaid that such a reservation would also free the United States from restrictions on the death penalty.\textsuperscript{19} Carter did present this treaty to the Senate for ratification; however, it was rejected by the Foreign Relations Committee and therefore was not considered by the full Senate.

The United States also became a party to the ICCPR when President Carter signed it on 5 October 1977; he had announced his intention to sign the ICCPR and seek Senate ratification seven months earlier in a speech he delivered to the United Nations General Assembly.\textsuperscript{20} The United States had not signed the treaty yet because previous administrations felt that the political


\textsuperscript{20} On that date he also signed the International Covenant on Economic, Social and Cultural Rights, which, as of this writing, has still not been ratified by the Senate.
rights of U.S. citizens were already adequately protected under U.S. laws and because in general political conservatives regarded UN treaties to be interference in U.S. domestic affairs.\textsuperscript{21} Because Carter had proclaimed that human rights were an important focus of his administration the fact that the United States had never signed this document was a source of embarrassment, especially since states such as the Soviet Union had already ratified the ICCPR. \textsuperscript{22} When Carter signed the ICCPR he again stated that he would seek Senate ratification; however, he was reluctant to present this controversial treaty to the Senate until after the Panama Canal Treaties were ratified.\textsuperscript{23} These treaties were narrowly ratified by the Senate in March and April 1978 and with mid-term elections later that year it was highly likelihood that the Senate would ratify another controversial treaty, such as the ICCPR. The ICCPR shared the fate of the ACHR; it was not considered by the full Senate because it was not accepted by the Foreign Relations Committee.

It is interesting that Carter signed these two treaties just one year after the death penalty was reinstated in the United States and that this inconsistency received little attention. Perhaps the lack of attention was due to the remote chance that the Senate would actually consider ratifying these documents. While the United States was now party to these documents because Carter had signed them the United States was not bound to them under U.S. law until the Senate ratified them. As stated above, under article eighteen of the Vienna Convention on the Law of Treaties, once a state signs a treaty it was to do nothing that would defeat the object and purpose of the treaty. However, according to U.S. law only half of the necessary signature was in place on both of these treaties; as a result, the United States was not legally bound by their provisions.

\textsuperscript{22} The ICCPR had gone into effective in 1976 after the 35\textsuperscript{th} state had and ratified the document.
\textsuperscript{23} Carter had signed the Panama Canal Treaties on 7 September 1977 and their ratification was uncertain due to the strong objections of powerful conservatives, such as Strom Thurmond and Jesse Helms.
While this apparent contempt for international law received little attention in the United States but it did not go unnoticed by the international community.

The same year that President Carter signed these two instruments, AI convened an international conference in Stockholm, which marked the beginning of its public efforts to abolish capital punishment throughout the world. While this conference did not focus exclusively on state-sanctioned judicial executions, it did illustrate AI’s determination to take on this issue in all of its different manifestations. The Declaration of Stockholm, issued on 11 December 1977, announced AI’s rationale for abolition and intention to campaign aggressively to achieve this end. This declaration found that the death penalty was sometimes a form of political repression, provoked violence, brutalized all involved, was not a deterrent and could be imposed on the innocent. AI declared “its total and unconditional opposition to the death penalty, its condemnation of all executions, in whatever form, committed or condoned by governments, and its commitment to work for the universal abolition of the death penalty.” It also called on national and international NGOs to help educate people around the world about the death penalty and called on the United Nations to declare that the death penalty was contrary to international law and requested that national governments end their use of the death penalty. AI’s willingness to take on such a controversial issue, can be seen in retrospect as a natural progression for the human rights groups, whose work on behalf of prisoners of conscience and the “disappeared” had highlighted the importance of taking on the issue of state-sanctioned

24 This conference and the report that followed found that “the death penalty was increasingly taking the form of unexplained disappearances, extra-judicial executions and political murders” in addition to state-sanctioned judicial executions. Over two hundred delegates from Asia, Africa, Europe, the Middle East, North and South America and the Caribbean participated in the Stockholm Conference on the Abolition of the Death Penalty. Amnesty International, The Death Penalty (London: Amnesty International Publications, 1978).

25 Ibid, 199.
executions. This commitment reflected the growing capacity of AI to take on global issues due to its enhanced international standing and structure.

AI received a boost in 1977 when it was awarded the Nobel Peace Prize for its efforts to ensure the worldwide implementations of the principles enshrined in the Universal Declaration of Human Rights. It used the prize money to expand its work in “countries where [it] was weak, including parts of Asia and Latin America, where there was a great demand for its help.”26 That year it also celebrated its sixteenth anniversary. At that time it had more than 100,000 members in seventy-eight countries and an annual budget of $500,000.27 This increase in membership was also important because AI’s membership became more global in nature, which allowed it to speak legitimately about global human rights issues, such as capital punishment. It was also structurally well-positioned to take on the death penalty, because it had the ability to work in twenty-one languages, had mechanisms in place to collect and analyze information from diverse sources around the world, and according to the New York Times its “headquarters in London resembled an election campaign office,” allowing it to coordinate its global campaign.28 AI needed to structure itself this way, because it was not just working on behalf of individuals any longer, it was also conducting country campaigns, such as the one in Guatemala and theme campaigns, such as torture and capital punishment.29

Theme campaigns were a natural extension of AI’s work with prisoners of conscience, who were victims of various human rights violations—including torture and extrajudicial execution. A theme campaign was meant to confront a long-standing, global pattern of

27 By 1980 its membership would double and its annual budget increased four-fold.
29 The actions taken during a theme campaign include: monitoring developments, collecting information worldwide and organizing an on-going programs with other organizations.
violations; this practice was introduced with the campaign to eliminate torture in 1972. Another
theme campaign begun in the 1970s was waged against capital punishment. AI saw a connection
between torture and capital punishment as human rights violations. It defined torture as “an
extreme mental or physical assault on someone who has been rendered defenseless” and it
believed that the wait on death row for the scheduled date of execution was a form of torture. 30

Torture was universally condemned and outlawed, including by those who
advocate the death penalty. Yet an execution is an extreme, purposeful, physical
and mental assault on a person already rendered helpless by the state—the
essential elements of torture. If hanging someone by the arms or legs until they
scream out in pain is condemned as torture, how should we describe hanging
someone by the neck until they are dead? If giving one hundred volts of
electricity to sensitive parts of the body in order to extract a confession is
condemned as torture, how should we describe the administration of two thousand
volts in order to inflict death? If carrying out mock executions is condemned as
torture, how should we describe the mental anguish of people who are given years
to contemplate being poisoned by lethal injection at the hands of the state? 31

In 1974 the International Council rephrased AI’s statute, the guiding document of the
organization, to define three central aims for its work. All three were given equal importance;
helping prisoners of conscience, campaigning against torture and campaigning against capital
punishment. 32

Some AI members questioned working to abolish the death penalty because they felt it
would benefit people who used violence and there was some vocal opposition within AI’s
membership with regard to this expansion of its mission. William Buckley, the “conscience of
conservatism” resigned his membership from AI soon after the organization announced its
campaign to abolish the death penalty, because he believed an organization dedicated to freedom

30 Sister Helen Prejean, Death of Innocents: An Eyewitness Account of Wrongful Executions (New York: Random
House, 2005), 108.
7.
32 Egon Larsen, A Flame in Barbed Wire: The Story of Amnesty International (New York: W.W. Norton &
Company), 105.
of thought, had no business telling any society how it should handle its criminals.\textsuperscript{33} His statement of resignation said that, “full-time bleeding hearts tend to notice depredations from the right, while ignoring depredations from the left.” Others wondered if AI’s campaign against the death penalty was a “triumph of ideology over compassion” and if the organization had reached too far from its original mission.\textsuperscript{34} Others in the organizations felt that AI was meant to do more than ensure individuals had freedom of thought; that it should “put the world’s rulers on notice that there were limits to state power and in particular to the punishment that a state may impose for any reason.”\textsuperscript{35} The recent re-instatement of capital punishment in the United States and the emerging polarization of the issue into conservative and liberal camps, forecasted the bitter cultural wars of the 1980s as well as the difficulty that AI would have in waging a successful campaign in the United States. As time past, it became clear that AI would not lose a large number of its members over this issue, perhaps because the organization and its members understand the evolving and interconnected nature of human rights work and that advocacy work to abolish the death penalty did not necessarily mean one had to change their political ideology.

This idea was summed up in a \textit{New York Times} editorial about the controversy.

Even in the United States, where restraints on the exercise of power are built into the system, execution goes beyond the bonds of any social contract. One need not rehearse the excellent arguments against capital punishment, to appreciate that there is no more fearsome weapon than in the words of Amnesty International, “the ultimate cruel, inhuman and degrading punishment.” If power of a state over its citizens is to be limited, then the act which epitomizes that power in its most brutal reality must be outlawed. Here surely is a principle that can appeal to all defenders of the individual, whether they call themselves liberals or conservatives. Amnesty International’s decision to campaign against the death

\textsuperscript{33} AI’s membership list is not a matter of public record unless, like Buckley, a member goes public with that information.


\textsuperscript{35} Andrei Sakharov, the well-known Soviet dissident, observed that in countries like his own “with its unrestricted dominance of state power and uncontrollable bureaucracy and its widespread contempt for law and moral values” such campaigns were necessary. Walter Goodman, “The Ultimate Punishment,” \textit{New York Times} 28 February 1978, sec 32.
penalty is not only consistent with the group’s ideals; it is an inescapable obligation.\(^{36}\)

This editorial encapsulated the rationale beyond AI’s abolitionist campaign but the controversial nature of this issue necessitated that it proceed slowly in implementing its campaign. The International Executive Council (IEC), in 1977 issued guidelines that would pursue abolition without aligning itself with specific condemned prisoners.

The cases should be selected in a way that they represent “legal key-cases.” Our approach here should focus on the general principles and not so much on the individual case itself…We are not defending murderers—we are working against the death penalty. This approach necessitates case-to-case decisions. The International Secretariat should be entitled to take these decisions, and if in doubt it could seek advice from the Executive member responsible…Our traditional work for the release of prisoners of conscience should not be downgraded to give room for the death penalty activities. A balance should be maintained. Urgent action campaigns should be the machinery for individual death penalty cases. National sections should be encouraged to form anti-death penalty urgent-action groups.\(^{37}\)

In order to ease the transition from its work on individual POC cases to global abolition of the death penalty the IEC’s strategy in 1977 was to focus its abolitionist efforts on POCs who were sentenced to death. This was not a major change for most AI members who were accustomed to working on behalf of POCs who were living under the threat of execution. This cautious strategy provided a transition period for AI members who were concerned about this new initiative and by 1980 AI was beginning to speak out more frequently against capital punishment.

AI’s move to theme campaign which would inevitably put it on a collision course with the United States seemed to present another problem; its largest national chapter was located in the United States and AI members were not to work on human rights issues within their own

\(^{36}\) Ibid.
country. The solution to this dilemma lay with the fact that AI members were allowed to lobby their own government in order to pressure it to ratify international treaties. In addition, with the approval of the IEC, members could campaign within their own country, for the repeal of legislation that led to violations of human rights which fall within its mandate—something they could already do as citizens of a democracy, in the case of the United States.\footnote{Amnesty International, \textit{Amnesty International Handbook}, 61.} Theme campaigns structured the human rights problem very simply. In the case of capital punishment, a country was either retentionist or had abolished it. Any retentionist country could be targeted by AI’s theme campaign. Theme campaigns did strain the rule that prohibited members from working in their own country. However, AI stressed its members’ global citizenship and the global goal of these campaigns and managed to avoid the problems that the country rule was designed to avoid. This campaign for global abolition placed AI on a collision course with the United States, after the Supreme Court re-instated the death penalty in 1976.

Amnesty filed an \textit{amicus curiae} brief with the Supreme Court in the case of \textit{Gregg v. Georgia}

Amnesty does not approve of and would not defend any violent crime. However, it cannot regard the death penalty other than as an anachronism and an act of cold blood beneath the dignity of a modern state. The limitation on the power of and potential for abuse by the state follows from the recognition of the sacredness of life free from the ultimate interference of a state-imposed death penalty.\footnote{Amnesty International, \textit{The Death Penalty}, facing page.}

AI’s brief failed to persuade the Court and capital punishment, once again, was legal in the United States. In addition to institutional support for the death penalty, there was a high level of public support for it in the United States that would prove equally as difficult to counter. The evidence of America’s love affair with the death penalty could even be seen in popular culture; the creation of the board game “Capital Punishment” providing a good example. The objective
was to get “criminals” past liberals to the chair before liberals could set them free. The two men who created the game stated it was designed so that people frustrated by violent crime, could punish criminals “vicariously.” A spokesman for the D.C. Coalition Against the Death Penalty stated that the game “treated the entire subject of killing as entertainment, was a sickness that could very well destroy our civilization.” Public support for the death penalty was also rooted in the faith the American people had in its justice system and its new, humane method of execution, lethal injection. AI rejected that any part of capital punishment could be characterized as humane.

Ignoring the fact that forcing someone to live under sentence of death is cruel and inhuman treatment, some proponents of the death penalty suggest that the punishment can be made more acceptable by ‘modernizing’ the method of carrying out the sentence. However, Amnesty believes that executing a prisoner by any method, is an unacceptable human rights violation, which has no place in society today.

Soon after, Thomas “Sonny” Hays was sentenced to die by lethal injection, the Oklahoma Medical Association received two telegrams. The first was from eleven international renowned doctors in France, Ireland, Sweden, Switzerland and the United Kingdom and the second came from AI’s Medical Advisory Board. The telegram from the doctors stated, “We appeal to Oklahoma doctors not to participate in execution by lethal injection. We consider participation in executions to be a violation of medical ethics, which enjoin doctors to practice for the good of their patients and never to do harm.” AI’s Medical Advisory Board’s message was similar, it

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stated, “there was a danger that execution by injection might be wrongly presented as ‘humane,’
diverting attention from the agony suffered by the prisoner and the family.”

Despite the concerns of these medical professionals and others in the scientific community, lethal injection was quickly adopted by many states, as the primary method of execution. Both the majority of the U.S. public and government officials believed this method was an improvement over other methods or simply were unconcerned about the possibility that condemned murderers might experience a painful death. Perhaps because of this support the scientific community has been slow to come forward and assert their concerns with lethal injection. By 2001, concern was growing, regarding the use of pancuronium bromide, used in the lethal injection cocktail, from the beginning to paralyze muscles. Dr. Sherwin B. Nuland, a professor of medicine at Yale stated he was “baffled” by the use of pancuronium bromide in executions. He stated, “It strikes me that it makes no sense to use a muscle relaxant in executing people. Complete muscle paralysis does not mean loss of pain sensation.” A growing number of legal and medical experts also have warned that “the apparent tranquility of a lethal injection may be deceptive” and that “the standard method of executing people in most states, could lead to paralysis that masks intense distress, leaving a wide-awake inmate unable to speak or cry out as he slowly suffocates.” These recent concerns were largely unknown when lethal injection was adopted as the primary means of execution throughout the 1980s; AI’s assertion that lethal injection was not humane was based on a moral, rather than a scientific argument. That moral argument did not make much headway with American juries who began to sentence an increasing number of men and women convicted of capital crimes to death in the 1980s.

44 Ibid.
45 The technology of lethal injection, which has its roots in Nazism, were developed and modernized in the United States and this evolved method of execution has been adopted by countries around the world.
The strong support for the death penalty in the United States presented a significant challenge to AI’s goal of global abolition. However, the high profile of human rights in the Carter administration provided an opportunity for AI to confront the United States use of the death penalty. On 14 April 1980, AI sent a letter to President Carter requesting that he set up a commission to study the death penalty in the United States. AI purposed that the commission examine if executions violated the United States international commitment to human rights as well as the effect the death penalty had on crime, society and public attitudes.\textsuperscript{47} AI was also involved in a number of campaigns to spare individuals from execution throughout the 1980s; citing that these executions were violations of international law, specifically the ICCPR and ACHR. These arguments failed to curb executions and in fact the number of executions increased significantly throughout the 1980s. AI had been collecting information on the United States use of the death penalty since it was reinstated in 1976 and became alarmed by its accelerated use. According to AI, by the end of 1986 the United States death row population reached a record high with 1,838 men and women condemned to death.\textsuperscript{48} Consequently, the United States shared the dubious distinction of having one of the world’s largest death row populations, a title it shared with Pakistan.\textsuperscript{49} The increased number of individuals sentenced to death coincided with a significant increase in the number of executions; a number of those languishing on death row were mentally ill and juvenile offenders.\textsuperscript{50} AI’s assessment of capital punishment in the United States compelled it to begin a concentrated campaign against the United States.

\textsuperscript{47} This commission was not created although there would be various studies of the death penalty throughout the 1980s and 1990s, which examined some of the issues.
\textsuperscript{48} According to the U.S. Justice Department the death row population had exploded during the 1980s. There were 691 death row inmates in 1980, that number nearly doubled by 1983 when the number of condemned men and women jumped to 1,209. By 2005 the U.S. death row population had reached 3,373.
\textsuperscript{50} According to the U.S. Justice Department there were no execution in the United States in 1980 and only five in 1983. However, in 1984 there were 21 executions and 18 executions in both 1985 and 1986.
On 18 February 1987 AI announced that it was opening its first ever worldwide campaign against the United States, because of its use of the death penalty. During this year-long campaign, AI raised awareness about capital punishment with reports that documented its concerns about the execution of juvenile offenders, the mentally impaired, and the innocent, as well as the inadequacy of legal counsel for the poor and evidence of racial bias in sentencing. Following this campaign, the international community adopted United Nations General Assembly Resolution 44/128 of 15 December 1989, which adopted the “Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty.” This Protocol sought to strengthen article three of the UDHR and article six of the ICCPR, by committing nations to abolition in all cases. Article one stated that “No one within the jurisdiction of a State Party to the present Protocol shall be executed” and “Each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction.”

The Protocol entered into force on 11 July 1991 and by April 2006 thirty-three countries were party to the treaty and fifty-seven had ratified it. There appeared to be international momentum for abolition evidenced by the relatively short time period between adoption and entry into force—less than two years—and the increase in abolitionist countries.

Between 1978 and the end of 1989, twenty-one countries abolished the death penalty for all crimes and two countries abolished it for ordinary crimes; bringing the total number of countries that had abolished capital punishment for all crimes, to twenty-nine and seven had

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52 The only reservation permitted was allowing “the death penalty in times of war pursuant to a conviction for a most serious crime of a military nature committed during wartime” Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, 15 December 1989.
54 The United States has never signed this Protocol.
abolished for ordinary crimes. It can be argued that AI was instrumental in creating this momentum. While the United States did not follow the trend toward abolition, AI did gain a number of allies in its campaign to abolish the death penalty. This would be an important component in its efforts to apply continual and increasing pressure on the United States to end its use of the death penalty. By the end of the 1980s AI was joined in its pursuit to end capital punishment by domestic and international groups. In addition, within some institutions, such as the Roman Catholic Church, there were rumblings about limiting the practice, while not completely ending it. Mother Teresa when visiting death row at San Quentin poked her finger into the chest of a guard and said, “Remember, what you do to these men, you do to Christ.”

The international and domestic pressure did not have the desired outcome in the United States. At about the time that AI was ending its year-long campaign against the United States, President Ronald Reagan signed legislation into law which re-introduced the federal death penalty. Until 18 November 1988, the federal government had not re-instated the federal death penalty since the time of the *Furman v. Georgia* decision. But on this date, Reagan signed the Anti-Drug Abuse Act, which contained the Drug Kingpin Law that allowed for the death penalty to be imposed on people convicted of drug-related murders. Should this legislation be seen as a push back by the Reagan administration on anti-death penalty advocates, or a logical move by a president, in response to an increased crime rate and as part of his war on drugs? Reagan’s war on drugs is the most likely source of his and Congress’ decision to re-establish the federal death penalty; however, the message to death penalty opponents was also clear. The anti-death penalty

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55 In 1981 AI’s West German section collected 45,000 signatures demanding an end to capital punishment in the United States. The petition which stated that the death penalty was “incompatible with the right to life and the prohibition of cruel, inhuman and humiliating punishment” was presented to the U.S. Embassy in Bonn. “United States Death Penalty is Protested,” *New York Times* 30 May 1981 sec 28.

56 Pope John Paul when he visited Missouri in January 1999 called “for a consensus to end the death penalty” because it was cruel and unnecessary. Sister Helen Prejean, *The Death of Innocents*, 98.
The Supreme Court was also sending this message with several key decisions in the late 1980s. While the Court had ruled the execution of juvenile offenders under the age of sixteen in *Thompson v. Oklahoma* (1988) was unconstitutional, it refused to make a similar ruling in 1989 regarding the execution of juvenile offenders who were sixteen or seventeen years of age at the time they committed their capital crime.\(^{57}\) In addition, the Court ruled in *Penry v. Lynaugh* (1989) that execution of the mentally retarded was not a violation of the Eighth Amendment and therefore constitutional. The international momentum for abolition of the death penalty appeared to stop at the borders of the United States. This recalcitrance illustrated the need in the early 1990s for another campaign in the United States. This sentiment was reinforced by the United States ratification of the ICCPR in June 1992. Before it ratified the document, it first filed a number of reservations one of which in effect nullified article six, which prohibited executing juvenile offenders and pregnant women.\(^{58}\) The U.S. reservation stated in part:

> That the United States reserves the right, subject to its Constitutional constraints, to impose capital punishment on any person (other than a pregnant woman) duly convicted under existing or future laws permitting the imposition of capital punishment, including such punishment for crimes committed by persons below eighteen years of age.\(^{59}\)

The United States was the only country with an outstanding reservation to this article and this reservation became a lightning rod for international criticism.\(^{60}\) Ten countries, many in Europe,

\(^{57}\) This was decided in Stanford v. Kentucky and Wilkins v. Missouri 492 US 361 (1989).


\(^{59}\) Available at http://www.unhchr.ch/html/menu3/b/treaty5.asp.htm

\(^{60}\) The attempt to appease the international community had backfired. By the 1990s the United States was one of the few countries that had not yet ratified the ICCPR. This was becoming a source of growing embarrassment and President Clinton took action to end this criticism. To that end, President Clinton issued Executive Order 13107 on Human Rights Day; 10 December 1998 regarding the “Implementation of Human Rights Treaties.” The Order stated, “It shall be the policy and practice of the Government of the United States, being committed to the protection
filed formal objections to this reservation, as well as the other four reservations the United States placed on the Covenant before ratification. Actions such as these, demonstrated the need to continue to pressure the United States if AI hoped to achieve abolition.

The second campaign in the United States to end the death penalty was initiated by AI’s national chapter in the United States (AIUSA). It convened a Commission of Inquiry into the Death Penalty as Practiced in the United States in August 1993, with the purpose of determining if the United States use of capital punishment “constituted a \textit{prima facie} violation of internationally accepted legal norms.” The commission received testimony from renowned international death penalty experts and published this testimony and its findings in a book entitled \textit{The Machinery of Death: A Shocking Indictment of Capital Punishment in the United States}. The commission found that despite judicial resources and procedural safeguards in the United States, it had executed the innocent and youthful offenders in violation of international law, imposed the death penalty in a racially biased manner, ignored the vulnerabilities of the mentally impaired and did not provide adequate counsel for the indigent. In addition, the commission found that capital punishment was not a deterrent or solution to violent crime.\footnote{Amnesty International, \textit{The Machinery of Death}, xi-xii.} Not surprisingly, the commission indicted the use of capital punishment in the United States and everywhere else where it was retained and called for global abolition. AIUSA hoped that its findings would be a powerful tool for abolition as it contained shocking stories of manipulation and abuse of the justice system and individual’s human rights.

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\textit{and promotion of human rights and fundamental freedoms, fully to respect and implement its obligations under the international human rights treaties to which it is a party, including the ICCPR, the CAT [Convention Against Torture], and the CERD [International Convention on the Elimination of All Forms of Racial Discrimination].” \textit{President, Executive Order, “Implementation of Human Rights Treaties, Executive Order 13107,” Federal Register} 63, no. 240 (15 December 1998): 68991-68993.}
This second campaign, highlighted the United States use of the death penalty, and took place at a time when abolition was gaining momentum throughout the world. According to AI, by the end of 1992 forty-seven countries abolished capital punishment for all crimes, sixteen had for all but wartime offenses and twenty had not carried out an execution in at least ten years; this represented forty-four percent of the countries of the world—quite a reversal from the 1960s. AI was still concerned with the number of retentionist countries and the number of people these countries were sentencing to death. In 1992, 1,708 prisoners were known to have been executed in thirty-five countries and 2,697 were sentenced to death in sixty-two countries. Within the United States in 1992 there were thirty-one executions and more than 2,600 people lived under the sentence of death in thirty-four states; there was still plenty of work to do in order to achieve global abolition.⁶²

To that end, AI sent a letter to President William Clinton, one year after he took office on this issue and requested that he provide national leadership that would lead the country to eventual abolition. The letter in part said,

There is now ample evidence that death sentences are imposed disproportionately on the poor, on minorities, on the mentally ill or retarded and—perhaps most crucially of all—on those without adequate legal counsel. This shameful state of affairs is a matter for the US federal authorities to investigate and remedy with the utmost urgency. The US Supreme Court can no longer be relied on to redress the inequities of the state system. State clemency authorities cannot be relied on to grant mercy, in even the most deserving cases. The US federal administration is the last resort for US citizens convicted of serious crimes, whose constitutional and human rights are being violated by state governments.⁶³

AI also called for a Presidential Commission to examine all aspects of the death penalty and to institute a national moratorium on executions pending the results of this examination. It received

no response from Clinton; perhaps this should have been expected, given Clinton’s involvement in the execution of Ricky Ray Rector during his presidential campaign. At least one other person in a position of authority shared some of AI’s concerns; U. S. Supreme Court Justice Harry Blackmun. He had agreed with the majority in the *Gregg* decision which reinstated the death penalty, but he gradually changed his mind about capital punishment. His reservations with the death penalty were revealed in his famous dissent in *Callins v. Collins* 510 US 1141 (1994).

> From this day forward, I no longer shall tinker with the machinery of death. For more than twenty years I have endeavored—indeed, I have struggled—along with a majority of this Court, to develop procedural and substantive rules that would lend more than the mere appearance of fairness to the death penalty endeavor. Rather than continue to coddle the Court’s delusion that the desired level of fairness has been achieved and the need for regulation eviscerated, I feel morally and intellectually obligated simply to concede that the death penalty experiment failed.  

After this ruling in any death penalty case before the Supreme Court, Blackmun’s opinions illustrated his belief that the “death penalty experiment failed” and should be ended. While he had come to this conclusion, his fellow Justices on the High Court, Congress and the President had not, and during the mid-1990s the U.S. government would take further action to expedite the imposition of death sentences.

Clinton never responded directly to AI’s 1994 letter, but he did send a message to AI regarding its concerns about the death penalty later that year. On 13 September 1994 he signed into law the Federal Death Penalty Act. This law expanded capital punishment under federal civilian law to more than fifty offenses, most concerning the murder of federal officers, but also

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included the attempted assassination of the President, major drug-trafficking and treason. AI objected to this new law citing its incompatibility with international law, specifically article four of the ACHR, which prohibited the expansion of the death penalty to crimes not already death penalty eligible.66

One year after AI had sent its first letter to President Clinton and in the wake of this new legislation, it sent another letter to the President entitled *United States of America: Follow up to Amnesty International’s Open Letter to the President on the Death Penalty*. This follow up report and letter was meant to remind the administration that AI’s concerns were not going away and had “steadily increased” over the previous year in the areas of racism, inadequate counsel and execution of the mentally impaired, the innocent and juvenile offenders.67 The United States continued execution of juvenile offenders and hardened its position, as revealed by its reservation in the United States ratification of the ICCPR, featured prominently in AI’s follow up letter to President Clinton.

The USA continues to sentence minors to death in violation of Article 6 of the ICCPR, which states that death sentences must not be imposed on people who were under 18 years of age at the time of the offence. At the end of 1994, approximately 37 juvenile offenders were under sentence of death in 12 states. According to Amnesty’s research, since 1990 only four countries worldwide are known to have executed juvenile offenders: one prisoner was executed in Saudi Arabia and Pakistan in 1992; one in Yemen in 1993, and six in the USA. A total of nine juvenile offenders have been executed in the USA since 1985, the most recent was Christopher Burger in Georgia, in December 1993.68

According to AI, the United States executed more juvenile offenders than any other country in the world, which placed it in an unusual leadership position. President Clinton did not respond

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67 Ibid, 1.
68 Ibid, 3.
to this letter either, but the federal government again sent another indirect message to AI and its abolitionist pursuits.

The U.S. Congress voted in 1995 to eliminate the $20 million budget for Post-Conviction Defender Organizations (PCDOs), which was set up in 1988 to ensure adequate legal representation for condemned prisoners during the *habeas corpus* appeal process. Some members of Congress argued that taxpayers should not have to subsidize organizations whose “sole purpose was to concoct legal theories to frustrate the implementation of the death penalty.” An editorial in the *New York Times* condemned this action.

In their zeal to limit death penalty appeals, both houses of Congress have approved legislation that is apt to have the perverse effect of dragging out appeals and increasing their cost to the taxpayer. Worse yet, the legislation will increase the chance that innocent defendants, or defendants whose trials were constitutionally flawed, will be executed. Good appeals lawyers are important because bad trial lawyers are common. The defenders’ program deserves to live. A Congress committed to the death penalty cannot in good conscience deny competent legal counsel.

AI shared this fear, as within a year most PCDOs were forced to close, due to lack of funds. This Congressional action occurred two years after *Herrera v. Collins*, which allowed for the execution of an innocent person if legal procedures were not violated; thus indicating that the United States had momentum of its own on the issue of capital punishment. That momentum was in the direction of retention and the events of 19 April 1995 in Oklahoma City fed that momentum. The carnage of that day would ultimately lead to the first federal execution since

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69 The Innocence Project, founded in 1992, was another source of legal help for prisoners. The Project is a non-profit legal clinic based out of the Benjamin N. Cardozo School of Law in New York City. It handles cases where DNA evidence is available that can be used to conclusively prove the innocence of a condemn man or woman.


71 “Shortchanging Inmates on Death Row,” *New York Times* 13 October 1995, sec. A32. According to AI there was substantial evidence that these PCDOs were victims of their own success. While they were in operation approximately 40% of all death sentences were reversed after review. Amnesty International, *Fatal Flaws*, 23.
John F. Kennedy’s presidency and the introduction of legislation that shortened the time between conviction and execution.

Spurred into quick actions by the Oklahoma City bombing, Clinton signed into law the Anti-Terrorism and Effective Death Penalty Act in 1996. This law limited a condemned prisoners access to federal courts allowing an inmate only one habeas corpus petition in federal court within one year of the conclusion of state court proceedings. AI believed that this new law—much like the failure to fund the PCDOs—increased the likelihood that innocent people would be executed in the United States. It responded to these retentionist victories by organizing a new initiative which would attempt to hold the line on retentionist gains made throughout the 1980s and 1990s. The need for another abolitionist initiative was further illustrated by the events of 1997. The year opened with a triple execution in Arkansas on 12 January and by the end of the year seventy-four people had been executed in seventeen states—the highest number in the United States since 1955.72 AI—seeing these as violations of human rights—was taken aback by Clinton’s remarks at the end of the year. “And in this 50th Anniversary year, Amnesty International has asked world leaders to affirm that we will do all we can to uphold the principles of the Universal Declaration. I make that pledge today.”73 Clinton’s actions had, in AI’s opinion, accelerated the violations of article three of that document, which guaranteed the right to life, on a massive scale. Its third initiative in its abolition campaign in the United States challenged Clinton to fulfill the commitment of that pledge. This was the “Rights for All” campaign.

72 A triple execution in this context refers to the state’s execution of three inmates one right after the other. Arkansas claimed such executions saved the state money. This was only the second triple execution to be held in the United States since the death penalty was re-instated in 1976, both were administered in Arkansas. Amnesty International, USA: “A Macabre Assembly Line of Death,” 1.
73 Ibid, 30.
Between 1990 and 1998 thirty-three countries abolished the death penalty in law or practice; an average of three countries every year. At the same time, the United States accelerated the number of people executed and continued to execute the mentally retarded and juvenile offenders, in violation of international laws and norms. This explained some of the rationale behind AI’s “Rights for All” campaign. It was launched in 1998 and focused on six persistent and widespread patterns of human rights violations in the United States, including the use of the death penalty. The report that launched this year-long campaign was entitled *United States of America: Rights for All* and it challenged the United States’ claim to human rights leadership. The report also took advantage of the 50th Anniversary of the UDHR to call on the United States to demonstrate true human rights leadership as it did during the formation of the United Nations and the drafting of the UDHR. That leadership was absent in the six areas outlined by AI’s report and it was hoped that the United States could be shamed into reform in these areas.

The USA is an immensely powerful nation; it has a corresponding responsibility to take a lead by living up to its human rights promises. These promises are to be found in the USA’s own laws and in international human rights standards, including the Universal Declaration of Human Rights with its vision of a world free from fear and want. Human rights belong to everyone, or they are guaranteed to no one. This is why we need human rights for all.

The fact that 1998 marked the 50th anniversary of the UDHR provided an opportunity to put the spotlight on the United States leadership on human rights issues. The need to do this was highlighted by the fact that the United States was set to carry out its 500th execution since re-instating the death penalty during this anniversary year and because two states planned

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75 The six violations that this campaign focused on were police brutality, violations in prisons, the ill-treatment of asylum-seekers, the death penalty, the use of arms, in particular disabling stun belts and guns, and America’s attitude toward human rights treaties.
executions on 10 December 1998—the 50th Human Rights Day.\textsuperscript{77} The stark difference, already apparent between the United States and the international community, regarding the death penalty became even clearer in 1998.

While the United States planned to execute its 500th prisoner, the Council of Europe celebrated 1998 as the first year in which none of its member states carried out an execution. In addition, in 1998 and 1999 alone, nine countries around the world abolished the death penalty for all crimes.\textsuperscript{78} The international momentum toward abolition can also be seen in the adoption of the Statute of the International Criminal Court July 1998. After debate, the death penalty was excluded as a punishment for even the most heinous crime, genocide. AI stated, “the clear implication was that if the death penalty should not be used for the worst possible crimes, then it should not be used for lesser crimes.”\textsuperscript{79} Only seven nations, including the United States, voted against the ICC statute and one hundred and twenty supported it; illustrating how isolated the United States was from the rest of the international community on this issue.

The level of isolation was again illustrated in 1998 when the United Nations Special Rapporteur, Bacre Ndiaye, concluded in his report about capital punishment in the United States that “the imposition of death sentences in the United States seemed to continue to be marked by arbitrariness. Race, ethnics, origin and economic status appear to be key determinants to who


will, and who will not, receive a sentence of death.”

He also commented on the apparent strong public support for the death penalty in the United States.

This cannot justify the lack of respect for the restrictions and safeguards surrounding its use. In many countries, mob killings and lynchings enjoy public support as a way to deal with violent crime and are often portrayed as ‘popular justice.’ Yet they are not acceptable in any civilized society.

His report and call for a moratorium was not well received in the United States. A spokesman for Senator Jesse Helms stated, “with all the abuses in places like Burma, China, Cuba, and Iraq, to be wasting time and money to be investigating the freest country in the world shows what a strange and distant planet the United Nations inhabits.” The Republican National Committee Chairman called on President Clinton to clearly and publicly renounce the report and asserted that the United States should not pay its UN dues until the report was withdrawn and the United States received an apology.

This Congressional outrage was reminiscent of the William F. Buckley’s resignation from AI when it began its global campaign to abolish the death penalty; which suggested a reason why the American public tends to ignore AI’s criticism as well as similar criticism from abroad.

When AI criticized the United States human rights record political and social conservatives and the American public in general reacts strongly to the “perception that the United States’ human rights record is worthy of the same time and effort Amnesty International has devoted to exposing mostly non-democratic, repressive regimes.” There are several reasons why many Americans are reticent to have these abuses exposed. First, because they believe that democracies cannot be human rights abusers. Both because democracies are

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82 Ibid, 11.
governed by the rule of law and because human rights abuse is often closely associated with despotic regimes. The vast difference between these two forms of governments suggests that they would have very little in common, especially on human rights issues. While it is generally true that democracies tend to have better human rights records than authoritarian regimes this does not necessary mean that democracies have perfect human rights records. The faith that many Americans have in its democratic form of government suggests another reason why Americans found such criticism unnecessary and potentially dangerous. They believe that exposing the United States as a human rights abuser “plays into the hands of those countries whose human rights abuses are systematically abhorrent” and that such criticism suggests that “the United States belongs in the same category as those other countries.”

This belief may partially explain why many Americans, especially since the conservative revolution of the 1980s, have been less inclined to heed or even pay attention to foreign criticism.

The United States, especially since World War II, has been the leader of the free world and the sole champion of the Cold War. These triumphs provide evidence of the United States global benevolence and at the same time suggest that it is best equipped to continue to blaze a trail for the rest of the world on most issues of international importance. The opinion of those outside its border is less important because they do not have the same credentials as the United States to provide leadership on global issues. Human rights are one of these global issues. After World War II the United States played a central role in laying the foundation of the modern human rights movement and the tradition of that leadership also makes it difficult for many Americans to take foreign criticism of its human rights record seriously. It should be noted that political and social conservatives in the United States are not universally hostile to the issue of human rights. Some of the most vocal human rights advocates in the U.S. Congress have been

84 Ibid.
conservatives, such as Representative Christopher Smith (R-NJ) and even Senator Jesse Helms (R-NC) who vigorously condemned criticism of the United States but has spoken passionately about human rights abuse in China and elsewhere.\textsuperscript{85} Illustrating the point that conservative human rights advocates are more likely to focus on human rights abuses abroad then those perpetrated by the United States; this is especially true with regard to capital punishment. These conservatives often do not see capital punishment as a human rights violation and believe that such calls for abolition are a waste of time; time which could be better spent pursuing human rights violations elsewhere. And while liberals in the United States generally are more receptive to criticism of the United States they are often just as reticent to advocating abolition of the death penalty because such a position would be political suicide. The American view of the death penalty was clearly at odds with international opinion.

The European Union (EU) joined the scrutiny of the United States in 1998 when it announced a new policy, the \textit{Guidelines to EU Policy Towards Third Countries on the Death Penalty}. The objective of this policy was to promote abolition of the death penalty in non-member states; the plan to achieve this goal looked very similar to AI’s. The strategy was to raise the issue of the death penalty in its dialogue with third countries, encourage ratification and adherence to international standards, and raise the issue in multilateral forums with a view to securing moratoriums and abolition.\textsuperscript{86} The United States was not the sole focus of this policy, but since the implementation of this policy, the EU engaged the United States in a manner consistent with the policy established in 1998.

\textsuperscript{85} It should be noted that AI does not endorse any political party or political candidate and does not allow government officers to hold leadership positions within AI in order to retain its political independence. Although for the reasons detailed above members of the Democratic Party in the United States tend to have a more cordial relationship with AI than members of the Republican Party.

\textsuperscript{86} Ibid, 81-82.
The significance of the EU’s action should not be underestimated nor should the fact that the United States has so alienated them due to its adherence to capital punishment. The United States and the countries of Europe were very close due to a shared cultural past, which had economics and political benefits as well. Recently, however, the benefits of that shared past are eroding because Europe and the United States are parting company on cultural, political and economic issues. The erosion of these relationships were not due only to the United States use of capital punishment, but this issue was demonstrative of what was ailing the relationship as a whole.

It is time to stop pretending that Europeans and Americans share a common view of the world, or even that they occupy the same world. On the all-important question of power—the efficacy of power, the morality of power, the desirability of power—American and European perspectives are diverging. Europe is turning away from power, or to put it a little differently, it is moving beyond power into a self-contained world of laws and rules and transnational negotiation and cooperation. It is entering a post-historical paradise of peace and relative prosperity, the realization of Immanuel Kant’s ‘perpetual peace.’ Meanwhile, the United States remains mired in history, exercising power in an anarchic Hobbesian world where international laws and rules are unreliable, and where true security and the defense and promotion of a liberal order still depend on possession and use of military might.  

Soft power, diplomacy and international law were privileged in Europe whereas the United States depended upon its military and economic might to provide peace and security. These different paths to “perpetual peace” have resulted in a break from the shared past and relationships between European nations and the United States have generally become more contentious as a result. With regard to capital punishment, the Europeans’ belief in international law put it on a collision course with the United States thus illustrating how a domestic policy can become a foreign policy liability.

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The United States claim to human rights leadership, so tarnished by all of this international criticism, would take a dramatic and controversial turn in May 2001 when the United States was ousted from the United Nations Human Rights Commission. In an apparent attempt to send a message about the apparent “double standards” and “absence of dialogue and respect” from the Bush administration on several human rights issues, the United States lost its seat on the commission for the first time in the history of the commission. William Schulz, the Executive Director of AIUSA responded to this by stating:

“It’s no wonder that the United States was ousted from the United Nations Human Rights Commission. That defeat was precipitated in part by waning United States influence and by double standards, by the practice of exceptionalism—the notion that we can make a set of rules but don’t have to abide by them, a practice that has occurred in several administrations and Congresses in the last few years.”

However, most all human rights advocates, including Schulz, recognized this was a political move meant to embarrass the United States, rather than a referendum on its human rights record. AI called the United States removal from the commission “part of an effort by nations that routinely violate human rights to escape scrutiny.” In addition, AI asserted that the members of the commission were not doing their job and that they had given in to political and economic pressure. Evidence of this can easily be seen by looking at the members who voted the United States out, but remained on the commission; Algeria, Chile, Libya, Pakistan and Sudan to name a few. These country’s own human rights records strongly suggested that they were inappropriate judges of other’s human rights failures. The United States position on the UN’s top human rights monitoring panel was later restored, but a message had been sent to the United States.

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88 The United States lost its seat on the commission when it failed to get enough votes to win one of three seats reserved for western countries. The three seats went to Austria, France and Sweden.
90 “Amnesty’s Rights Report Blast China and U.S.” 31 May 01 NewsMax.com
fact that France was largely responsible for organizing the vote against the United States was also telling. One might expect this from a traditional opponent of the United States but not France; again illustrating the growing rift between the United States and Europe. The United States also felt the cost of retaining the death penalty when AI urged the Parliamentary Assembly of the Council of Europe, to re-consider the observer status of retentionist countries—the United States and Japan—in the Council.

The continued resort to judicial killing by these two observer states casts a stain on the abolitionist aspirations of the Council of Europe as a whole. Japan and the US must recognize that their observer status places an additional obligation on them to end their use of this outdated punishment.93

In 2001, the Parliamentary Assembly determined that the United States and Japan were violating their obligations as observers of the Council, due to their continued use of the death penalty. The Council attempted to encourage abolition. The Council found their efforts with the Japanese were “fruitful and ongoing” but its efforts with the United States were “certainly not made to feel welcome.”94 Despite all the pressure from Europe, AI and other members of the international community, the United States aggressively maintained its right and intention to continue to use the death penalty. The United States continued to see capital punishment as a criminal justice issue and because so many of its citizens support it, there was little reason to change, according to the U.S. government. AI throughout its larger abolitionist campaign called on U.S. government officials to provide enlightened leadership on this issue and recalled that the public in the past had also supported slavery, lynching, and racial segregation. It asserted that those in

94 Not a single member of Congress attended an abolition conference in Washington D.C. April 2003 hosted by the Council of Europe. By this time AI had been working on abolition in the United States for almost three decades and offered words of encouragement, “We urge the Council of Europe not to be discouraged—it was always going to be a tall order to persuade these two countries to move away from judicial killing. Old habits die hard, and this is one of the oldest habits of all.” Amnesty International, “Council of Europe,” AI Index IOR 30/008/2003.
positions of power must have the courage to end capital punishment, just as courageous leaders in the past ended other publicly-supported, but moral and legally reprehensible forms of “popular justice.”

There were some examples of this kind of leadership, such as Senator Russ Feingold’s (D-Wisconsin) introduction of the Federal Death Penalty Abolition Act on 11 November 1999. He explained why he introduced his legislation,

> With each new death penalty statute enacted and each execution carried out, our executive, judicial and legislative branches, at both the state and federal level, add to a culture of violence and killing. With each person executed, we’re teaching our children that the way to settle scores is through violence, even to the point of taking a human life.  

While Feingold was concerned with America’s moral fiber others based their challenge to the death penalty in more pragmatic considerations, such as the possibility that innocent people may be executed as a result of a faulty justice system.

The Governor of Illinois, George Ryan, was a Republican and long-time supporter of the death penalty. He assumed office in January 1999 and one month later Anthony Porter was exonerated of the double murder for which he had been sentenced to death, only fifty hours before he was to be executed. He was the thirteenth person to be exonerated and released from death row in Illinois, which clearly bothered Ryan. According to Professor David Protess, whose students were responsible for clearing Porter’s name, he “could tell that [Ryan] was deeply concerned on a personal level about how this could have happened, that he could have


96 Porter had served 15 years on death row and received a reprieve from the Illinois Supreme Court in order to test for mental retardation. Undergraduate journalism students from Northwest University took advantage of the delay and went to Alabama to talk to witnesses and track down the real killer. While in Alabama a key witness recanted her testimony and the real killer confessed to the murders during a videotaped interrogation.
executed an innocent man.”  

Perhaps even more troubling was the fact that Ryan had to sign the death warrant for another inmate in March 1999. Rather than do that, Ryan announced a moratorium on executions in Illinois on 31 January 2000; he said “I cannot support a system which, in its administration has proven so fraught with error and has come so close to the ultimate nightmare, the state’s taking of innocent life.”

Ryan’s announcement revealed the reasons for the moratorium; the “shameful” record of wrongful conviction in his state and his fear that an innocent person would be executed, due to flaws in the criminal justice system. His first concern regarding his state’s shameful record was well-publicized by the *Chicago Tribune*’s five-part series on Illinois’s use of the death penalty. The newspaper examined the two hundred and eighty-five death sentences handed down in Illinois from 1977 to 1999 and found dozens of cases of inadequate legal counsel, reliance on shaky evidence, junk science, racial bias, twelve exonerations of death sentences due to innocence and seventy-four death sentences overturned in favor of lesser sentences during the appeals process. Ryan was most concerned with the possibility of executing an innocent person and looked for advice about reforming the system, to ensure that innocent people were not killed.

Ryan created a commission of fourteen people with diverse political and professional backgrounds in order to address one important question: “What reforms, if any, would make

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99 The *Chicago Tribune* in June 2006 did other three-part series on capital punishment, this time focused on the execution of a very likely innocent person in Texas, Carlos De Luna. Although by July 2006 this investigative journalism has not resulted in significant policy changes in Texas or elsewhere.
100 Chicago Tribune 15-18 November 1999, Porter had not yet been exonerated. The five-part series included articles entitled “Death Row Justice Derailed,” “Inept Defenses Cloud Verdict,” “The Jailhouse Informant,” “A Tortured Path to Death Row,” and “Convicted by a Hair.”
application of the death penalty in Illinois fair, just and accurate?\textsuperscript{101} On 15 April 2002 the commission issued a report that addressed this question and provided advice concerning Illinois’s use of capital punishment.

Despite the diversity of backgrounds and outlooks among those on the Commission, we are unanimous in many of our conclusions. All members of the Commission believe, with the advantage of hindsight, that the death penalty has been applied too often in Illinois since it was reestablished in 1977. Accordingly, we are unanimous in agreeing that reform of the capital punishment system is required in order to enhance the level of scrutiny at all junctures in capital cases.\textsuperscript{102}

The commission then listed eighty-five recommendations which it felt were necessary in order to fix Illinois’s use of the death penalty. The report also offered its overall opinion of the death penalty which was nowhere near unanimous.

A narrow majority of the Commission would favor that the death penalty be abolished in Illinois. Those favoring abolition did so either because of moral concerns, because of a conclusion that no system can or will be constructed which sufficiently guarantees that the death penalty will be applied without arbitrariness or error, or because of a determination that the social resources expended on capital punishment outrun its benefits.\textsuperscript{103}

After the commission finished its work it was up to the Illinois legislature to act on the recommendations detailed in its 2002 report. Reform was slow in coming and by March 2002, Ryan began considering commuting all death sentences; therefore, presenting anti-death penalty advocates with a rare opportunity.

AI joined efforts with the Illinois Coalition Against the Death Penalty and sent the Governor more than 20,000 postcards urging clemency and they sponsored the “Dead Man

\textsuperscript{101} The Commission included Democrats and Republicans, twelve were attorneys—including two sitting State’s Attorneys and two public defenders—as well as Paul Simon a former U.S. Senator (D-IL) and a Chief Judge of the federal district court. Scott Turow, \textit{Ultimate Punishment: A Lawyer’s Reflections on Dealing with the Death Penalty} (New York: Picador, 2003), 25-28.

\textsuperscript{102} Scott Turow, \textit{Ultimate Punishment}, 120.

\textsuperscript{103} Ibid, 123-124.
Walking” relay on 17 December 2002. The day before this relay, Ryan attended a performance of the play The Exonerated whose ensemble cast included Danny Glover and Richard Dreyfuss. After the performance Dreyfuss addressed the Governor, “We want to recognize the leadership and just plain courage of Governor Ryan.” As 2002 ended, Governor Ryan was also nearing the end of his term; little progress had been made on the commission’s recommendations and the pressure to commute the death sentences to life in prison was palpable. On 10 January 2002, just days before his term was over, Ryan received a telephone call from Nelson Mandela who said, “the United States sets an example for justice and fairness for the rest of the world” and requested that Ryan commute the death sentences. Ryan also received a letter from Desmond Tutu which said, “to take a life when a life has been lost is revenge, it is not justice” and he also called for commutation of the death sentences. On that day Ryan pardoned four men on death row on the grounds of innocence; the following day he said he decided against “playing God” and reduced three sentences to forty years and remaining 164 had their sentences commuted to life in prison without parole. It was the largest death row commutation in U.S. history.

According to Governor Ryan, the ultimate nightmare was the state-sanctioned execution of an innocent person. The Death Penalty Information Center claimed that twenty-five different states came close to making that nightmare a reality at least one hundred and twenty-three times since 1977. Florida has released the most people from death row after finding the condemned to

104 The relay was a 30-mile walk to present the Governor with a letter requesting that the death sentences be commuted to life imprisonment. Thirty former death row inmates who had been exonerated carried the letter for one mile. David Goodman, “The Conversion of Governor Ryan: A Former Death Penalty Proponent Pulls the Switch on Capital Punishment in Illinois,” Amnesty Now Spring 2003, page 12.
106 Ibid, 10-13 and 27.
107 These four men had been tortured into confessing to the crimes of which they were convicted. Scott Turow, Ultimate Punishment, 96-98.
108 Ryan was nominated for the Nobel Peace Prize for his emptying of Illinois’ death row but the award was given to the Secretary General of the UN, Kofi Annan.
be innocent of the capital charges for which he or she had earlier been convicted. On 23 February 2006 Florida released John Ballard, the twenty-second person released after the Florida Supreme Court found that the case against him was so weak, that the trial judge should have dismissed the charges. Anti-death penalty advocates point out that these one hundred and twenty-three exonervations do not prove that the system works; rather they state that these people were freed often in spite of, not because of, the legal system. These opponents of the death penalty point to a growing number of cases in which the outcome was the execution, rather than, the exoneration of a person who was most likely innocent. One such case was that of Joseph Roger O’Dell III who was executed on 23 July 1997 in Virginia for a crime of which he may have been innocent.

O’Dell was arrested for the rape, murder and sodomy of Helen Schartner in 1985. His trial had many elements which anti-death penalty advocates assert led to faulty convictions, including a jailhouse confession, flawed forensic science and inadequate legal counsel. O’Dell was allowed to represent himself at trial, where he faced a seasoned state prosecutor, testimony from a jailhouse snitch known to law enforcement as “Lyin’ Wayne,” and forensic evidence; all of which pointed to his guilt. He was convicted on 10 September 1986, sentenced to death by the jury the following day with the judge quickly affirming the jury’s recommendation. O’Dell continued to assert his innocence while on death row, even writing a monograph entitled I Was Wrongly Convicted of Murder. After he was convicted, DNA tests contradicted forensic evidence used in his trial, but the Supreme Court refused a stay to allow time for the new DNA tests. Sister Helen Prejean, the well-known author of Dead Man Walking, served as his spiritual advisor and detailed the attempts to prove his innocence in her most recent book The Death of

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109 According to the Death Penalty Information Center in order to be included on this list an individual had to be convicted and sentenced to death and had their conviction overturned or were acquitted at re-trial or all charges were dropped or the governor gave an absolute pardon based on new evidence of innocence.
Innocents: An Eyewitness Account of Wrongful Executions. Many petitioned Virginia authorities on O’Dell’s behalf including Pope John Paul the II, Mother Teresa, the Italian president and Prime Minister. The European Parliament adopted a resolution on his behalf requesting the Virginia authorities allow the DNA testing to prove or disprove O’Dell’s innocence.\footnote{Amnesty International, USA: “A Macabre Assembly Line of Death,” 28. Sister Helen Prejean served as Joseph O’Dell’s spiritual advisor. She has since written about O’Dell’s case and the global effort to obtain clemency. Sister Helen Prejean, The Death of Innocents: An Eyewitness Account of Wrongful Executions (New York: Random House, 2005).}

The Italian government and people became deeply involved in his case, as his execution date approached; the citizens of Palermo, Italy made him an honorary citizen and made over ten thousand faxes and phone calls to the Governor’s office on O’Dell’s behalf. Despite all this international attention O’Dell was executed; the Italian Parliament paid for the funeral expenses including flying his body to Palermo where it was buried with a memorial slab which has the following epitaph in English and Italian.

Joseph Roger O’Dell III  
Beloved Husband of Lori Urs O’Dell  
Honorary Citizen of Palermo  
Killed by Virginia USA  
In a Brutal and Merciless Justice System  
Born September 20, 1941  
Died July 23, 1997\footnote{Sister Helen Prejean Death of Innocents, 165.}

His tombstone revealed the anger of the Italian people and indicted the United States justice system as brutal and merciless. The Italians outrage with the United States use of the death penalty has continued to be expressed even after O’Dell’s execution. On 14 September 2000 Guiliano Amato, the Prime Minister of Italy said, “The death penalty is disgusting, particularly if it condemns an innocent. But it remains an injustice even when it falls on someone who is guilty of a crime.”\footnote{Jeffrey Fleishman, “Italy Holds Nationally Televised Vigil as U.S. gets set to Execute Italian-American,” Philadelphia Inquirer 20 August 2000.} The Italians were not the only country to become involved in individual death
row inmates cases and it became increasingly popular for regional bodies to intervene on behalf of death row inmates in the United States who had solid claims to innocence.

Such was the case with Gary Graham who was convicted of capital murder when he was seventeen years old, despite the fact that no physical evidence linked him to the crime and that his gun was not the murder weapon. He was executed on 22 June 2000 in Texas despite pressure from many organizations and individuals to stop the execution. After the execution a spokesman for the French Foreign Ministry, speaking for the European Union, stated “We regret that the authorities in Texas knowingly took the risk of putting an innocent man to death. We will make the campaign for a moratorium on executions in the United States one of the themes of our [forthcoming] presidency of the European Union.” 113 AI joined in the criticism noting that Graham was the fourth juvenile offender executed in the United States in 2000. AI appealed to President Clinton and Vice-President Gore to intervene but received no reply from either and assumed that neither intervened on Graham’s behalf. AI was not surprised by this inaction finding that during “the modern era of U.S. judicial killing, the federal government has washed its hands of violations of international standards committed by individual states in their use of the death penalty.” 114 According to AI’s 1999 Annual Report since 1990 it documented eighteen executions of juvenile offenders worldwide, carried out in six countries: Iran, Nigeria, Pakistan, Saudi Arabia, the United States and Yemen. Nine of these eighteen executions were carried out in the United States and “earned the [United States] the shameful distinction of leading a tiny and dwindling group of states that commit this particular human rights

114 Amnesty International, Memorandum to President Clinton, 4.
The execution of O’Dell and Graham illustrate the active concern and action on the part of Europeans, as well as AI, regarding the United States use of capital punishment. But this concern was not limited only to those who were believed to be innocent; it also extended to those who were guilty of horrible crimes and who displayed no remorse for their actions. Their work on behalf of the Timothy McVeighs of the world was much more controversial and demonstrates the wide gap between the United States and Europe. In addition, such a campaign demonstrated the evolution of the anti-death penalty movement; early in its history advocacy on McVeigh’s behalf would have been unlikely.

When Timothy McVeigh gave up his right to all further appeals in December 2000, he was scheduled to be the first federal inmate executed in nearly four decades. Pope John Paul II had asked Bush to spare McVeigh, as did a number of governmental bodies and human rights organizations, such as AI, which called on the Bush administration to grant clemency.

The McVeigh case illustrates how the practice of capital punishment allows murderers to set society’s moral tone. Timothy McVeigh is considered by many a textbook example of why the death penalty is justified. However, evidence shows that rather than deterring crime the death penalty may actually increase violence in society. We are asking President Bush to finally consider this evidence and take action to eradicate this cruel, irrevocable, and outdated punishment.\textsuperscript{116}

The likelihood of clemency was slim; as Governor of Texas Bush had refused clemency to one hundred and fifty men and two women—more than any other governor in modern U.S. history.\textsuperscript{117} The European media sometimes referred to him as a “serial executioner” as a result of his gubernatorial record. By coincidence, McVeigh’s execution was scheduled for the eve of Bush’s first presidential trip to Europe. When asked about the awkward timing, Condoleeza

\begin{footnotes}
\item[\textsuperscript{117}] Alan Berlow, “The Texas Clemency Memos,” \textit{The Atlantic Monthly} July/August 2003.
\end{footnotes}
Rice, his National Security Advisor, said the use of the death penalty was an internal matter for the United States: “I believe that our allies probably understand that this is a matter for the American government. It is a matter for America’s democracy, not a matter for international negotiation.”118 The response to McVeigh’s execution suggested that the Bush administration’s belief that capital punishment was an internal matter was not shared by U.S. allies in Europe.

The European media and government leaders responded quickly to news of the execution of 11 June 2001. The Council of Europe said the execution was “sad, pathetic and wrong.” The French daily Le Monde ran a front page cartoon showing “a stadium full of Americans watching it [McVeigh’s execution], all with glasses for a better view.” This sentiment that Americans in general were bloodthirsty was reflected in European coverage of the McVeigh execution, which reported that Terre Haute residents made money on the execution, by renting out their yards and roofs to television crews and by selling T-shirts.119 The New York Times summarized the disconnect between the United States and Europe in the context of President Bush’s European trip; “One of the things that President Bush will discover as he makes his way through Europe this week, is that America’s moral authority as a global champion of individual human rights is being seriously undermined by the nation’s reliance on the death penalty.”120 Therefore, Rice’s assertion that capital punishment is “not a matter for international negotiation” was not shared by many in Europe.

AI also responded quickly to McVeigh’s execution and called on the international community to work even harder to pressure the United States to abolish the death penalty.

By executing the first federal prisoner in nearly four decades, the USA has allowed vengeance to triumph over justice and distanced itself yet further from

the aspirations of the international community. The US government has put its official stamp of approval on this policy; killing, it says, is an appropriate response to killing—the very reasoning said to lie behind the appalling carnage in Oklahoma City on 19 April 1995. The international community must redouble its efforts to persuade the U.S. Government to impose a moratorium on federal executions as a first step toward leading its country to abolition.121

The European community appeared to do just that, when it took advantage of Bush’s European trip to demonstrate disapproval of capital punishment and the execution of McVeigh. The president was greeted with thousands of protesters in the countries he visited, European leaders spoke down to President Bush and the European media depicted him as a “cowboy hayseed.”122 All of these protests did not appear to have much of an impact on the Bush administration, which executed its second federal prisoner, Juan Raul Garza, on 19 June 2001, just one week later. In addition, the number of federal inmates sentenced to death has continued to climb, so AI and fellow anti-death penalty organizations have a lot of work to do in this area. The guilt of prisoners such as McVeigh at the federal and state level makes them a far less sympathetic group of people. AI’s work on behalf of these inmates was the most controversial, but perhaps the most important because it demonstrated its commitment to the universality of human rights. As Irene Khan, the Secretary-General of AI said at the Second World Congress against the Death Penalty in 2004: “Human rights are for the best of us and the worst of us. Human rights are for the guilty as much as the innocent.”123 Other organizations also campaigned for commutation including Murder Families for Reconciliation. One of the most prominent voices of that organization was Bud Welch, whose daughter died in the Oklahoma City bombing. He told the

New York Times, “when we take Tim McVeigh out of that cage and execute him it isn’t going to bring Julie Welch back.”

In 1963 only ten countries abolished the death penalty for all crimes, as of October 2000, one hundred and eight countries rejected capital punishment in law or practice and by 1 January 2006 that number had climbed to one hundred and twenty-two. At the beginning of 2006, seventy-four countries retained capital punishment, but only four of them accounted for ninety-four percent of all known executions—the People’s Republic of China, Iran, Saudi Arabia, and the United States. This is not the traditional company of the United States, especially in the area of human rights. AI’s theme campaign successfully re-framed capital punishment as a human rights problem over the last three decades and the United States refusal to acknowledge this context, has placed it in the awkward position of human rights abuser, rather than human rights leader, in the eyes of the international community. AI summarized the cost of retention for the United States, asserting that “by clinging to a punishment which belongs to centuries now past, the USA is poisoning its present and failing its future.” This domestic policy has had foreign policy costs for the United States. While the United States is powerful enough to resist the international pressure to change this policy for the time being, that does not mean that anti-death penalty advocates have completely failed. The longer the United States resists this change, the more its soft power erodes; as a result, policymaking becomes more difficult. This could eventually lead to abolition, although such a dramatic change in U.S. legislation and public opinion seems unlikely in the near future.

125 Amnesty International, Memorandum to President Clinton, 1.
127 Amnesty International, Failing the Future, 86.
AI’s campaign in the United States has had its successes, even if its final goal of total abolition remains elusive. Its efforts in combination with others have resulted in limitations being imposed on capital punishment and its concerns may have begun to get Americans wondering about whether capital punishment should be imposed in the United States. In addition, some prominent retentionists have spoken publicly against the death penalty, including Governors in Illinois and Maryland, Supreme Court Justices Blackmun and Sandra O’Connor and the evangelical preacher Pat Robertson, who spoke out against the 1998 execution of Karla Faye Tucker, the so-called pix-ax murderer who became a born-again Christian. Even the American Bar Association called for an immediate moratorium in the United States, until basic principles of fairness and reliability can be met. AI should not be given complete credit for the limits that have been placed on capital punishment in the United States. The limits that have been set in place are due to a number of sources of which AI is only one. However, AI’s biggest contribution to abolishing capital punishment can be found in the determined and creative campaign it waged for three decades. The re-framing of the capital punishment issue was an important reason why so many countries abolished the death penalty. It also increased the number of allies AI had in the continuing struggle to end capital punishment. Both the re-framing and the increased number of allies were important in building the pressure that was needed to begin to impose limits on the United States use of capital punishment.

128 On 3 July 2001 Justice Sandra Day O’Connor questioned the fairness of the death penalty and raised the possibility that innocent people had been executed, she was speaking at the Minnesota Women Lawyers Association. She also noted that because Minnesota did not have the death penalty “You must breathe a big sigh of relief every day.” “O’Connor Questions Death Penalty,” New York Times 4 July 2001 page A9. Pat Robertson also called for a nationwide moratorium in April 2000 saying “We must temper justice with mercy.” Jonathan Power, Like Water on a Stone page 252. Robertson said “This thing is vengeance, it makes no sense. This is not the same woman who committed those crimes.” Amnesty International, “A Macabre Assembly Line of Death,” 12.

CHAPTER VI. THE ROAD TO TIANANMEN SQUARE: HUMAN RIGHTS IN THE
PEOPLE’S REPUBLIC OF CHINA

Richard M. Nixon turned U.S. foreign policy on its head when he assumed the presidency
in January 1969. He implemented a policy of détente with the Soviet Union and began the
process of normalizing relations with the People’s Republic of China (PRC), in the hopes that it
would act as a counterweight to the Soviets. According to Patrick Tyler, “Over the course of the
next two decades, never again would an important international decision be made in Moscow,
Beijing or Washington without the leaders of those capitals factoring in the consequences for all
three,” and geopolitical considerations trumped all other considerations within this triangular
power struggle.¹ Nixon’s move to formalize relations with the PRC reversed U.S. foreign
policy. Ever since the end of the Chinese Civil War, the United States had continued to
recognize the Chinese Nationalist Government, which had taken refuge on Taiwan, as the
legitimate government of China. During the Nixon Administration the U.S. relationship with
mainland communist China took priority over the Nationalist Government. Nixon hoped
improved relations with the PRC would facilitate an honorable end to the war in Vietnam and
negotiations with the Soviet Union.

The process of normalization began in 1971 when President Nixon’s National Security
Adviser, Henry Kissinger, made a secret trip to the PRC to discuss normalization as well as a
possible Presidential visit to the country. As a result of this trip and to show the Chinese
Communist leadership that the United States was serious about normalizing relations, the PRC
was given the Chinese seat at the United Nations in 1971, over the protests of the Taiwanese
government and others. This was followed by President Nixon’s visit to the PRC in February
1972; he was the first president ever to visit the PRC. Following Nixon’s visit to the PRC in

1972, the United States Liaison Office was established to serve as U.S. representation in China until formal diplomatic relations were established. President Gerald Ford chose George H.W. Bush to serve as the chief of the Liaison Office in 1974; this assignment had a tremendous impact on the man who soon became Vice-President and then President of the United States.\(^2\) Throughout the 1970s the two countries moved slowly toward formal diplomatic recognition, which was achieved in 1979; but there remained issues that the two countries disagreed upon but looked past, in order for the normalization to be achieved, namely the status of Taiwan and human rights principles.

Even before the crackdown in Tiananmen Square during the spring and summer of 1989, the human rights record of the communist led government in China was abysmal. Much of China’s human rights history covered in this project were events which took place during the middle to late Mao era and the Deng era, roughly the period following World War II and continuing until the mid-1990s. There was a pattern to China’s human rights history during this period. There was first, governmental approval for political liberalization which the Chinese Communist Party (CCP) then came to see as a threat to its power, and as a result, the once sanctioned liberalization, was followed by repression. It was during these periods in the cycle, that much of the human rights abuses occurred. China’s global isolation hid most of its human rights abuses, but as China modernized and ended its isolation, it was more difficult to keep the world ignorant of this problem. This was demonstrated clearly on 4 June 1989, when the People’s Liberation Army, brutally suppressed the Chinese democracy movement before the television cameras of the world. That this massacre was a global news event, has established a link in the global conscience between massive human rights violations and the Chinese government. That the Chinese government continues to commit these human rights violations

has helped to cement this linkage, especially among human rights advocates. In order to understand the modern human rights problem in China, one must put it in context; human rights did not just become a problem in the PRC after June 1989. The events of 4 June 1989 and the aggressive government manhunt for the leaders that followed, was part of a pattern and can only be understood if one knows the history of the country and its leaders, and its relationship with other countries such as the United States.

Following Mao’s triumphant declaration which established the PRC and continuing until his death, Mao enacted several policies meant to propel the “people’s revolution” forward, in order to usher in the ultimate goal of the revolution, a communist state. As he aspired to this goal, he implemented policies that created a cycle of liberation and repression in China. For instance, the liberal policies of the Hundred Flowers campaign of 1957 were quickly followed by the repressive Anti-Rightist Campaign. The recovery of the PRC in the early 1960s let people breathe easier, but the last decade of the Mao-era was marked by violence, which began with the Cultural Revolution and included volatility within the CCP, which resulted in political instability and massive human rights violations. These cycles of liberalization and repression did not end with Mao’s death. After the Cultural Revolution and the passing of the Mao Era, there was a period of liberalization known as the Democracy Movement (1978-1981). This was suppressed in 1981 until the intellectual thaw of 1985-1986, which was again put down by the government, but enough of this movement was left to re-emerge in the 1989 democracy movement, which was crushed by the government. A period of aggressive political suppression followed, which continued into the twenty-first century.

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3 The repression of the Anti-Rightist Campaign was augmented by another repressive policy program begun in 1958, known as the Great Leap Forward. Both repressive policies, the Anti-Right Campaign and the Great Leap Forward, resulted in massive and wide-scale human rights violations and ultimately death for millions of Chinese.
The cycle of liberations and repressions during the Mao Era, can largely be attributed to Mao himself, since he was the paramount leader of the CCP from the communist revolution in 1949, until his death in 1976. This cycle, in combination with the unrealistic plans he implemented to propel the people’s revolution forward, resulted in “well over 70 million deaths in peacetime, more than any other twentieth-century leader.” Human rights violations were clearly occurring on a massive scale, long before the Tiananmen Square Massacre of 1989.

The first major liberalization of the Mao Era was announced in 1957. It was a reform movement known as the Hundred Flowers, due to its slogan “Let a hundred flowers bloom; let a hundred schools contend.” Mao’s intention in launching this reform movement has been argued by scholars. Some argued that Mao encouraged “the masses” of intellectuals and professionals to criticize the CCP’s errors and excesses to combat the heavy-handed administrative tyranny of the CCP and that he felt compelled to do this, because the CCP had cast too wide a net in attempting to root out its internal enemies. Others argue that this reform campaign was really a red herring, designed to draw the opposition out into the open and then eliminate or neutralize it. Some documents suggest that Mao shared this planned-trap with a select few in April of 1957.

Intellectuals are beginning to…change their mood from cautious to more open…One day punishment will come down on their heads…We want to let them speak out. You must stiffen your scalps and let them attack!…Let all those ox devils and snake demons…curse us for a few months.

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5 Hu Shi and Hu Feng, leading figures of the New Culture Movement which had been so instrumental in shaping the political philosophy of CCP leaders such as Mao, had been denounced as bourgeois lackeys and attacked for the failure to adhere to Mao’s teachings. That these important figures were criticized as counter-revolutionaries indicated to some, that the revolution was heading in the wrong direction; therefore, Mao’s campaign was meant to correct the direction of the revolution.
6 Such documents include a circular issued by Mao to the Party on 12 June 1957 which stated the Hundred Flowers campaign was a trap. Jung Chang and Jon Halliday, Mao: The Unknown Story, 419.
7 Ibid, 417.
Whatever Mao’s intention, the Party had no interest in hearing this criticism and if Mao was looking for constructive criticism, he was no doubt disappointed by the nature of the criticism from “the masses.” The reform campaign was launched in May 1957 and instead of specific constructive criticism, the bulk of the criticism dealt with ending one-party rule. University students were the most radical and political in their criticism and on 19 May 1957 the classrooms at Beijing University were emptied, as students pasted big-character posters on university buildings. The main area in “the battle of posters” was known as the Democracy Wall. In addition, an area of campus was renamed Democratic Plaza, where rallies, demonstrations and outdoor meetings were held on the topic of reform. If Mao had truly been looking for constructive criticism, it would seem that he had a big “I told you so” coming from the CCP’s senior leaders, who had warned him about initiating this campaign. One month after the campaign started, it was ended, when on 7 June 1957 Mao stated that challenging the Party was forbidden. Thus began the repression of the Anti-Rightist Campaign (1957-1959).

Those who had come forward to criticize the Party had their lives destroyed. They were fired, exiled in prison camps and branded forever with the label of “rightist.” Mao revealed some specifics of this repressive campaign. In Hunan Province alone 100,000 were denounced, 10,000 were arrested and 1,000 were executed. Other provinces reported similar numbers and Mao declared “our problems were solved.” This purge not only demonstrated massive and arbitrary human rights violations, but it set the stage for more human suffering.

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9 Rightists were those who were characterized as hostile to the CCP and against the revolution, therefore they were enemies of the state.

10 In the circular sent to the Party from Mao on 12 June 1957, he set a quota for victims of the repression that followed the Hundred Flowers campaign. The quota was set at between 1 and 10 percent of “intellectuals” who numbered around 5 million at the time. Consequently, 550,000 people were labeled Rightists even if they had not participated, in order to fill Mao’s quota. Jung Chang and Jon Halliday, Mao: The Unknown Story, 419.

11 Jung Chang and Jon Halliday, Mao: The Unknown Story, 420.
Mao’s next revolutionary action was an attempt to unleash the people’s energy, to propel the country’s industrial development and to reach the ultimate goal of communism, a classless society. Since most of China’s intellectuals were gone and the Anti-Rightist Campaign threatened anyone who criticized revolutionary action, no one prevented Mao from implementing his unrealistic plan for rapid industrial development of the country. The Great Leap Forward was launched in May 1958 and called for the creation of “people’s communes,” a return to the barter system, communal dining halls, airstrips in every county and backyard steel furnaces.\footnote{Timothy Cheek, \textit{Mao Zedong and China’s Revolutions: A Brief History with Documents} (Boston: Bedford/St. Martin’s, 2002), 24.} Mao believed that these communes, which pooled the land that farmers had received six years earlier, into communal farms, “contained the sprouts of communism” as well as some 30,000 people.\footnote{Timothy Cheek, Mao Zedong and China’s Revolutions, 163. “Talks at the Beidaihe Conference,” August 1958.} These communes took up industrial tasks, rather than working in the fields. The goal was to catapult China past the developed countries, but it failed, both because the industrial products that were produced were of low quality and because the country was starving due to the diversion of labor to industrial work. The local CCP administrators of these communes reported inflated production rates, to meet Party goals, which caused the Party to raise the revenue tax on these communes based on inflated figures.\footnote{These were known as “sputnik fields” because the yields reported were sky-high such as the one-sixth acre in Henan upon which 1.8 tons of wheat had been produced—more than ten times the norm. Also in Guangxi an ambitious county boss reported the “biggest rice sputnik;” 70 tons of rice produced on less than one-fifth of an acre, hundreds of times the norm. The end of the year grain report overstated production by over three times, but the state demanded 4.8 times what it had taken the year before. Jung Chang and Jon Halliday, \textit{Mao: The Unknown Story}, 427-428.} The resulting famine, when combined with the harsh conditions of the Great Leap Forward, resulted in the death of approximately thirty-eight million Chinese between 1958 and 1961.\footnote{Ibid, 438.} In November of 1958, Mao said “Working like this, with all these projects, half of China may well have to die. If not
half, one-third, or one-tenth—50 million—die.”\textsuperscript{16} This second major disaster resulting from Mao’s impractical plans, further isolated him from the other CCP leaders and the Chinese government ended the program. Mao withdrew from the daily administration of the government leaving the nation’s recovery to others, such as Liu Shaoqi. Under Liu’s leadership the CCP moderated social policy and brought the country back from social and economic collapse by 1965.

During this time, Mao was marginalized and isolated within the Communist Party, ideologically speaking. In the late 1950s, in addition to aggressively pushing the policies of the Great Leap Forward, he had picked a fight with the Soviet Union over ideological orthodoxy. By 1960 these ideological differences caused a rupture between the two communist countries, which would not be repaired until the 1980s, after Mao had passed away.\textsuperscript{17} Mao came to see the Soviets’ failure to come around to his line of thinking and the CCP moderating path, as betrayals to communist ideology. In order to put China back on the correct revolutionary path, Mao believed the CCP would have to be dismantled and resurrected.

Mao’s plan to re-invigorate the people’s revolution was known as the Great Proletarian Cultural Revolution launched in 1966. He depended on the youth of China to rid Chinese society of the four olds—old customs, old habits, old culture and old ideas—and Soviet-style “revisionists.” These young people, known as the “Red Guards,” created a reign of terror across China, which was focused predominately in the urban areas. The Red Guard, with the cooperation of the Army, ransacked private homes, government offices, museums and temples and beat, imprisoned and generally terrorized Chinese who reflected the four olds. Just the ability to speak a foreign language was enough to cast suspicion on someone as a counter-

\textsuperscript{16} Ibid, 439.
\textsuperscript{17} The Soviet Union removed all its technical advisors from China in 1960.
revolutionary or a Rightist. Longtime members of the Chinese Communist Party were detained, especially those such as Liu Shaoqi, who challenged Mao’s authority. Family members turned on one another as they were encouraged to report any person lacking revolutionary credentials. Children reported their parents and other elders and mentors to the authorities and participated in “struggle meetings” against them.\(^\text{18}\) As the level of violence escalated and threatened to get completely out of control in late 1967, the Army asserted itself to re-establish order and killed many of the Red Guards.

The Cultural Revolution was a pivotal event for participants and victims of the three years of upheaval and violence. There was no official death toll, but at the 1980 trial of the Gang of Four, they were charged with the deaths of 34,000 innocent people from 1966-1976. The pre-trial indictment suggested a far greater death toll; 14,000 deaths in Yunnan province alone and 16,000 deaths in Inner Mongolia.\(^\text{19}\) Other estimates of the death toll placed the number at around 400,000, a number first reported by the Agence France Press in 1979. The true toll may well be more than 400,000, but it is unlikely that this was an inflated number.\(^\text{20}\) The violence did not end in 1969 when the Cultural Revolution ended. During the last ten years of Mao’s life, at least three million people died violent deaths and post-Mao leaders acknowledged that 100

\(^{18}\) A struggle meeting normally consisted of an accused Rightist or counter-revolutionary making a self-criticism for his or her offenses against the proletariat before a massive gathering of hostile governmental authorities and members of the Red Guards. After such a meeting the confessed counter-revolutionary received a varied of punishments including house arrest, imprisonment or death. These events have cast a long shadow on Chinese society, which had a tradition of respecting teachers and elders and gave them a special place in Chinese society. For more information on the events of the Great Cultural Revolution see the memoirs of Nien Cheng. Nien Cheng, *Life and Death in Shanghai* (New York: Penguin Books, 1986).

\(^{19}\) Maurice Meisner, *Mao’s China and After*, 353.

\(^{20}\) Ibid, 353-354. This estimation reveals an idea that the CCP during and after Mao’s leadership does not want people to know; that the People’s Liberation Army committed the lions share of the violence and killing. The CCP preferred to place the majority of the blame on their political enemies, such as the Gang of Four, rather then the third arm of the tri-partite that has political power in the PRC, the Army. The other two parts, are the CCP and the state bureaucracy.
million, one-ninth of the population, suffered in various ways and that most of the killings were state-sanctioned by those other than the Red Guards.  

For those who survived the Cultural Revolution, their stories chronicle human suffering on a massive scale. Millions were physically and psychologically broken as a result of the violence. Some endured long torturous imprisonments or worked in labor camps and families were divided. Meanwhile the CCP blamed all these tragedies on the “ultra-leftists” or radical Maoists. In reality, these radical Maoists were victims of the Cultural Revolution, just as the Chinese intellectuals had been. The Cultural Revolution therefore left a legacy of grief, distrust and hatred that would be felt in the 1970s and beyond. The country’s universities re-opened between 1970 and 1972, but by the mid-1970s enrollment was only one-third of enrollment a decade earlier. For intellectuals, the period between 1966 and 1976 was seen as “the ten lost years” when Maoism had a strong anti-intellectual component. The Red Guards were disbanded in late 1967 and Mao instituted the “rustification” program, which continued until his death. Under this program he urged the educated urban youth to “go to the countryside, to be reeducated by the poor and low-middle peasants.” Between 1967 and 1976 seventeen million urban youths and former Red Guards were sent to the countryside. Some went willingly, believing in the revolutionary idealism of such a move, but this soon changed to feelings of betrayal and political cynicism. Maurice Meisner wrote: “Deprived of the possibilities of higher education or urban employment, and subjected to the unanticipated hardships and poverty of rural life, the ‘rusticated’ youth eventually came to view themselves as ‘the lost generation.’”

During the 1960s the PRC was isolated from both of the United States and the Soviet Union. Nixon had said in 1969 that he was interested in improving relations with the PRC, but it

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was not until June 1970 that Mao decided to invite Nixon to China. The formal invitation did not reach the White House until 11 January 1971 and Nixon, not wanting to appear over-eager, delayed his response until the end of the month.\textsuperscript{23} Kissinger secretly traveled to the PRC in July 1971 and offered it full recognition by January 1975, if Nixon was re-elected in 1972. He also promised to quickly transfer the Chinese seat at the United Nations to the PRC. The PRC secured the UN seat in October 1971 and “Mao made a point of reminding them [the PRC representatives] that they must continue to treat the U.S.A. as Public Enemy No. 1, and fiercely denounce it ‘by name, an absolute must.’”\textsuperscript{24} Mao’s general impression about the United States remained constant, it was China’s enemy. However, President Nixon’s ideas about China and its communist leadership were fundamentally changed during the 1970s. Prior to his historic trip to the People’s Republic of China, Nixon said of the United States and China: “We will have differences in the future. But what we must do, is to find a way to see that we can have differences without being enemies in war.”\textsuperscript{25} Quite a reversal for the former Red-baiting politician who while serving as President Dwight D. Eisenhower’s Vice-President, did verbal battle with Soviet premier Nikitia Khrushchev in the famous “kitchen debate” of 1959 and consistently took a hard line against communism.

Nixon’s trip was closely followed by many Americans, who believed that the opening of China would bring peace. Nixon publicly promoted this sentiment; however, in private conversations with H.R. Haldman, the White House Chief of Staff and Henry A. Kissinger, National Security Advisor, he said the American public was “hopelessly naïve” and “willing to pay almost any price for peace,” something he would use to sell the opening of China and win

\textsuperscript{23} Jung Chang and Jon Halliday, \textit{Mao: The Unknown Story}, 579. The American people found out about this invitation when Edgar Snow’s interview with Mao was published in \textit{Life} magazine in April 1971. Coincidently, the same month a traveling U.S table tennis team visited the PRC; many referred to this as “ping pong diplomacy.”\textsuperscript{24} Ibid, 583.\textsuperscript{25} Max Frankel, “Historic Visit by an Unlikely Guest,” \textit{New York Times} 20 February 1972, sec E1.
re-election later that year. It was observed at the time that the moon was less mysterious to most Americans than China, which dramatically illustrated the fact that the United States was traveling into uncharted territory, as it set out to establish diplomatic relations with the PRC.

At the time of Nixon’s presidential trip, Mao was gravely ill, but upon hearing that Nixon’s plane had landed, he told Premier Zhou Enlai that he wanted to see Nixon immediately. Mao hosted tea for Nixon and Kissinger and they discussed the possibilities of a Sino-American relationship, politics in the United States and the Soviet Union. Premier Enlai was Nixon’s official host and not all of their meetings went according to Nixon and Kissinger’s calculations. However, the successful meeting with Mao and the long handshake exchanged between the American President and the father of Chinese communism, indicated that the era of Chinese isolation had ended and that a new era was underway. At the conclusion of this historical meeting, the two leaders issued the “Shanghai Communique.” This document, would serve as the basic instrument upon which the new Sino-American relationship would be based; both countries acknowledged, that progress toward normalization was in the interest of all countries, that both wanted a reduction in international military conflicts, that neither country would seek hegemony on the Asia-Pacific region and neither country was prepared to negotiate on behalf of a third party. Nixon’s ability to act on the roadmap to normalization provided by

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28 Mao had passed out only nine days before Nixon’s arrival and the room in which Mao and Nixon met was a makeshift medical ward although this equipment were screened off during the meeting. Jung Chang and Jon Halliday, *Mao: The Unknown Story*, 583.
29 While discussing American politics Mao mentioned that he liked when people from the political right came to power in the United States. Nixon agreed with the Communist leader saying, “I think the important thing to note is that in America, at least at this time, those on the right can do what those on the left talk about.” During this meeting, Nixon made no mention of the human rights suffering as a result of the Cultural Revolution, which was occurring at the time of the meeting. Patrick Tyler, *A Great Wall: Six Presidents and China*, 131.
the Communique, was ultimately sabotaged by his complicity in the Watergate Scandal, so it was left to his Vice-President, Gerald R. Ford to implement its objectives.

Prior to assuming the presidency, Ford had built up his anti-communist credentials through open hostility to Mao, Chinese communism and human rights abuses prevalent in China. In addition, he had voiced strong support for Chiang Kai-shek’s government in Taiwan. Ford had initially worried about Nixon’s bold move to open China; however, over time he became convinced that China’s future dominate position in the East required normalization. Therefore after Nixon resigned, Ford continued his predecessor’s policies and retained Kissinger as Secretary of State.31 His first act as President, with regard to China, was to send a communication to Chairman Mao, ensuring him that the change in American leadership would not derail the normalization process.

Dear Mr. Chairman: As one of my first acts as President of the United States, I wish to reaffirm the basic continuity of American foreign policy in general and our policy toward the PRC in particular. My Administration will pursue the same basic approach to the international situation that has been carried out under President Nixon. Our relationship with the PRC will remain a cardinal element of American foreign policy; we will continue to see a strong, independent China as being in our national interest. These views have solid, bi-partisan backing in the U.S.32

Ford’s approach to normalization differed greatly from Nixon’s. He preferred to let Kissinger guide him in constructing and implementing U.S. foreign policy, but he was less willing to take risks than Nixon and he would not position himself too far out of line with the centrist logic of his former colleagues in Congress. Therefore, Ford did not see any need to rush to complete normalization.33 Kissinger made several trips to China during President Ford’s term of office, but progress toward normalization had stalled largely because vocal, conservative Republicans,

31 Kissinger had been sworn in as Secretary of State on 22 September 1973.
32 Patrick Tyler, A Great Wall: Six Presidents and China, 183.
33 Ibid, 185-186.
such as Ronald Reagan, were challenging the compromises involved in achieving normalization, namely sell out Taiwan to “Red China.” Ford visited China in December 1975 and met with a very ill Chairman Mao, but little was achieved during his visit. Mao had been ailing for several years and powerful members of his Party, who had tired of social revolution and its devastating and de-stabilizing effects, began to move the CCP and the PRC in a new direction. \(^{34}\)

By January 1975, Premier Zhou Enlai (Chou En-lai) announced a strategy known as the Four Modernizations. Zhou called for the modernization of agriculture, industry, national defense and science and technology, to make China a world power by the end of the century. \(^{35}\) The break from Mao’s policy of national self-reliance was clear and the ailing Mao felt betrayed by this policy change as well as the defiant behavior of members of this alliance, perhaps most especially Deng Xiaoping. \(^{36}\) Mao’s loss of power over the Chinese people could be seen as well, by their response to the death of Premier Zhou on 8 January 1976. Over one million crowded the street, as his body was taken to the crematorium. In early April, during the Tomb-Sweeping Festival which honors the dead, crowds gathered in Tiananmen Square to mourn Zhou and to denounce the Cultural Revolution; the crowd was ordered to disperse, but they remained and destroyed police vehicles and set fire to the headquarters of the militia. The defiance of Mao’s laws in Tiananmen Square took place right under his nose, because his home was close to the Square. Mao brutally suppressed the protests and ordered a countrywide crackdown. He also removed Deng from the government and imprisoned him because he believed Deng played a role

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\(^{34}\) Perhaps the most important members of the CCP to re-direct the CCP were Army Chief Marshal Ye, Premier Zhou En-lai, and Deng Xiaoping who formed an alliance in April 1973. This alliance greatly undermined Mao’s “paramount” leadership position. Jung Chang and Jon Halliday, *Mao: The Unknown Story*, 615.


\(^{36}\) By the end of 1975 Deng was severely undermining Mao’s authority. He refused to draw up a Party resolution to make the Cultural Revolution permanent and his refusal was done in the presence of 130 senior Party cadres. Mao’s opportunity to strike out against this alliance came on 8 January 1976 when Premier Zhou En-lai died. Mao had Deng placed under house arrest and Marshal Ye was suspended from his duties. Jung Chang and Jon Halliday, *Mao: The Unknown Story*, 621.
in this counterrevolutionary action. But Mao’s power was waning and a massive heart attack in June 1976 brought Mao closer to the end of his life. Realizing that Mao was seriously weakened by all of these events, Deng’s allies forced Mao to release Deng in July 1976. Following Zhou’s death, Deng became the driving force behind the policy of the four modernizations. Mao’s death on 9 September 1976 not only made it easier to implement this policy, but it also resulted in the next liberalization of China.

In the summer of 1977, Deng had been formally restored to the Party and state positions he had occupied and he was soon one of the China’s top three leaders. By 1978, Deng was championing “social democracy” or socialism with Chinese characters and he introduced economy-oriented reforms that reflected the policy of the four modernizations. Also, that year there were many “reversals of verdicts” which allowed 100,000 political prisoners to be released, many of Mao’s political foes were “rehabilitated.” One of the most significant of these “reversals of verdicts” was the CCP’s redefinition of the incident at Tiananmen Square during the Tomb-Sweeping Festival in April 1976. At the time Mao declared the incident a counterrevolutionary act and Deng Xiaoping lost his Party and state positions and was imprisoned. In the fall of 1978, the incident was re-classified a revolutionary event and the press praised the demonstrators as heroes. This re-classification played into the Democracy Movement which started in 1978 and lasted until 1981, when it was finally crushed by the Deng government. The growth of this Democratic Movement was supported by Deng and his allies in 1978; the reclassification of the Tiananmen incident and his embrace of the four moderns

37 Ibid, 621-622.
38 Maurice Meisner, Mao’s China and After, 395.
39 The other two were Defense Minister Ye Jianying and Hua Guofeng Mao’s last close associate, but Mao did not appoint him as his successor, fearing a coup. Ibid, 433.
40 Ibid, 433.
41 The 1976 Tiananmen incident had taken on great symbolic importance in the two and a half years between the event and when Deng said it was a revolutionary action. Many Chinese came to believe that the incident symbolized the “expression of the democratic yearnings of the people against a despotic state.” Ibid, 434.
generated an environment where some Chinese felt it was possible to advocate successfully for political change. When they pushed too far the next round of repressive Chinese policies was enacted, this time by Deng rather than Mao.

The liberalization of China in 1978 was greeted eagerly by the former Red Guards of the Cultural Revolution. They were now in their late twenties and early thirties and this “lost generation” had retained much of their anti-authoritarian stance, as well as their objection to the monopolization of power in the CCP and its claim to ideological infallibility. This “lost generation” had been denied access to formal education and been subjected to the “rustification” program, which constricted many of them to ordinary and menial jobs. They were encouraged to act, not just because of the apparent leniency of the Deng government, but because the “reversal of verdicts” had greatly increased the number of former Red Guards in the cities. These former Red Guards and some young workers, beginning in 1978, began posting wall posters calling for democracy as the “fifth modernization.” As the year continued without suppression, some of the posters became bolder denouncing Mao’s unjust policies, specifically the Cultural Revolution, which had a significant impact on this group of people. They also demanded that all “Maoists” be removed from the Politburo and called for human rights, socialist legality and a democratic political system.\footnote{Ibid, 434.} Despite the lenient treatment of the government throughout 1978, few students or older intellectuals joined in the political activities of that year, perhaps because the former Red Guards were not considered suitable allies given their history or because they knew that the period of leniency would come to an end.
Deng traveled to the United States in January 1979 to mark the establishment of formal relations between the two countries.\textsuperscript{43} When he returned to the PRC, he began the suppression of the Democracy Movement, which threatened to continue growing and create instability and embarrassment. The repression began in the spring of 1979, when the government banned unofficial journals and organizations and arrested the leaders of the movement. Wei Jingsheng, who became one of the most famous of China’s political prisoners, was arrested on 29 March 1979 for a number of ideological and political crimes, which fell under the charge of counterrevolutionary action.\textsuperscript{44} The CCP found evidence of these crimes in the articles and posters that he authored, including a twenty-page wall poster that detailed the conditions at Qin Cheng No. 1 prison, a notorious political prison in a Peking suburb.\textsuperscript{45} The poster read in part:

Prisoners are divided into four classes according to the amount they have to pay for their meals. However, corruption…prevents the prisoners from getting what they are officially allotted. One of the lightest and most common punishments is to first starve the prisoner and then give him or her a bowl of noodles heavy with grease as ‘compensation.’ Most, of course, get sick upon eating this and have to miss the next few meals as well.\textsuperscript{46}

Wei was also charged with counterrevolutionary action because he was the editor of Explorations, which was critical of Deng\textsuperscript{47} and Mao and because he wrote other wall posters which bore titles such as “Does Deng Xiaoping want Democracy? The Answer is No,” and one of the most famous wall posters, “The Fifth Modernization—Democracy and Others.” He was

\textsuperscript{43} From December 1978 until early 1994 no one challenged Deng Xiaoping’s position as “paramount leader” in China.
\textsuperscript{44} Wei was a former Red Guard.
\textsuperscript{45} A 1978 report from Amnesty International (AI) contained information on this prison from former prisoners turned refugees, AI did not know the number but described some of the abuse: semi-starvation, overwork, and inadequate health care ‘An Unusual Glimpse into China’s Gulag,’ New York Times 13 May 1979, sec E4.
\textsuperscript{47} Wei prophetically warned of Deng’s “metamorphosis into a dictator.”
also arrested for passing military secrets of the People Liberation Army’s invasion of Vietnam, to foreign newspaper reporters.  

The trial of Wei Jingsheng lasted one-day and it seemed that he was assured of being found guilty, because his head had been shaved before trial—this was standard procedure in China but not until after an individual had been convicted of a crime. During his trial, Wei argued that “the Constitution gave the people the right to criticize leaders, because they were human beings and not deities” and that the Chinese Constitution gave him freedom of speech and that if the current government could not be criticized, there was little difference between it and the notorious Gang of Four. This made no difference with the court as he was sentenced to fifteen years in prison. Wei’s arrest was followed by political repression and “was a depressingly prophetic pointer to the political future of post-Mao China.”

It would seem that when the normalization process was finalized in 1979 President Jimmy Carter, who placed human rights at the center of his foreign policy, hoped that the United States would be in a position to pressure the PRC to end these cycles of liberalization and repression. However, through his actions it was clear that human rights were never going to dominate America’s China policy, due to the overriding geopolitical demands of the Cold War. Carter, who had vowed that he would not “ass-kiss” the Chinese, gave little attention to the jailing of the Democracy Wall advocates in 1979, and did not say much about the fifteen year sentence handed down to Wei Jingsheng. The State Department merely said that the United

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48 He was one of a very few that protested the Chinese invasion of Vietnam.
50 Following his conviction it was reported that Wei was placed solitary confinement and that he had also been housed on death row for a time. Amnesty International, Amnesty International Report 1984 (London: Amnesty International Publications, 1984), 3, AI Index: POL 01/01/84.
51 Maurice Meisner, Mao’s China and After, 449.
States was “surprised and disappointed at the severity of the sentence.” Carter did however mention Wei Jinsheng status as a political prisoner when he visited the PRC in September 1981. He told the press that he brought up the name of two political prisoners provided to him by Amnesty International, one of which was Wei. Carter said that he mentioned this to the Chinese because he “continued to be interested in the degree of human rights protection in China.” According to Carter, the Chinese responded by pointing out that the PRC was a different society from America, but that it was trying to liberalize its policies.

Wei’s arrest signaled the beginning of the suppression of the Democracy Movement; that suppression had largely removed the movement from public view by the spring of 1981. Many activists shared the fate of Wei, serving long sentences in prison or being sent to labor camps. During this period of repression, Deng began to implement legal changes that would prevent such demonstrations in the future. To that end, he demanded the removal of the “four great freedoms” —the right to “speak out freely, air views freely, hold great debates, and write big-character posters” from the Constitution. He replaced these with the “four cardinal principles”—upholding the socialist road, the dictatorship of the proletariat, the leadership of the Communist Party, and Marxism-Leninism-Mao Zedong Thought. The most important of these was the leadership of the Party. Also in December 1982 a new Constitution was adopted, which guaranteed the freedom of speech, the press, assembly, association, procession and

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53 You can see the Asian values argument in this statement from the Chinese. Asian values as opposed to human rights were championed by the Chinese government throughout the 1990s. Proponents of this argument assert that the human rights ideology should not be apply to Confucian-based cultures which privilege group rights over individuals rights. James P. Sterba, “Carter, Ending China Trip, Stresses Taiwan Issue,” *New York Times* 4 September 1981 sec A2.
55 They had been added in January 1975 under Mao’s recommendation but were rarely observed. Deng wanted them removed because they reminded him too much of the attack on the CCP during the Cultural Revolution. Ibid, 437.
56 Ibid.
demonstration. It also strengthened laws against arbitrary arrest and introduced new protection from unlawful searches. However, it no longer guaranteed freedom of correspondence, publication and the right to strike. Also freedom of religious beliefs was guaranteed as long as “religious bodies and religious affairs were not subject to any foreign domination.” These changes reflected the CCP’s priorities of political stability and economic growth.

There was evidence that the CCP was attempting to liberalize its policies during this time. On 27 June 1981 the Party issued a resolution that established the State’s position on Mao’s leadership of the country. The resolution held that Mao was a great revolutionary leader and an important leader in the early development of the PRC, but criticized his “mistakes” during the later years of his rule. The Party cited the expansiveness of the Anti-Rightist Campaign of 1957, the Great Leap Forward and his sanctioning of the Cultural Revolution, as the most critical of his “mistakes.” It also found that the Cultural Revolution was a decade-long catastrophe. This resolution was an attempt to come to terms with the Mao Era and the vast amount of human suffering of that time; acknowledging these state policies as “mistakes,” implied that political repression by the state was wrong. The party attempted to demonstrate this at the end of 1982, when the infamous Gang of Four was put on trial for their crimes during the Cultural Revolution. While this was largely a show trial and the Gang of Four was a scapegoat that allowed current Party members to avoid acknowledging their pivotal roles in the Cultural Revolution, some saw this trial as a positive sign, because six years earlier there would have been no trial at all. Further, according to Human Rights Watch/Asia the number of political prisoners was significantly reduced.

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57 The level of commitment to enforcement of these guarantees is unclear and changed over time.
59 Ibid, 538.
Although statistics on political prisoners generally are kept secret, data obtained on one province gives some idea of the dramatic change that occurred. In late 1959 Heilongjiang Province had a prison population of 97,332, of whom 57,933 (about 60 percent) had been jailed as ‘counterrevolutionaries.’ In 1981, the prisoner population in the province was 23,685, among whom only 577 (less than 3 percent) were classified as “counterrevolutionaries.”

The cycles of liberalization and repression continued in the Deng Era. The repression that followed the Democracy Movement of 1979 was followed by more liberalized policies in the spring 1986. Deng inaugurated a period of political relaxation, encouraged ideological flexibility and stressed the need for “political reform,” to commemorate the thirtieth anniversary of the Hundred Flowers. Once again, the opportunity created by more liberal policies resulted in pro-democracy demonstrations, which drew support from students and workers; when these protests threatened to overwhelm the Party’s ability to control it, the movement was suppressed. The demonstrations were condemned and suppressed by the government, and by January 1987 the movement appeared to have ended. The government, however, continued to search out dissidents and used the demonstrations as a pretext for re-arranging the senior leadership of the CCP and to take up another campaign against the intellectuals in the country.

The most famous victim of this repression was Hu Yaobang who was ousted as General Secretary of the CCP in January 1987 on the grounds of excessive liberalism; he had been too

61 While the public demonstrations had ended, the demonstrations in 1986 should be seen as precursors of the democracy movement in 1989 because the demands were similar and because that movement also started with the students. It is important to see the events of Tiananmen Square in 1989 as an evolution of a undercurrent of calls for democracy that existed in the country for decades if not longer.
62 Deng’s policy to economically reform the PRC caused alarm among hard-liners and there was a battle between those who backed market reforms and greater openness and those who demanded orthodoxy and retention of absolute political control by the Party during this period. Students were encouraged by Deng’s reforms and in 1986 and 1987 their demonstration for greater reforms and dissent gave hard-liners the chance to get rid of Hu Yaobang, who appeared to be Deng’s choice to succeed him and therefore terminate the move toward greater openness upon Deng’s death.
good a friend to the students.\(^{63}\) Zhao Ziyang, an economic reformist, was chosen to be the acting General Secretary of CCP in late January 1987 and his position was formalized later that year.\(^{64}\) Another less famous person but one who would prove pivotal in the Democracy Movement of 1989 was Fang Lizhi, a university professor who was driven out of the Party after the student demonstrations. Since that time he had participated in the “democracy salons.” These informal seminar gatherings became increasingly popular in the summer and fall of 1988 at Beijing University and other colleges.\(^{65}\)

By early 1989 “democracy salons,” which had been unorganized and sporadic, evolved into frequent discussion groups that discussed democratic theory among other issues. Some of these groups began to plan action to mark the seventieth anniversary of the May Fourth Movement and its principles of “democracy and science.”\(^{66}\) As the students discussed theory and possible action, Fang Lizhi wrote an open letter to Deng Xiaoping in early January 1989, which suggested that a proper commemoration of the fortieth anniversary of the founding of the PRC, and seventieth anniversary of the May Fourth Movement, would be the release of Wei Jingsheng and other political prisoners. Other well-known intellectuals also sent letters to Deng.

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\(^{63}\) He joined the Red Army in 1930, survived the Long March, and served under Deng Xiaoping during the civil war. In 1980 he served as General Secretary (the formal head of the CCP) where he came to champion democratic values and procedures and played a key role in bringing about “rehabilitations” of intellectuals. He protected the intellectuals as much as he could while in power. These efforts did not make him widely-popular, which he desired, but it did gain him genuine respect from many intellectuals and students. Maurice Meisner, *Mao’s China and After*, 484.

\(^{64}\) He joined the communist movement in the 1930s and was ousted during the Cultural Revolution but was later restored and served as the Party Secretary for Guangdong province. In 1980 he became Party Politboro in Beijing and was installed as the Premier of State Council. He established himself as the most ardent and effective promoter of Deng’s policies for capitalist re-structuring of agriculture and industry and was especially known for opening China to foreign trade and investment. Maurice Meisner, *Mao’s China and After: A History of the People’s Republic* (New York: The Free Press, 1999), 484, 486-488.

\(^{65}\) Wan Dan, an undergraduate history major at Beijing University and future leader of the Democracy Movement, organized the most famous of these “democracy salons.”

and other Party leaders calling for a reprieve for all political prisoners. The students’ plans for action on May fourth were accelerated on 8 April 1989 when Hu Yaobang, the friend of the students, died as the result of a massive heart attack. The students’ respect for Hu was seen immediately upon hearing of his death; that afternoon one hundred big-character posters were displayed at Beijing University. Some of these posters simply commemorated him, while others denounced his removal from power, “Those who should be dead still live.” Such activity was no longer permitted, due to the changes made to the Constitution in 1982, but the death of a high ranking party leader, was a time when the Party would briefly tolerate a degree of political dissent, the students took the opportunity to “mourn the dead and to criticize the living.” Others, such as Fang Lizhi, believed the political opportunity afforded by Hu’s tragic death was the ability of people to assemble, “it’s only when people can assemble,” he said, “that something can be achieved.” Hu’s official funeral was set for 22 April, but the students and others who joined them did not wait for that date to commemorate the fallen reformist leader.

On the night of 15 April 1989 students, many from high ranking official families, arrived in Tiananmen Square and placed wreaths at the Monument to the Heroes of the Revolution in memory of Hu Yaobang. Other students joined them and the memorial grew, as did the demonstrations calling for reappraisal of his removal from office and political reforms. Three days later these demonstrators staged a sit-in at the Great Hall of the People, where three unknown, low-ranking, government representatives finally received their petition, which called

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71 The protests surrounding Hu Yaobang’s death were not just rooted in political opportunism. Many Chinese believed he was a true reformer and thousands marched to Tiananmen Square—the symbolic heart of the city—to honor him.
for democratic rights, such as freedom of organization and the press and an end to corruption.\textsuperscript{72}

The petition acknowledged the power of the Party, as well as the impracticality of retro-fitting American democracy on the PRC, but there was a confrontation between protesters and the government on 19 April, as the government attempted to break up a demonstration that became overtly political. Some in the demonstration called for the resignation of Premier Li Peng, while others referred to him as a modern-day Ci Xi—the last empress dowager of the Qing Dynasty.\textsuperscript{73}

As a result of demonstrations such as this, the government banned the public from Tiananmen Square on the day of Hu’s funeral. Despite this ruling, 100,000 people stood defiantly in the square and more than one million lined the funeral route to the cemetery.\textsuperscript{74} All university student organizations declared a boycott of class on 24 April and they focused on organizing their growing protest movement.

The government was divided about how to respond to the students’ defiance. The day after Hu’s funeral, before Zhao Ziyang left on a state-trip to North Korea, he secured a three-point plan for dealing with the students—preventing more demonstrations and returning students to classes, punishing lawbreakers and using methods of persuasion rather than repression to address the situation.\textsuperscript{75} This soft approach to the students challenge created divisions among the CCP; the hardliners found it an unsatisfactory solution. The most important hardliner who was not satisfied with this response was Deng Xiaoping. He attacked the students in a speech following the demonstrations of 19 April, asserting that the students were conspiring to create turmoil. An editorial widely published on 26 April, expanded upon Deng’s speeches in the proceeding weeks and declared the students were dangerous “counterrevolutionaries.” The

\textsuperscript{72} This event was covered by CNN and was on the front page of some U.S. newspapers. Robert L. Suettinger, \textit{Beyond Tiananmen}, 29 and Maurice Meisner, \textit{Mao’s China and After}, 501.

\textsuperscript{73} Robert L. Suettinger, \textit{Beyond Tiananmen}, 30.

\textsuperscript{74} Maurice Meisner, \textit{Mao’s China and After}, 501.

\textsuperscript{75} Robert L. Suettinger, \textit{Beyond Tiananmen}, 31.
students, who believed they were acting patriotically, were incensed by this characterization; after the editorial, the demonstration went beyond calling for political reform, and they began protests against the government and the CCP. The Chinese government’s divided response to the rapidly unfolding events would continue throughout the month of May.

The students responded to Deng’s editorial the next day with a march from their universities to Tiananmen Square. An estimated 80,000 to 150,000 students participated in this march, despite the attempts of the police to barricade the students on their campuses. There was an attempt at negotiating the ground rules of possible dialogue between the government and the students following this demonstration but little progress was made and as the important seventieth anniversary approached both sides braced for trouble. The students poured into Tiananmen Square by the tens of thousands on that day and participated in peaceful marches. Zhao described the students as patriotic and their grievances as “reasonable,” but Deng Xiaoping rejected all compromise and decided to take a hard-line. However, it took him two weeks to implement his policy, illustrating the deep division in the Party.

The students took advantage of the divisions within the government and upped the ante on 13 May 1989, in anticipation of the state visit of Mikhail Gorbachev. On this date, students set up an encampment in the center of Tiananmen Square and began a hunger strike. This was the exact location where Gorbachev was to be received in two days. He was to be the first Soviet leader to visit the PRC since the Sino-Soviet break three decades earlier and his visit was highly anticipated by the Chinese government. This historic visit was of international importance and

76 While some students had been protesting the government the since 15 April 1989, the majority did not take this more radical turn until 26 April.  
81 Ibid, 504.
so Tiananmen Square was filled with the international press to document the historic meeting. The students’ hunger strike and demonstrations threatened to overshadow the arrival of Gorbachev and to embarrass the CCP. Moderate members of the Party encouraged the students to leave the Square before Gorbachev’s arrival, but they did not. The students believed that the media attention and specter of embarrassment gave them more leverage.

When Gorbachev arrived on 15 May 1989, more than half a million people were demonstrating in Tiananmen Square, so the arrival ceremony, to the embarrassment of the CCP, had to be held at the airport and other events were canceled as well. The day before Gorbachev left Beijing for Shanghai; well over one million people filled the Square. In addition to the loss of face, the CCP had a new concern; this student demonstration was beginning to attract other Chinese into its protests. The people in the Square that day included factory workers, Party cadres, government office workers and schoolteachers. Even the security guards sent into the Square by the CCP were seen fraternizing with the students in what some journalists described as “a Chinese Woodstock.”

The CCP’s embarrassment began to give the hard-liners the upper hand in dealing with the democracy movement. The day that Gorbachev left, Zhao said he wanted to meet the students’ demands and visited the hunger strikers, but the hard-liners would not compromise. The following day the hardliners appeared to have won the struggle over the proper government response. On the morning of May 19, Zhao was stripped of all power, because he was unwilling to endorse the use of force and martial law was declared. Zhao returned to the Square and again

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82 A major focus of the visit was to showpiece the Chinese regime and its achievement therefore television crews were positioned heavily around and in Tiananmen Square where important buildings and institutions such as the Great Hall of the People were located. Consequently these television crews were in excellent positions to cover the students’ demonstrations in and around the Square. George Bush and Brent Scowcroft, *A World Transformed*, 87.
85 George Bush and Brent Scowcroft, *A World Transformed*, 88
asked the students to leave and he said, “I have come too late.”

The students called off the hunger strike and demonstrators were told to tone down their rhetoric after Zhao’s return to the Square.

When Premier Li announced the declaration of martial law, the People’s Liberation Army (PLA) began to replace the security forces in the Square. Thousands of Beijing residents responded to the militarization of Tiananmen Square by attempting to block the soldiers’ approach. They also took to the streets in defiance of martial law and demanded that Li and Deng resign. The CCP encountered problems with the PLA’s implementation of its orders. The 38th Army, based in Beijing, was sympathetic to the protests of the people just as the security forces had been, and it was unwilling to use force against its fellow citizens. Deng replaced these troops with units of the PLA from distant parts of the country who were loyal to him and by the end of May he had surrounded Beijing with more than 200,000 of these troops. While the demonstrations continued to be massive—on 21 May and 23 May, more than one million citizens gathered in the square to protest martial law—the number of people encamped in the Square fell to around 5,000 by the end of May.

While the number of students and other citizens continually in the Square diminished, they still looked for ways to gain attention and increase the pressure on the CCP. One such iconic moment of the demonstrations occurred on 30 May when the students erected the “Goddess of Democracy” – which looked like a thirty-three foot version of the Statue of Liberty.

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86 Zhao retained only his title as general secretary. In late June he was formally dismissed as General Secretary of the CCP and during the remainder of the Deng era lived under house arrest living comfortably, but silently, in a villa in central Beijing. Maurice Meisner, *Mao’s China and After*, 507.
88 The commander of the 38th Army, based in Beijing, resigned and more than a hundred officers signed a letter pleading against violence stating that “The People’s Army belongs to the people…and cannot stand in opposition to the people.” Maurice Meisner, *Mao’s China and After*, 507.
89 Ibid, 507-508. The students had decided on May 27 to end the occupation of the Square but to continue to hold massive demonstrations and continue to demand greater democracy and for the resignation of Li Peng. George Bush and Brent Scowcroft, *A World Transformed*, 88.
The Goddess faced the giant portrait of Mao over the gate to the Forbidden City and served as a symbol of protest.\(^9^0\) The number of people in the Square by 1 June, had fallen to a few thousand, and an advance of unarmed PLA was driven back by thousands of citizens on June 2, but this repelling of the PLA would not be repeated the next night.

The repression of the 1989 Democracy Movement began on the evening of 3 June 1989 when 40,000 PLA troops, this time armed and in tanks and armored personnel carriers, broke through the barriers erected by Beijing residents in the suburbs to the east and west of the Tiananmen Square. The advance of the PLA through these areas was slowed by citizens armed with bricks, sticks and Molotov cocktails, but they were no match for the Army’s machine guns and AK-47s.\(^9^1\) The majority of the people who died on 3 June and 4 June were outside of Tiananmen Square, away from television cameras, who had attempted to stop the PLA’s entrance into the Square. As the Army entered the Square the last words heard from the students’ loudspeaker were: “Chinese people do not shoot at Chinese people.”\(^9^2\) Then the shooting began.

The number of casualties within the Square were comparatively fewer than those outside the Square because by the evening of 3 June, most of the students had left and because of the actions of two improbable heroes—rock star Hou Dejian and literary critic Liu Xiaobo. They had joined the hunger strikers days before the crackdown and on 3 June, they negotiated the escape of the remaining students from the Square.\(^9^3\)

\(^9^0\) George Bush and Brent Scowcroft, *A World Transformed*, 88.
\(^9^1\) Maurice Meisner, *Mao’s China and After*, 509-510.
\(^9^3\) Maurice Meisner, *Mao’s China and After*, 510. Liu Xiaobo was sentenced to nearly two years in prison for “counterrevolutionary incitement.” He was sentenced on 7 October 1996 to three years of “re-education through labor” (sent to a labor camp) for his calls for democratic reform, negotiations over the status of Tibet and peaceful unification with Taiwan.
Some observers outside the country initially estimated that between 2,000 and 7,000 civilians had been killed during the immediate crackdown and during the months of June and July. In addition, it was estimated that approximately 40,000 people were arrested in June and July across the country; the wave of arrests continued beyond these initial arrests, as the CCP pledged to find anyone involved in the demonstrations and have them punished. The 40,000 original arrests were sentenced to jail terms of varying lengths and several hundred were executed. The heaviest sentences were typically handed down not to the students—many were from important families in China—but upon the workers and ordinary citizens.\(^\text{94}\) The leaders of the student movement also received harsh treatment; twenty-one of these leaders were placed on a highly publicized “most-wanted” list and pursued by various government agencies. Many on this list went into exile or were found and sentenced to long prison terms. In a television appearance on 9 June 1989, Deng congratulated the military and police forces involved in the crackdown on “the counter-revolutionary rebellion” and he stated that less than three hundred people had been killed. Many found this number to be quite absurd, based on several eye witness statements, which found that at least that number reflected only the number of unclaimed bodies in several hospitals in central Beijing immediately following the crackdown.\(^\text{95}\)

The United States, Britain, France, West Germany, Italy, Spain, the Netherlands and Sweden all condemned the government’s crackdown on the democracy movement and Pope John Paul II stated that he hoped the tragedy would lead to some positive change in the PRC. The Soviet Union was silent on the events, but Polish television carried witness reports of the

\(^{94}\) The post 1989 political repression fell the hardest on the urban working class because the China political leaders suffered from “polish fear,” the prospect of a Solidarity-type alliance between workers and intellectuals that might pose a serious political threat to the Communist regime.” Workers and ordinary citizens were the only demonstrators who were executed and their prison sentences were longer on average than the student demonstrators. Ibid, 542.

\(^{95}\) Ibid, 510.
killings. The day after the massacre there were massive protests in Hong Kong, Maceo, Taipei, Paris, London, Oslo, Vancouver and several cities in the United States including New York, Washington, Los Angeles, San Francisco, Chicago, Houston and New Orleans. Some of the Chinese protesters in cities in the United States compared the Chinese leaders to Hitler, calling Premier Peng a murderer and raised the Chinese flag with spray-painted Nazi swastikas. President George H. W. Bush called for calm on the day of these bitter protests in the United States; he stated that “this is not the time for an emotional response” and he encouraged Americans to consider the big picture.

And now is the time to look beyond the moment to important and enduring aspects of this vital relationship for the United States. Indeed, the building of democracy which we have seen in recent weeks owes much to the relationship we have developed since 1972. And it’s important at this time to act in a way that will encourage the further development and deepening of the positive elements of that relationship and the process of democratization. It would be a tragedy for all if China were to pull back to its pre-1972 era of isolation and repression.

In Bush’s 1998 memoir, which was co-written with Brent Scowcroft, his National Security Advisor, he explained why he believed his call for reason was the most appropriate response. Tiananmen shattered much of the goodwill China had earned in the West. To many it appeared that reform was merely a sham, and that China was still the dictatorship it had always been. I believed otherwise. Based on what I had seen over the previous fourteen years, I thought China was slowly changing and that the forces of reform that had been building, were still strong.

Bush announced on 5 June that in response to the Chinese crackdown, he was halting all government sales and commercial exports of weapons, suspending all visits between American and Chinese military leaders, possibly extending the stay of Chinese students’ in the United

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97 Ibid.
99 Ibid.
100 George Bush and Brent Scowcroft, *A World Transformed*, 97-98.
States, providing additional assistance to the Red Cross for victims of the crackdown and reviewing other aspects of Sino-American relations as events unfolded. Some members of Congress had a very different initial response to the events of early June; their ideas about how to punish the CCP were much harsher and ultimately led the Bush administration to send a secret mission to China, reminiscent of Kissinger’s 1971 trip, to reassure the CCP of America’s goodwill.

In the wake of the Tiananmen Square Massacre, senators and representatives from both political parties called for harsher measures to punish those responsible for the crackdown. Senator Paul Simon (D-IL) encouraged the President to suspend military aid to the PRC and to encourage U.S. allies to do the same and he urged Congress to consider a resolution condemning China. Representative Bill Paxton (NY) wanted the President to recall the U.S. Ambassador and to consider imposing economic sanctions. Perhaps the most unexpected call for forceful response came from Senator Jesse Helms (R-NC) who had a seat on the Senate Foreign Relations Committee. He said:

The Chinese Communist leaders apparently are not willing to cease their historic repression of human rights. I will be working with my colleagues to insure that, as a first response against this brutality, all U.S. military cooperation and sharing of technology with the Communist Government must be terminated.

Helms, on the Sunday morning political talkfest, Face the Nation, agreed with Representative Stephen J. Solarz (D-NY) that such action by the Chinese could not be tolerated by the United States. There were also rumblings of legislation that would have extended Chinese students

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stay in the United States to protect them from the punishment they faced in China, due to their
demonstrations in the United States.

Bush pushed back these calls by Congress for a more strident response, beginning with
his 5 June press conference. When asked about Congress’s reaction to the crackdown and their
criticism of his slow condemnation of the violence, Bush responded angrily.

I’m the President. I set the foreign policy objectives and actions taken by the
Executive Branch. I think they know, most of them in Congress, that I have not
only a keen personal interest in China, but that I understand it reasonably well. I
will just reiterate to the leaders this afternoon my conviction that this is not a time
for anything other than a prudent, reasoned response. So I would argue with those
who want to do something more flamboyant, because I happen to feel that this
relationship is vital to the United States of America, and so is our adherence to
democracy and our encouragement for those who are willing to hold high the
banner of democracy. So we’ve found, I think, a prudent path here.”

Bush would continue to push back on Congress’s calls for more “flamboyant” action which
worried the CCP leadership. Bush also took direct action to reassure the Chinese leadership that
he would ensure the Sino-American relationship stayed on an “even keel,” despite the tragic
events of Tiananmen Square and the aggressive response of the U.S. Congress. To that end,
Bush also sent a personal letter to Deng the submissive tone of the letter seems to personify
Bush’s overall post-Tiananmen China strategy.

I write this letter with a heavy heart. I wish there were some way to discuss this
matter in person, but regrettably this is not the case. I write as one who has great
respect for what you personally have done for the people of China and to help
your great country move forward. There is enormous irony in the fact that you
who yourself have suffered several reversals in your quest to bring reform and
openness to China are now facing a situation fraught with so much anxiety.
It is with this in mind that I write you asking for your help in preserving this
relationship that we both think is very important. I have tried very hard not to
inject myself into China’s internal affairs. I have tried very hard not to appear to
be dictating in any way to China about how it should manage its internal crisis. I
am respectful of the differences in our two societies and in our two systems.

106 George Bush and Brent Scowcroft, A World Transformed, 100-101.
Bush hoped that Deng would personally reply to this letter believing the matter was too important to be handled by bureaucracies and that the personal relationship they shared would act as the conduit to improved relations.

Soon after the President penned his letter he sent Scowcroft and Undersecretary of State Lawrence Eagleburger on a secret trip to China on 1 July 1989 to assure Deng. When they arrived they were warmly greeted by Deng Xiaoping—who by now was referred to by many as “the butcher of Beijing”—and they all posed for pictures. After the initial pleasantries in the words of Scowcroft, Deng launched into a “long monologue” during which he stated that the U.S. Congress was basing policy on rumors with exaggerated numbers of killed, that its hunt for the “behind-the-scene bosses” of the counterrevolution would continue and warned that “Sino-US relations were in a very delicate state and you can even say that they are in a dangerous state.”

Premier Peng also asserted that the number of those killed during the crackdown was inflated in the west and that only “310 or so” people were killed and many of that number were members of the PLA, who had been killed by the demonstrators. Peng also reminded U.S. representatives that the CCP had acted with great restraint for forty-five days while the students and citizens violated Chinese laws between 15 April and 2 June. These U.S. representatives did not pursue the possibility of the CCP lifting the declaration of martial law while there, nor did they ask for the release of any of the prisoners of the political repression that followed the Democracy Movement. They did let Deng and Peng know that the United States would continue

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107 The trip was kept a secret to avoid negative press. The flight plan listed its official destination as Okinawa, the plane was refueled in the air, the Air Force markings were removed from the plane, and the plane was parked behind the old terminal building, used by Nixon in 1972, so it would not be seen.


109 Ibid, 109. This was not entirely true. Police and security forces had engaged in violent repression of demonstrator several times before the major crackdown began on June 3, most notable was the events of April 19
to share an important relationship with the PRC despite the current difficulties.\textsuperscript{110} In his memoir Bush explained that while the United States was interested in freedom and democracy, the CCP were focused on security and stability and their resentment over foreign ‘interference’ was palpable.\textsuperscript{111} Bush, at a tremendous political cost at home, was working hard to soothe the Chinese concerns; however, the Chinese did not appear to make much effort to alleviate American concerns regarding human rights.

A number of other Americans also traveled to China in the wake of the Tiananmen Square Massacre including former Secretaries of State Henry Kissinger and Alexander Haig as well as former President Nixon. Nixon told Deng that the incident had devastating consequences on the Sino-American relationship and as a result the process of improving relations would have to start anew. He was equally as blunt in his public comments:

> Lenin wrote that facts are stubborn things. The fact is that many in the United States, including many friends of China, believe the crackdown was excessive and unjustified. The events of April through June damaged the respect and confidence which most Americans previously had for the leaders of China.\textsuperscript{112}

Nixon had no plan to repair this damage but he believed it would take a long time. Deng then instructed Nixon that the United States would have to take the initiative to fix the damaged relationship because it was more powerful and because China was the victim.\textsuperscript{113} Nixon’s comments went much further than anything President Bush said after the events of spring 1989 and some of the president’s closest friends and advisers began to wonder if his affection for China and its leaders had impaired his judgment. Bush’s main rationale for taking such a soft line on the Chinese leadership was his fear that if the United States responded too forcefully, that

\textsuperscript{110} Li Lu “In China, I’d be Dead,” \textit{New York Times} 24 December 1989 sec E11
\textsuperscript{111} George Bush and Brent Scowcroft, \textit{A World Transformed}, 110.
\textsuperscript{112} Patrick Tyler, \textit{A Great Wall: Six Presidents and China}, 366.
\textsuperscript{113} Ibid.
the Chinese would simply return to its Mao Era isolation. According to Patrick Tyler this was unlikely:

Bush’s deep interest in not jeopardizing a long-term relationship with the People’s Republic does not adequately explain his rush to exempt China from international accountability, in the face of such flagrant cold-bloodedness. There seemed little basis for Bush’s assertion that a sterner condemnation and more punitive set of presidential actions would have resulted in an irreparable break in relations. Indeed, any analysis of China’s national goals in 1989 would have reaffirmed that Beijing’s leaders were incapable of retreating to the isolation of the Mao era. China was too far down the road to modernization and development.\textsuperscript{114}

Human rights advocates around the world shared this belief that China was too integrated in international commerce and politics to return to the era of isolation. They also believed that this integration required China to re-evaluate its position on human rights.

Throughout the 1980s, despite having signed several human rights instruments and joining the United Nations Human Rights Commission, Chinese authorities believed in a very narrow range of human rights violations that required action by the international community, those being massive human rights violations such as genocide.\textsuperscript{115} Any human rights violations short of that, such as alleged civil and political rights violations, were internal matters for the state and not matters for international concern or action. Following this line of logic, the Tiananmen Square Massacre and the crackdown that followed, amounted to the state quelling a counter-revolution, not a violation of human rights and therefore not the business of the international community. This outdated logic was gradually rendered obsolete throughout the 1970s and 1980s and was almost completely marginalized with the end of the Cold War. The Chinese were forced to take a different approach to human rights in the 1990s.

\textsuperscript{114} Patrick Tyler, A Great Wall: Six Presidents and China, 368-369.
During the 1990s, the Chinese authorities took a more sophisticated approach to human rights. They allowed some human rights delegations into the country; they participated and lobbied in human rights forums; released some high profile political prisoners; signed human rights instruments and paid much closer attention to the activities of the United Nations Human Rights Commission. These were attempts to defuse and contain criticism of its human rights record and illustrated that the PRC’s thinking about human rights had evolved. It could no longer dismiss all human rights criticism and argue that critics were simply interfering in its internal affairs; it had to engage the international community, debate its position on the issue and acknowledge the universality of the human rights issue. This, however, does not mean that the Chinese had tremendously improved their human rights record throughout the 1990s; it does mean that, much like other nations, the Chinese had gotten better at talking the talk of human rights and that the gap between talk and reality widened.\footnote{Ibid, 298.}

The work of human rights INGO’s, such as Amnesty International (AI), was instrumental in compelling this evolution in China. While these organizations lacked the hard power to compel China to improve its human rights record, they did have the means to expose its human rights violations. By the 1990s, international human rights discourse was very powerful and exposed human rights violations generated much attention. This was especially true with regard to China, due to its globally televised brutality in June 1989; it has been in the human rights spotlight ever since. The years following the Tiananmen Square Massacre were replete with political repression which had been heralded by Wei Jingsheng’s arrest after the 1979 Democracy Movement. However, there was a difference between 1979 and 1989, in that the PRC would no longer be exempted from human rights criticism. While China is no longer immune from human rights criticism, consequences of the criticism continue to be blunted due to
its tremendous economic power. Deng’s Chinese capitalism covets political stability and control to ensure continued economic growth; as a result, all criticism, including calls for human rights protection, is politicized. Therefore political imprisonment continued in China even in the post-Cold War world. The words of Peter Benenson, the founder of AI, were as true in the 1990s as they were in 1961 when he spoke them, “it is impossible to know even to the nearest million how many Chinese are today suffering imprisonment for their opinions.” It is to these political imprisonments and AI’s efforts in China that we now turn.
CHAPTER VII. AMNESTY INTERNATIONAL AND THE FORGOTTEN PRISONERS OF THE PEOPLE’S REPUBLIC OF CHINA

The American philosopher John Dewey once said, “If you want to establish some conception of a society, go find out who is in jail;” suggesting that by looking at the criminal population one can learn something about the society from which the criminal population sprang. This truism provides a litmus test to estimate the state of human rights in countries around the world. The more intolerant a society is to those who hold unpopular opinions and beliefs or who are racially or ethnically different, the greater the risk of human rights violations in that society. These minorities, much like the prison population in general, existed on the margins of society and rarely garnered much attention from the general public, but the unique circumstances of some of these prison inmates cries out for justice. While governments have an obligation to protect society from violent criminals some governments have also imprisoned those it defines as political opponents. While there is a sense that humanity has evolved past this kind of abuse of power, a contemporary application of Dewey’s principle suggests that this sentiment ignores the reality of imprisonment and is far too generous with regard to our evolved humanity. Therefore this last case study returns to the issue of Prisoners of Conscience (POCs) and AI’s continuing efforts to compel their release. China poses a formidable challenge to AI’s efforts and this chapter will detail AI’s efforts to draw international attention to the large number of POCs held in the PRC as well as its efforts to compel the U.S. government to pressure the Chinese to create and implement domestic policies that conformed to international human rights norms and laws.

The PRC is closed to AI; the Chinese do not allow its missions into the country and there is no national chapter of AI in the country.\(^1\) Especially in the early years of AI’s work in China, this was a serious impediment, so it was forced to adapt to these circumstances and develop

\(^1\) The Chinese authorities went so far as to not allow the entrance of AI delegates to the 1995 Women’s Conference, which was held in Beijing.
alternatives to direct access to the country. These alternatives included talking with refugees, exiles and others when they left the country, monitoring the official and unofficial press and using its consultant status at the UN and regional bodies to gain some access to Chinese officials. These sources of information were often too unreliable or incomplete to meet AI’s standards of verification, so it moved forward slowly. As the country opened up economically, AI’s work while still difficult became a little easier. Its cautious approach to the POCs situation in China can be seen in a report it published in November 1978 entitled *Political Imprisonment in the People’s Republic of China*, which included details concerning the political imprisonment of Lin Xiling and Wang Mingdao both arrested during the Anti-Rightist Campaign (1957) and two of the first Chinese POCs adopted by AI.

Six months before publishing this report, the Chairman of the International Executive Committee, Thomas Hammarberg, wrote to China’s Ambassador in Sweden and proposed an interview. He received no response. He then sent the report to the Ambassador in June welcoming his comments as well as an opportunity to discuss the assertions within the report. Hammarberg received no reply by mid-August at which time the International Executive Committee decided to publish the report which again welcomed corrections or comments from the Chinese.\(^2\) This cautious approach did not mean that AI did not trust the information in its report, but it did acknowledge that it did not have as much information it felt it needed to make bold charges. As a result its conclusions were somewhat blunted, but at the same time the report provided a comprehensive survey of political imprisonment in China and revealed a pattern of state-sponsored human rights abuses.

AI’s report used information from official published documents and from former prisoners and refugees which it cross-checked to describe the legal, court and prison systems as well as the treatment of prisoners and the “reform” of political prisoners in China. Early in the report AI acknowledged the potential problems with the report, but asserted that its efforts to verify information ensure accuracy:

As stressed earlier, these sources [refugee testimony] also have limitations in that they generally provide a partial picture of a complex process. It can also be objected that they may be biased. However, the accounts of various people who do not know each other and who come from different places in China often present the same picture of a particular event and penal practice, and can sometimes be further corroborated by official documents or statements. Although some details are difficult to check, such accounts present a pattern in various aspects of political imprisonment which is to a large extent confirmed by official documents; taken as a whole, they can therefore be regarded as convincing testimonies.³

Perhaps to address concerns about AI’s ability to report on a closed country, Hammarberg remarked, “Official government statements and Chinese law confirm the patterns of political imprisonment described by former prisoners. We are not dealing with a situation where the government says one thing and the prisoners say another.”⁴ The pervasive pattern of political imprisonment led to concerns that there were numerous POCs within China.

The 1978 report stopped short of naming political prisoners as POCs, stating that “the information available on current individual cases of prisoners of conscience in the PRC was limited” it did provide cases of individuals who were political prisoners some of whom would eventually become POCs.⁵ Some of the political prisoners included in AI’s report were Lin

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³ Ibid, xiii.
Xiling, perhaps the most famous student victim of the Anti-Rightist Campaign of 1957, Wang Mingdao, a Chinese Protestant pastor arrested during the Anti-Rightist Campaign and Deng Qingshan arrested for slandering Mao during the 1970 “one strike three anti” campaign. The political prisoners in this report represented some of the last victims of Mao’s repressive policies, but it would not be long before the brief period of liberalization would give way to repression under China’s new leader Deng Xiaoping. The new repressive cycle which began in 1979 also produced one of Chinese most famous political prisoners, Wei Jingsheng.

Wei Jingsheng was perhaps the most zealous leader of the 1978 Democracy Movement. He was a former Red Guard who was working as an electrician at the Beijing Zoo in 1978 until the Democracy Movement began and he became a vocal critic of Mao and Deng Xiaoping—who he warned of his “metamorphosis into a dictator.” Wei published several articles and posters calling for democracy and the protection of human rights and while he was the editor of the unofficial magazine *Exploration* he included segments of AI’s report *Political Imprisonment in the People’s Republic of China.* Wei was arrested on 29 March 1979, which marked the beginning of a new cycle of governmental repression. He went on trial in October 1979 on various counter-revolutionary charges stemming from his activities during the Democracy

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6 She had defended Hu Feng—a prominent Chinese writer during the New Culture Movement—she was sentenced to 20 years imprisonment and her civil rights were stripped for life. She was still in prison in the mid-1970s but at the time of the report her current status was unknown. Ibid, 151-152.
7 He was imprisoned for his refusal to compromise on the independence of the Church after he was arrested in 1957 he was sentenced to 15 years but he was retried in 1963 and received a life sentence. AI was uncertain of his current status. Ibid, 153-154.
8 He received 15 years in prison with 3 years deprivation of civil rights after release for slandering Mao although the repressive pattern in this campaign makes it easy to question if Deng ever slandered Mao. The “one-strike three anti” campaign was a purification campaign carried out when Lin Biao was the Vice-Chairman of the Party. The one-strike was against ‘current counter-revolutionaries’ and the ‘three-anti’ was a called to struggle against corruption, waste and the black market. Ibid, 158-162.
Movement. His trial lasted a single day after which he was sentenced to fifteen years
imprisonment.\(^{10}\)

During his imprisonment he spent much of his time in solitary confinement in a detention
center adjacent to Beijing Prison No. 1, but he was also held in prison blocks designated for
those who were sentenced to death.\(^{11}\) AI received information from a fellow prisoner that Wei
went on a “hunger strike” soon after his sentence was imposed and that he continued to be
defiant during this early period to the point that prison authorities removed him from his cell out
of fear that his constant troublemaking and rebellious spirit would influence others.\(^{12}\) During his
sentence Wei was repeatedly beaten, malnourished, lost all his teeth and suffered kidney and
heart ailments. There were rumors in the autumn of 1987 that he had died.\(^{13}\) Wei was adopted
as a POC by AI and it launched several appeals on his behalf, fearing that his lengthy stay in
solitary confinement posed a significant health threat.\(^{14}\) The Chinese authorities did not respond
to these appeals and it was reported that by mid-1983—nearly four years after being sent to
prison—Wei was only allowed out of his cell once a month for exercise and still not permitted to
speak to other prisoners or to receive visits from his family. It was further reported in May 1984
that Wei had been transferred twice to a hospital and treated for schizophrenia.\(^{15}\)

This news about Wei’s treatment or medical condition did not appear to damage the
relationship between the PRC and the United States. Just as President Jimmy Carter remained
silent on his arrest in 1979, Ronald Reagan did not call on the Chinese authorities to improve his

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\(^{10}\) His head was shaved prior to trial. In China, this is normally done after a criminal has been convicted of a crime. It would seem his guilty verdict was assured prior to his trial.


treatment or medical condition or call for his release.\footnote{16} Both of these administrations viewed China as a counterweight to the Soviet Union and therefore an important strategic, as well as economic partner. The growing importance of the Sino-American relationship can be seen in the increased number of visits to China by Vice-President George H.W. Bush and other high-ranking members of President Ronald Reagan’s administration; Bush visited China in 1982, 1985 and early 1989.

At the end of his 1985 visit—which was dominated by concerns over Taiwan—Bush affirmed that the relationship between the countries was “strong, both economically and strategically” and that “Sino-American relations have moved beyond the point where any one issue can dominate the relationship.” He also told the press that he raised the question of human rights but declined to give details of those conversations.\footnote{17} Bush’s comments affirmed the priority of economic and geopolitical interests in the United States’ relationship with China, as well as the importance of human rights concerns relative to these priorities.

The United States practice of paying lip-service to human rights would continue throughout much of the 1980s. The events of June 1989 would threaten to fundamentally change the priorities of this relationship; however, China’s increased international involvement would also reduce its ability to dismiss human rights considerations so easily.\footnote{18} In addition, the Chinese record on human rights was receiving much more attention from AI and other human rights organizations throughout the 1980s. Throughout this period AI was building its resources to pursue human rights work in China much more vigorously and the 1978 report was to be the

\footnote{16}As mentioned earlier, Carter did not say much about Wei’s case at the time of his arrest and the State Department merely said that the United States was “surprised and disappointed at the severity of the sentence.” However, Carter did mention Wei and another political prisoner when he visited the PRC in September 1981.


\footnote{18}The PRC became a permanent member of the UN Security Council membership in 1971 and during the 1980s it signed international human rights covenants and joined the UN’s Human Rights Commission in 1982.
first of many reports that exposed the reality of life in China for POCs and others who challenge the government.

Following the 1978 report, AI sent numerous appeals and letters to Chinese officials requesting the release of prisoners and information on their status. There was no reply to these communications. One of these communications which the Chinese authorities ignored, was a lengthy memorandum sent on 28 February 1983 that listed AI’s human rights concerns including; the imprisonment of prisoners of conscience, arbitrary detention and prolonged detention without trial, unfair trial procedures, reported ill-treatment of prisoners and conditions of detention, and the extensive use of the death penalty. This memorandum also recommended several corrective measures that should be implemented to improve the human rights conditions in the PRC, the first of these recommendations related to the release of POCs.

Amnesty International respectfully urges the government of the People’s Republic of China to release all persons who are imprisoned, detained, or otherwise physically restricted by reasons of their political, religious or other conscientiously held beliefs or by reason of their ethnic origin, sex, color or language, who have not used or advocated violence. The cases of several such prisoners of conscience are mentioned in detail in this memorandum. 19

When AI received no response to this memorandum, these concerns became the foundation of a two-part report published in 1984 entitled China: Violations of Human Rights: Prisoners of Conscience and the Death Penalty in the People’s Republic of China. While it acknowledged that the report had some of the same problems as the 1978 report, its opening paragraph conveyed the idea that AI was more confident in its findings and consequently this report would be bolder in its conclusions and recommendations.

Amnesty International’s information concerning prisoners of conscience often remained incomplete since no official information on prisoners was published and the authorities usually did not reply to Amnesty International’s inquiries. The

organization believed that the prisoners of conscience of whom it was aware represent only a fraction of the total number of those detained.\footnote{Ibid, 5.}

Another indication of AI’s confidence in its findings was that most of the prisoners listed in this report had been adopted as POCs; the 1978 report had withheld this status to the political prisoners it listed, largely due to lack of information. While that remained a concern in 1984, it had somewhat diminished as AIs information and sources improved.

This 1984 report documented the cases of fifteen political prisoners, almost all were POCs arrested within the last five years. The list included students, editors, members of religious communities and political activists and they ranged in age from 84 years of age to 29 years of age. Some of those included were Wei Jingsheng, Xu Wenli, Fu Shenqi, Wang Xizhe, all editors of unofficial journals and magazines; the Roman Catholic Bishop of Shanghai Ignatius Gong Pinmei; Father Vincent Zhu Hongshent—who was arrested in Shanghai with ten other priests—and Thubten Kelsang Thalutsogentsang, a former Tibetan monk.\footnote{ Ibid, 19-51. According to AI between April and August 1981 more than twenty-five editors and supporters of unofficial journals were arrested in several cities in China. Amnesty International, \textit{Amnesty International Report 1983}, 192.} AI did a follow-up report in June 1987 that tracked the status of these POCs as well as the continued imprisonment of political and religious dissenters.

AI’s 1987 report entitled \textit{China: Prisoners of Conscience in the People’s Republic of China} demonstrated how constant pressure was applied on a government in order to advance human rights. This follow-up report analyzed the status of POCs in China since 1984 and looked at the overall state of human rights in China. AI believed this kind of pressure was effective because it reminded Chinese officials that these POCs were not “forgotten prisoners” and their continued imprisonment was an international concern. Some of the POCs profiled in the earlier
report were released; however, most remained imprisoned and when a new repressive policy was implemented in 1987 the number of those unjustly imprisoned again swelled.

The report grouped those unjustly imprisoned in China from the late 1970s into categories—religious prisoners, Tibetan nationals, supporters of the Democracy Movement, students and workers following the demonstrations and officials arrested on political grounds—and documented some of the individuals in each. Many of the religious prisoners documented in the report were Roman Catholic priests and Protestant preachers who opposed governmental control over religious affairs such as Father Gabriel Chen Tianxiang, Bishop Fan Xueyan, and Father Huo Binzhang and Mai Furen.\(^{22}\) The Tibetan nationals POCs featured in the report included those imprisoned on religious as well as political grounds including Palden Gyatso, Thubten Kelsang Thalutsogentsang and Geshe Lobsang Wangchuk.\(^ {23}\) AI continued to call for the release of those who were arrested following the suppression of the Democracy Movement of 1978 including; Wei Jengshing, Xu Wenli and Liu Qing as well as those who followed their example and participated in the 1986 democracy demonstrations. The campaign against “bourgeois liberalization” imprisoned Chinese students and workers, such as Yu Chunyan, Liu De and Xue Deyun, who demonstrated for the release of political prisoners and democratic reforms. Finally, the report documented the imprisonment of some former government officials

\(^ {22}\) Following the Communist Revolution the Chinese government created “patriotic religious organizations” such as the Chinese Patriotic Catholic Association, the Three-Self Movement of the Protestant Churches of China, the Chinese Buddhist Association and the Chinese Islamic Association. These were established based on the principle of the “three-selfs:” self-government, self-administration and self-propagation and to ensure that China’s churches were free from “foreign interference.” Chinese church leaders were asked to join these groups and to break relations with the church outside China. Amnesty International, China: Prisoners of Conscience in the People’s Republic of China (New York: Amnesty International Publications, 1987), 1-2, AI Index: ASA 17/05/87.

\(^ {23}\) The religious and political lines are blurred in the case of Tibet because religious freedom in Tibet is often connected to the desire for independence. Many Tibetans want the Dalai Lama to return to Tibet as the religious and political leader. Ibid, 8.
for non-violent political offences, most often their alleged support of the “Gang of Four” and their leftist policies.²⁴

The report provided information about the circumstances of each person’s arrest and the legislation that allowed for their prison sentences; twenty-one individuals were profiled and many were listed as POCs or possible POCs. In addition to commenting on the continued assault on human rights in the PRC, the report updated the status of several POCs. It listed twelve POCs who were released during the previous five years, five of whom had been profiled in AI’s 1984 report. One of the POCs released was Roman Catholic Bishop of Shanghai Ignatius Gong Pinmei who had spent thirty years in prison for leading a “counter-revolutionary clique under the cloak of religion.” These successes were overshadowed by the fact that many of these released POCs had conditions placed on their release, which normally included the stripping of political rights for several years; any violations during this period would result in further imprisonment. This report was bracketed by the United States government’s concerns about human rights and other issues. These episodes revealed the tightrope that the United States was walking with regard to China; maintaining trade with a Communist nation that embraced capitalism but not democracy and had a terrible human rights record.

Just prior to the release of AI’s report, Secretary of State George P. Shultz traveled to China for a five-day visit and attempted to walk this tightrope by planning to discuss trade and the crackdown on intellectuals. Secretary Shultz said on the flight to China that he would raise the question of human rights, but other U.S. officials traveling with him moderated his language by indicating that “in his public and private remarks, he wanted to find language that would

²⁴ Yan Heitou from Hebei province and Xu Guancheng a former official at the Shanghai branch of the China Machinery Import and Export Corporation were profiled in the report. Ibid, 13.
stress his concern, but without offending the Chinese.”

This fear of offending the Chinese mitigated the United States position on Beijing’s repression of demonstrators. It reduced Shultz’s bold claim to another example of an administration paying lip-service to China’s human rights problems. It also illustrated the divisions that existed within the American government over the appropriate place of human rights in U.S. foreign policy. This division was displayed much more prominently in the fall of 1987 when the Reagan Administration was faced with the Chinese crackdown in Tibet. Anti-Chinese demonstrations in Tibet turned violent in October 1987 and several people were killed when the Chinese suppressed those demonstrations.

President Reagan voiced support for Beijing’s position, but the Senate passed a measure, without a dissenting vote, which condemned China for the crackdown. The Senate’s provision urged the President to meet with the Dalai Lama and required him “to certify that China was making progress on resolving human rights issues in Tibet before the United States proceeded with any new sales of arms or weapons technology to China.” The State Department voiced strong opposition to the Senate’s vote fearing this would create difficulties between the two nations.

Walking this tightrope became more difficult as time passed and the United States became economically closer to China; this would be especially true during the Presidency of George H. W. Bush because of his personal history with China and the tragic human rights events that took place during his term of office.

President Bush sent an important signal to the world within weeks of taking office; his first trip abroad as president was not to Europe but to Asia. Bush traveled first to Japan, to attend the funeral of Emperor Hirohito, who had died on 7 January 1989 and then he took advantage of the opportunity afforded by proximity to travel to Beijing. This was not an official

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state visit due to time constraints, but Bush met with many Chinese leaders while in Beijing, including President Yang Shangkun, Li Peng, Vice-Premier Wu Xueqian, Foreign Minister Qian Qichen and Deng Xiaoping. Bush also hosted a Texas-style barbeque at the American Embassy and he invited approximately five-hundred people to attend, including the well-known dissident Fang Lizhi. Chinese authorities went to great lengths to prevent Fang’s attendance at the dinner and Bush’s only response was to express regret that he was unable to attend. This muted response from Bush and the fact that he never mentioned human rights during his important first visit indicated that the economic and geopolitical priorities of the Reagan administration remained the same during the Bush administration. This provoked an angry response from a Chinese graduate student studying at Harvard.

For the past fourteen years, the United States has been an acquiescent spectator to human rights violations in China—an attitude markedly different from the one it displays toward the Soviet Union. The fear of angering Chinese leaders silenced not only President Ronald Reagan, an ardent anti-communist, but President Jimmy Carter, a champion of human rights. Now, it has silenced President Bush.

This disappointment was echoed throughout the human rights community. The increased attention on China’s human rights record made it increasingly difficult for the United States to create a foreign policy that could transverse the often diverging demands of economic,
geopolitical and human rights interests. If this task was difficult before the spring of 1989, it was almost impossible after the hopeful “Beijing Spring” was crushed.

The events and the appropriate response to the events of 3 and 4 June 1989 continue to be contested even seventeen years later. Chinese authorities defended their crackdown, saying it minimized human suffering. Many American people, who had been watching the events unfolding in China with much interest, as did many around the world, were outraged by the brutal suppression of the pro-democracy movement, but the U.S. government would once again be divided over the proper response to the tragedy in China. AI was one of several organizations that set out to clarify the events of that evening and the weeks that followed.

AI’s first addressed the events in an August 1989 report entitled *Preliminary Findings on Killings of Unarmed Civilians, Arbitrary Arrests and Summary Executions since 3 June 1989*. This report provided a re-construction of the events surrounding the government crackdown, it estimated that one thousand, mostly unarmed civilians were killed and that several thousand were injured. AI also asserted in its findings that at least 4,000 people were officially reported to have been arrested throughout China during the months of June and July. This report included a disclaimer:

This report does not attempt to present a comprehensive picture of what happened in various parts of Beijing on 3 to 4 June. The fear instilled by the repression carried out by the authorities since the military crackdown has made it virtually impossible to cross check information directly with sources in China. This report, therefore, centers on just some of the incidents which have occurred. Sources include foreign media reports, eye-witness testimonies, and reports from both official and unofficial Chinese sources.

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32 This report was part of an emergency campaign launched by AI which involved the participation of hundreds of thousands of members all over the world.
34 Ibid, 3.
AI presented this report to the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities in Geneva and on 31 August 1989 and stated:

Thousands of people are reported to have been arrested throughout China in connection with these protests. According to various reports, over 10,000 people were detained in Beijing alone. While some have been released after questioning, Amnesty International believes that many of those who remain in detention are prisoners of conscience held solely for the non-violent exercise of their fundamental human rights. A number have been executed after summary and unfair trials and many more executions than those officially reported are believed to have taken place.\(^{35}\)

The Chinese Government responded angrily to these charges and stated that the report was “entirely ungrounded and unreasonable.”\(^{36}\) AI stood by its report and said that the PRC’s response was inadequate given the range of violations alleged.\(^{37}\) At the end of the session, the sub-commission adopted a resolution expressing concern about events in China and asked the UN Secretary-General to transmit this information to the UN Commission on Human Rights.

AI followed up this preliminary report with a much more detailed report in April 1990, *The Massacre of June 1989 and its Aftermath*. This report forcefully challenged the Chinese Government contentions that it “exercised great restraint” and that only 200 civilians were killed and several dozen soldiers were killed by “rioters.” AI asserted that at least one thousand civilians had been killed, as well as at least sixteen soldiers.\(^{38}\) Through the use of eye-witness testimonies and reports, AI reconstructed the events in Beijing on 3 and 4 June and confirmed its preliminary findings regarding summary executions and thousands of detained dissidents.\(^{39}\) The


\(^{39}\) Amnesty reported that several hundred people were executed at two different execution sites. According to sources at least eight groups of up to 20 people were executed before dawn between June and mid-July. In addition,
report included a list of twenty-five people imprisoned during the crackdown; some of whom were included on the government’s “most wanted” listed; such as Xiong Wei and Wang Dan, the first named on the list. Former POCs were also re-arrested in the wake of the Tiananmen Square Massacre including, Ren Wanding and Yang Wei. Although martial law had been lifted in January 1990, AI found little improvement in the human rights situation in China by the time it published this report. So it kept up the pressure on the Chinese government throughout 1990.

One month after AI published its updated report on the Tiananmen Square Massacre and its aftermath, it published the names of 650 of the thousands of prisoners arrested in connection with the pro-democracy protests and who remained detained one year later. AI had a history of compiling lists of human rights victims which were used to starkly illustrate the gravity of the problem; almost daring the offending government to deny the charges. If it cannot deny the charges or ignored them or argued that AI was interfering in its internal affairs, as China often did, these responses serve almost as an omission of guilt, which further legitimizes the charges. As a result, international pressure increases on the offending government to correct the human rights abuses detailed by AI.\footnote{AI re-asserted its claim that up to 10,000 people were detained in Beijing alone but that about 4,000 were released after an interrogation period. Ibid, 4.}

This list of 650 imprisoned pro-democracy advocates was intended to send a message to the Chinese and to maintain international interest in the human rights problem in China. An AI’s report stated,

\begin{quote}
One year after the killings in Beijing, the fate of those prisoners is still veiled in official secrecy—but they are not forgotten. We know some of their names and we want to know what has happened to all of them. Our message to the government is that these human rights violations are an international concern and international pressure will not go away.\footnote{There are some obvious dangers to AI here. If the charges that are leveled are untrue there could be serious damage to the organization; illustrating the importance of accurate information and why AI places a premium on accuracy.}
\end{quote}

Maintaining international pressure was an important component of readdressed human rights abuse; this was especially true in China where the government was apparently trying to slam the door on all dissenting political activity for good. It offered an alternative to political reform to the Chinese people, the economic modernization of China and increased consumerism. This odd mix of communism and capitalism not only challenged human rights groups such as AI, but also made the United States response to Tiananmen especially complicated.

President Bush in his 1998 memoir stated his objectives with regard to the Sino-American relationship after Tiananmen Square; it sounded a great deal like this statement to the press on 5 June 1989.

I wanted a measured response, one aimed at those who had pushed for and implemented the use of force: the hard-liners and the Army. I didn’t want to punish the Chinese people for the acts of their government. We had to remain involved, engaged with the Chinese government, if we were to have any influence or leverage to work for restraint and cooperation, let alone for human rights and democracy.42

As mentioned earlier, in order to keep the relationship on an even keel Bush sent Brent Scowcroft, his National Security Advisor, secretly to Beijing to reassure the Chinese government of the continuing solid and enduring relationship between the two countries.43 The U.S. Congress, however, wanted a much different response to the Chinese crackdown.

While individual Congresspersons offered different measures to be taken against China—ranging from economic sanctions to removing the U.S. Ambassador—the Congress as a whole unanimously passed the Pelosi Bill. The Pelosi Bill would have automatically extended the stay of the 40,000 Chinese students studying in the United States for two-years, without having to go home for the two-year waiting period normally required for foreign students. The bill also would have given Chinese students up to four years to apply for other types of visas to become

42 George Bush and Brent Scowcroft, A World Transformed, 89.
43 Jonathan Power, Like Water on Stone, 231.
permanent residents of the United States. The Chinese responded quickly. Wu Zurong, a spokesperson at the Chinese Embassy, expressed “grave concern” that the Pelosi bill would “damage Sino-United States exchanges in education.” In addition, the Chinese Foreign Minister warned the U.S. Ambassador in China that the PRC would terminate the Fulbright Scholarship program and other educational and cultural exchanges with the United States if the Pelosi bill became law. Congresswoman Nancy Pelosi (D-CA) responded to these threats, “If the Chinese Government is going to act in a repressive fashion, threatening to take retaliatory action that just underlines the need for this legislation.”

The divisions between the executive and legislative branches of the federal government were exposed by this legislation.

The White House warned that it might veto the bill due to the “unintended negative consequences” it might have on the opportunity of Chinese students to study in the United States in the future, indicating that the Bush Administration took the threats from the Chinese government seriously or at least wanted to portray this image. In response to Bush’s warnings, seventy-one Senators and one hundred and five members of the House of Representatives signed letters urging the President to approve the Pelosi bill. The letter read in part, “The Tiananmen Square mentality persists in China. Although the Chinese Government claims that it will deal leniently with those who opposed it, the reality is that the crackdown continues.” Despite these and other efforts Bush vetoed the Pelosi bill on 30 November 1989 saying the bill was “wholly unnecessary.” In addition, he rebuked “Congressional micromanagement of foreign policy” that “put America in a straitjacket and can render us incapable of responding to changing circumstances.” Bush’s pocket veto was condemned by both the House and Senate.

45 Ibid.
47 Ibid.
Edward Kennedy (D-MA) said, “The President should have stood up for the courageous Chinese students instead of bowing to the cruel Chinese regime” and the House majority leader Representative Richard A. Gephardt (D-MO) pledged that “overriding the President’s veto will be the first item of business on the Congressional agenda when we return in January. The Chinese students deserve the full protection of American law.”

President Bush’s decision to keep United States Chinese relations on an even keel obviously was rejected by much of the U.S. Congress and many American citizens had difficulty understanding why he took such a soft approach to the crackdown in China during the summer of 1989. His position became a political liability when he ran for re-election in 1992. His Democratic challenger, William Jefferson Clinton, accused him of coddling dictators and charged that his business as usual attitude and appeasement of the “butchers of Beijing” was an inappropriate response to the Tiananmen Square Massacre. While on the campaign trial, Clinton also voiced his support of Congressional efforts to make the annual extension of China’s most-favored-nation (MFN) trade status conditional on human rights improvements. China was highlighted in Clinton’s bid for election in important symbolic ways as well. At the Democratic National Convention two prominent leaders of the Tiananmen Square pro-democracy movements, Chai Ling and Li Lu, were invited to attend and even appeared on stage to introduce Aretha Franklin who sang the national anthem.

William Clinton won the 1992 presidential election and those concerned with China’s human rights record were hopeful that the new president would be as tough on China as his campaign rhetoric suggested he intended to be. Those hopes were relatively satisfied with the

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49 A pocket veto between sessions of the same Congress; in this case during the Congressional recess from November 22 to January 23.
50 James Mann, About Face: A History of America’s Curious Relationship with China, from Nixon to Clinton (New York: Alfred A. Knopf, 1999), 263.
issuance of Executive Order 12850 on 28 May 1993 which linked annual renewal of China’s
most-favored-nation (MFN) trade status to human rights improvements.\textsuperscript{51} Approximately forty
Chinese student leaders, dissidents and Tibetan activists celebrated the signing of this Order and
cheered when Clinton stated, “Starting today, the United States will speak with one voice on
China policy.”\textsuperscript{52} Even at the time of this bold assertion, Clinton’s ability and willingness to
pursue this policy with China was uncertain. His Executive Order was consistent with his
campaign rhetoric but was out of step with powerful economic and business trends in 1993. The
Chinese government’s aggressive courting of economic expansion following the Tiananmen
Square crackdown resulted in tremendous growth in its economy, which benefited American
business and trade. In 1993, over 83,000 new contracts were signed between China and foreign
companies, representing $111 billion in new investments; more than 6,700 of those contracts
were with U.S. companies.\textsuperscript{53} The economic opportunities in China increasingly began to
overshadow human rights concerns, not just in the business community but in the Clinton
administration. The Executive Order which did not have the support of the American business
community, combined with ultimatum characteristics of the Order —improve human rights or
else—required high resolve on the President’s part which appeared to be waning and the policy
did not appear to be working.

After the Executive Order was issued, the human rights violations continued throughout
China and as the annual renewal of MFN neared, Clinton began to feel boxed in by its
requirements. In September 1993 Clinton signed an “action memorandum” which called for
“comprehensive engagement” with the Chinese; the United States would end its “aloof” relations

\textsuperscript{51} The Executive Order was a compromise, some members of Congress preferred various forms of legislation which
would make a more forceful statement and would have been binding.

\textsuperscript{52} James Mann, \textit{About Face}, 281-282.

\textsuperscript{53} China’s growth rate little more than 4 percent in 1990, more than 12 percent in 1992 and nearly 14 percent in first
with the top echelon of the Chinese leadership and would now "engage" them.\textsuperscript{54} Suddenly several high-level visits occurred including the 19 November 1993 meeting between President Clinton and Chinese President Jiang Zemin in Seattle; this was the highest level contact between the two countries since the crackdown in Tiananmen Square. It was speculated that after the meeting, the Clinton administration came to believe that the order had not worked and that it needed to find a way to extend MFN without tying it to having a satisfactory human rights performance. It was reported that the administration was looking for a grand gesture from the Chinese on human rights considerations, rather than significant improvement in this area, which would allow it to weather the criticism of renewing MFN despite the continued human rights violations in China.\textsuperscript{55} As the deadline for extending MFN approached, China acquiesced with two largely cosmetic gestures. They discussed the jamming of Voice of America broadcasts, promised to release a democracy protester and gave visas to the families of certain dissidents. Appeased, Clinton renewed MFN in May 1994. When he announced his decision he stated,

> To those who argue that in view of China’s human rights abuses we should revoke MFN status, let me ask you the same question that I have asked myself: We will do more to advance the cause of human rights if China is isolated, or if our nations are engaged in a growing web of political and economic co-operation and contacts?\textsuperscript{56}

Clinton not only renewed China’s MFN status in 1994, but he also de-linked trade and human rights and his announcement and policy were almost indistinguishable from his predecessor.\textsuperscript{57}

\textsuperscript{55} Ibid, 127-128.
\textsuperscript{57} When President George H.W. Bush renewed MFN for the last time on 27 May 1991 he said, “Critics who attack MFN [extension] today act as if the point is to punish China—as if hurting China’s economy will somehow help the cause of human rights. The real point is to pursue a policy that has the best chance of changing Chinese behavior.” At that time Clinton said his action was “another sad chapter in this administration’s history of putting America on the wrong side of human rights and democracy.”
Many in Congress agreed with Clinton’s actions with regard to China, although there were some who felt betrayed by Clinton’s reversal of policy.

The Chairman of the Subcommittee on International Operations and Human Rights, Christopher Smith (R-NJ) voiced this dissatisfaction in a hearing to analyze the State Department’s 1994 country reports on human rights practices. China’s human rights record and President Clinton’s de-coupling of human rights and trade received much of the subcommittee’s attention.

I, for years, and Nancy Pelosi, and of course Congressmen Tom Lantos, Dick Gephardt, and others, a bipartisan group, and Gerry Solomon from New York, have repeatedly said that trade and human rights need to be linked. We were disappointed when President Bush did not. They were at least intellectually honest to come before the committee, Secretary Eagleberger, Secretary Mather, and others, to make their case as to why they thought that was the most prudent policy to follow.

But President Clinton understood. He spoke as we do. He made it very clear during the campaign that Bush was coddling dictators, and was very critical of the previous administration. And when he issued his executive order, all of us stood up and cheered.

It seemed very clear, even though probably there were some things left out there that this administration was going to use as a benchmark significant progress relevant to human rights before the conference of MFN.58

The Assistant Secretary, Bureau of Democracy, Human Rights and Labor, at the State Department, John Shattuck attempted to explain the administration’s position on decoupling.

It was not so much that President Clinton thought that progress would necessarily occur were the MFN extended. But rather, the conclusion was based on what was going to be the result if MFN was in fact denied in China? Would that in fact have a significant impact on the improvement of human rights situation? The very difficult decision that the President made was that it would not.

The President made the decision. And he made it, I think, in an honest assessment of what the situation would produce, if he were to deny MFN. And he was not persuaded that it would produce a significant improvement in the human

rights situation. At the same time, clearly, it would harm a lot of other interests that were in play.\textsuperscript{59}

The Secretary went on to state that the administration was continuing to take a strong position on human rights in China. He reminded the subcommittee that the United States was pursuing a resolution against the PRC in the U.N. Human Rights Commission and that it was sending “very clear signals” to the Chinese government that an improvement in relations depended on improvement in China’s human rights record. Chairman Smith was unimpressed with the administration’s position on de-linking and said “I am deeply disappointed. Those who are languishing in gulags probably were moved to tears to know that the country that claims to stand for human rights had just reneged on that area where we really could have made a difference.”\textsuperscript{60}

Some at this hearing worried about what the decoupling meant in terms of the overall direction of U.S. foreign policy and whether it still reflected America’s fundamental values.

Representative Peter King’s (R-NY) remarks reflected this concern:

I agree that while we do live in a new world, and while American foreign policy has to have our own self-interest at its heart, nevertheless what has distinguished American policy from other countries over the years is that we have a moral dimension to our foreign policy. And it has been that moral dimension that has been driving our people. Whether it was Woodrow Wilson or Ronald Reagan, there has always been a uniquely moral dimension to our policy.

I cannot think of any more important moral dimension today in American foreign policy than human rights as we enter into this post-cold war period. I believe that we are very concerned that as we cease our adversarial relationships, that we not put aside traditional American values, and that we not close our eyes to human rights violations.\textsuperscript{61}

Representative King was not the only one wondering about America’s moral compass. AI also provided testimony which questioned the direction of U.S. foreign policy. James O’Dea,

\textsuperscript{59} Ibid, 25-26.
\textsuperscript{60} Ibid, 28.
\textsuperscript{61} Ibid, 9.
director of AI’s Washington office lamented the growing disconnect between policies and human rights.

It must be said, I think, more bluntly than ever that human rights is an island off the mainland of U.S. foreign policy, and that the Country Reports only serve to prevent the integration of human rights into the full range of policy development and implementation, as long as they are not used as the basis for a program of action. Foreign governments responsible for human rights violations are aware that human rights are not one of the Clinton’s administration core priorities. In fact, I think that we can see clearly that the Secretary of Commerce hardly pays lip service to human rights anymore. And as for President Clinton, it appears to be off his radar screen.  

Clinton had promised to “speak with one voice on China” but the primary concern of that voice was no longer human rights and while human rights sank to a new low in the Clinton Administration’s list of priorities, the conditions in China continued to worsen.

AI reported that a number of human rights abuses continued in China even while the Clinton administration looked for a grand gesture to justify de-linking human rights and trade. It repeated its calls for an impartial, public inquiry into the killings of unarmed civilians beginning on 3 June and for the release of all POCs. In addition, AI noted with growing concern that the number of Chinese under various forms of administrative detention increased and the crackdown on dissident religious groups, repression of Tibetan nationalists and political imprisonment persisted. In addition, AI condemned the continuing use of torture, unfair trials and high number of state-sanctioned executions. It adopted large numbers of POCs from China; including nineteen arrested in a crackdown on prominent dissidents and human rights activists, which took

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62 O’Dea’s comment “that human rights are an island off the mainland of U.S. foreign policy” would be repeated by Chairman Smith at several of the subsequent hearings of this subcommittee regarding the State Department’s Country Reports. Ibid, 42.
place during the first half of 1994. During this period some POCs had been released but in some cases they were re-arrested, including the well-known dissident, Wei Jingsheng.

Wei Jingsheng was released from prison September 1993. He was forty-four years old and he had developed serious health problems while in prison, but upon his release he resumed his political activities, immediately publishing articles calling for political freedom and democracy. He was again arrested in December 1995 and sentenced to fourteen years for “conspiring to subvert the government.” This charge was rooted in Wei’s suggestion that China’s isolated dissidents should provide “mutual assistance” to one another to create change. This proposal was contained in a letter to Wang Dan, the former leader of the 1989 Democracy Movement who had also recently been released from prison. Upon his release Wang published articles in Hong Kong and Taiwan calling for political reform and he was also providing humanitarian assistance to families of other political prisoners. He was placed under “residential surveillance” in May 1995 for collusion with “hostile overseas forces in order to carry out the criminal act of conspiring to subvert the government.” The re-arrest of both Wei and Wang provided further evidence of AI’s claim that the human rights situation in China was getting worse and that “comprehensive engagement” was not working.

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64 His released was six months early and according to his sister it was designed to induce the Olympic Committee to award Beijing the 2000 Olympic Games. Congress, House of Representatives, Committee on International Relations, Trial, Conviction and Imprisonment of Wei Jingsheng: How Should It Affect U.S. Policy?: Hearing before the Subcommittee on International Operations and Human Rights of the Committee on International Relations, 104th Cong., 1st sess., 18 December 1995, 2.
65 Maurice Meisner, Mao’s China and After, 540.
66 He was at the top of the 21 “most wanted” list; it was rumored in October 1989 that he had been executed. Chinese police sources in late August said he had been beaten in jail but that his treatment had improved. Amnesty International, “Students Detained,” Amnesty International Newsletter 19, no. 10 (October 1989): 1.
67 He was held for one year without formally charges and then was charged with “subversion” in October 1996 and received an eleven year prison term but was released and forced into exile less than two years later in April 1998, shortly after President Clinton’s visit to China. Maurice Meisner, Mao’s China and After, 541.
68 Further evidence of the Chinese continued crackdown on political dissidents. One of the high-level meetings in China was John Shattuck’s visit to the PRC in February 1994. While there he had 90-minute meeting with Wei
In response to the re-arrest of Wei, the Subcommittee on International Operations and Human Rights, called a hearing regarding the appropriate U.S. response and China, once again, was a prominent topic of testimony and analysis in the hearings regarding the U.S. State Department’s 1995 Country Reports. During that hearing Chairman Smith referred to Wei as “the father of the democracy movement in the People’s Republic of China,” and questioned how the administration could extend MFN after his re-arrest and while numerous other human rights problems within China continued. Secretary Shattuck’s response suggested the inability of “comprehensive engagement” to improve human rights even when pursued with great determination.

Of course you know that right now the discussions with China are very much clouded by a lot of issues where there is a great deal of tension and difficulty, but the clarity with which we have presented our concerns publicly and privately regarding Wei Jingsheng is something I’m very proud of.

After Wei served two additional years imprisonment, he was released and forced into exile in November 1997; shortly after Jiang Zemin’s state visit to the United States. He then testified at the Subcommittee on International Operations and Human Rights in February 1998 and blasted the State Department’s report on China’s human rights record which, he said focused on “microscopic improvements rather than the grim reality of continued systematic oppression.”

We have already seen that the traps set by the Chinese communists are working. In order to ease the domestic pressure resulting from the suppression of human

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70 Ibid, 34.


rights and the democracy movement by the Chinese government, the United States government has gone so far as to disregard the facts and beautify the Chinese communists in this year’s State Department human rights report. My expulsion from China, against my will, is now described as ‘allowing me to leave the country for medical treatment.’ Some of my friends inside the communist party who have joined us in our fight for democracy and human rights have been the target of persecution, but this has been explained as exhibiting ‘some limited tolerance.’ And so on.\textsuperscript{73}

Wei also took exception to the description of the Chinese government as authoritarian rather than totalitarian and offered some words of advice about the nature of its relationship with the Chinese Communists. He further suggested that rather than befriending a hostile totalitarian regime the United States should recognize who in China were its real allies.

It is not for me to tell Americans what to do, but I want to tell my friends that the Chinese communists have never considered the United States or other western countries as friends or potential friends. They have told their members, and the Chinese people, in no uncertain terms that American imperialism will always be their greatest enemy; all the dealings with the United States are to deceive the enemies and to make sure of the contradictions among them. For decades the Chinese communists have not changed this position one bit. Should the United States fail to see who in China can be the friends of the United States, should the United States government continue to support the enemy of the Chinese and American people, then it will not only bring certain difficulties for foreign policy over the next half century it will also result in a great disaster for world peace and stability.\textsuperscript{74}

If Wei was correct, Clinton’s policy of “comprehensive engagement” would never produce improvements in China’s human rights record and the administration’s country report—that glossed over the growing human rights problems in China—served only to perpetuate the human rights abuses of the Chinese government. AI’s testimony at this hearing called for country reports that accurately reflect the human rights realities within China.

Of course mention Wei Jingsheng. But if you want to provide an accurate context you had better find room somewhere in those eleven paragraphs to note that he was forced into exile against his will to seek medical attention because of the brutal conditions under which he was being held by the Chinese authorities. After

\textsuperscript{73} Ibid, 105.
\textsuperscript{74} Ibid, 106.
all, were the beatings he received from fellow inmates with the encouragement of prison authorities part of the “somewhat more tolerant’ attitude of the government toward dissent?”

The State Department’s suggestion that China demonstrated a “somewhat more tolerant” attitude to dissent did not seem to bear itself out upon examination of evidence. AI’s annual reports throughout the 1990s asserted that the Chinese government engaged in massive and systematic human rights abuse.

In addition, to its annual reports AI also published reports that attempted to communicate the massive scale of human rights violations in China as well as the dogged determination of the Chinese authorities to retain tight control over the population no matter the cost. Perhaps this determination was most zealously displayed in its continued imprisonment of 1989 pro-democracy advocates. AI’s 1999 report *People’s Republic of China: Ten Years After Tiananmen* documented ten people who remained in prison ten years after the demonstrations, many of whom were adopted as POCs. Those detailed in the report included Sun Xiongying who received an eighteen year sentence for allegedly defacing a statue of Mao and posting “reactionary” posters and Li Wangyang sentenced to thirteen years imprisonment for “counter-revolutionary propaganda and incitement.” AI also published another report on the tenth anniversary of the Tiananmen Square Massacre entitled *People’s Republic of China: Tiananmen—10 Years On—“Forgotten Prisoners,”* which stated that it had the names of 241 persons known to still be imprisoned or on medical parole for their involvement in the pro-democracy protests but that it believed that number was much higher. It called on the Chinese to release these people—many of whom AI believed were POCs—immediately and unconditionally.

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75 Ibid, 112.
and to bring those responsible for human rights crimes to justice.\textsuperscript{77} The Chinese government did not respond directly to AI’s charges but told the media that AI was interfering with its internal affairs. While AI was documenting the human rights abuse throughout China, the U.S. government was proceeding with its policy of “comprehensive engagement” which resulted in some high level visits by high-ranking governmental officials to the United States and to China.

Perhaps the most controversial Chinese official to visit the United States was General Chi Haotian, the Defense Minister of the PRC and the operational commander of the forces used during the Tiananmen Square crackdown. During his 1996 visit, he was given full military honors, a ten-gun salute, visits to several military bases, a tour of the Sandia Nuclear Laboratory and a meeting with the President in the White House. While in the United States he said, “Here I can tell you in a responsible and serious manner that at the time not a single person lost his life in Tiananmen Square;” despite the fact that he had given the orders to fire into the square and the hundreds of images of dead bodies in the Square.\textsuperscript{78} Chairman Smith viewed this “official wining and dining of the butcher of Beijing” as a symbol of a one-way love affair and the bankruptcy of U.S. foreign policy with regard to human rights.

The message we are sending to the world is that the Government of the United States is committed to the protection of fundamental human rights only insofar as such a commitment does not threaten to interfere with anything else it wants to accomplish.\textsuperscript{79}

AI shared the Chairman’s concern about the bankruptcy of U.S. calls for human rights protection in China. AI said its “biggest concern was the gap between what the organization knows and


\textsuperscript{78} Nat Hentoff, “Bill Clinton v. a Woman of Principle,” \textit{The Village Voice} 41, no. 53 (31 December 1996).

what the Administration does” and pointed to the warm welcome of General Chi as evidence of this gap.

Perhaps the most egregious example is the tough China report published this year which was being written at the same time that the White House was rolling out the blood red carpet for an Oval Office meeting for General Chi, the man who personally directed the massacres at Tiananmen Square. The fact that this meeting occurred literally on the eve of International Human Rights Days, the anniversary of the Universal Declaration of Human Rights, compounds that tragedy.80

The symbolism of General Chi’s visit so near Human Rights Day coupled with the warm reception he received profoundly disappointed the human rights community. Perhaps equally disappointing was Clinton’s trip to China in June 1998 and the fact that he was formally received in Tiananmen Square, the site of the massacre nine years earlier. Prior to that trip, Clinton decided in March 1998 not to seek a U.N. resolution censuring China for its human rights abuses; in the past the United States had sponsored or co-sponsored such a resolution, but China was consistently able to block passage.81 Other countries around the world were also uninterested in pursuing this resolution, so for the first time since the Tiananmen Square Massacre, no resolution condemning China was introduced. Also prior to Clinton’s trip, Senator Paul Wellstone (D-MN) introduced a resolution to make human rights a key priority for his visit. Clinton did mention the Tiananmen Square Massacre in a press conference that followed his reception in the Square saying, “I believe, and the American people believe, that the use of force and the tragic loss of life was wrong.” This comment led to a lively debate between Presidents Clinton and Jiang which was televised in its entirety marking the first time that the Chinese government allowed public debate on the events of June 1989.82 This encouraged the Clinton

80 Ibid, 40.
81 Representative Christopher Smith sponsored a non-binding resolution which passed in a 397-0 vote which urged Clinton to reconsider its decision. The Senate passed a similar resolution by a vote of 95-5.
82 James Mann, About Face, 365.
Administration and suddenly the American people’s disposition on the Chinese seemed to change.

As soon as the president publicly denounced the Tiananmen crackdown, the press coverage of his trip turned almost instantaneously from negative to positive. Network news shows, which had been concentrating almost exclusively on China’s arrests of a handful of dissidents, switched direction and began emphasizing the theme that China was opening up once again.  

This change in sentiment would be instrumental in advancing Clinton’s policy of “comprehensive engagement,” and China’s entrance into the World Trade Organization.

Beginning in early 1997 some Congresspersons and members of the Clinton administration began looking for a solution to the annual debate about renewal of China’s MFN status. At the same time negotiations were underway for China’s admission into the WTO. If China was accepted into the WTO the annual debates would end, because according to WTO rules, once a country gained entry all other members were required to grant permanent, unconditional MFN status. By 1999 the focus was on China’s entry into WTO and on 11 December 2001 it became a member.  

China’s accession to the WTO was defended as the best way to improve human rights, but in the years since then, evidence suggests that assumption was wrong. Exiled dissident Wei Jingsheng summed up his thoughts on consequences of “comprehensive engagement” on both the United States and China. “The Chinese government’s concept of human rights has not moved towards the universal standard of human rights. On the contrary, the human rights values

83 Ibid, 366.
84 Xiaoping Deng died at the age of 92 on 19 February 1997.
85 Clinton helped push China’s membership but it was not always easy. On 26 May 1999 four of China’s fiercest critics, Senators Jesse Helms, Russell D. Feingold and Representatives Benjamin A. Gilman and Tom Lantos wrote to Clinton asking him to suspend the WTO negotiations. Jian Yang, Congress and US China Policy, 151.
of Western politicians have moved closer to those of communist China.\footnote{Jonathan Power, 
Like Water on Stone, 235.} If true, a frightening reversal of the original intention.

The Tiananmen Square Massacre marked the end of China’s cycles of political liberalization and repression; since June 1989 there has only been repression mixed with uneven economic prosperity. The shadow of Tiananmen continued into the new millennium. In 2000 five Chinese natives sued the Prime Minister, Li Peng, in U.S. Court for his role in the massacre.\footnote{William Glaberson, “U.S. Courts Become Arbiters of Global Rights and Wrongs,” New York Times, 21 June 2001, A1.} The symbolic power of Tiananmen within China continues to create fear in the CCP, so anniversaries of the massacre are regularly events of repression. The symbolic power of Tiananmen revealed itself again on 17 January 2005 when Zhao Ziyang—who warned the students to leave the Square and feared that he had come too late—died. He was not honored. He received only a one line death notice and the CCP ordered an official to obscure his death. Zhao had sent sixteen years under house arrest and yet the Party felt compelled to ensure he was not remembered; perhaps they fear the parallels Zhao shared with Hu Yaobang, whose death sparked the pro-democracy movement in April 1989. A former aid to Zhao said, “The whole Tiananmen affair is like a giant spring that the Party keeps repressing. But it is getting harder, not easier, and it is making the Party tired.”\footnote{Joseph Kahn, “The Ghost of Tiananmen Continues to Haunt China’s Rules,” New York Times, 23 January 2005, 5.}

As China continues to interact more in the world and to become a world global power, it may be finding it more difficult to suppress political opponents and enjoy the economic privileges of a dominant economic position. The Chinese bid for the 2008 Summer Olympic Games and the arrival of the internet will place additional stress on the CCP’s ability to maintain tight control over its people. When Beijing bid for the Olympic Games it claimed that its
selection as host of the games would help the development of human rights in China.89

According to AI, China’s development of human rights has in fact been further retarded by the awarding of the games to China because as many as 300,000 people have been evicted from homes many without due process and adequate compensation to make way for buildings, despite a clause that was added to the PRC constitution in March 2004 which stated, “the state respects and safeguards human rights.”90 The potential human rights development was also discussed in the United States and some believed that this offered an opportunity for “creative partnering between the business and human rights communities, both here in the United States and in China, to improve human rights and the climate for international business investing in China.”91

Human rights organizations, such as AI, have stated publicly that they “expect sponsoring businesses to take a proactive role in advancing democracy in China leading up to, and during the games.”92 In addition, Wang Wei the Secretary-General of Beijing’s 2008 Olympic Games Bid Committee, promised full freedom of media if China won the bid, which begs the question what about the “Great Firewall of China?”93

The “Great Firewall of China” is the most advanced online censorship system in the world and it prohibits users from some 19,000 sites.94 Internet access became commercially available in China beginning in 1995. At that time the government controlled access to the internet which was provided via two state-owned telephone companies—China Telecom and China Unicom—as well as the content available to internet users. The PRC also maintained

90 Ibid.
92 Ibid, 8.
94 Some of the sites that are barred are AI, Human Right Watch, Human Rights in China, sites related to Tibet or Taiwan and home pages of U.S. courts to name a few.
control by barring foreign ownership of telecommunication services in China until the end of 1999.\footnote{A agreement was struck between the PRC and the United States on 15 November 1999 that opened China up to foreign investment. This deal was a part of the negotiations that brought the PRC into the WTO in 2001. With regard to the internet, this agreement permitted foreign companies to own up to 50% of Chinese companies that provided internet content by 2002 and 49% of Chinese companies that provided internet services by 2006.} According to Human Rights Watch, since 1995 the PRC has issued at least 60 sets of regulations regarding access and content availability to Chinese users. These regulations have become more comprehensive over the last decade and gave the government wide discretion to arrest and punish internet users if they transgress the rules. For instance, it became a capital offense in January 2001 to send “secret” or “reactionary” materials over the internet and users are barred from “topics that damage the reputation of the State” but they have no way of knowing what topics are considered damaging.\footnote{David Banisar, “The Great Firewall of China: Cyber-Policing Dissent,” \textit{Amnesty Now} 29, no. 1 (Spring 2003): 24-26.} This deliberating vague rule allows the Chinese government to control what is available on the internet; if it does not want something available they can simply declare that it violates this ambiguous rule.

Beginning in early 1996 the PRC began shifting some of the responsibility for monitoring the content available on the internet to the internet companies and required internet users to register with their local police bureau within 30 days after signing up for service with an internet service provider (ISP). These police bureaus then set up their own computer investigation units. In spite of all of these difficulties, the Chinese government estimated that by June 1999 there were more than 4 million internet users and the PRC compelled internet companies to assist them in monitoring Chinese users’ internet activity. By 2000 it was codified into law, which also coincided with the arrival of foreign investors into the Chinese telecommunications industry. At that time, ISPs were confronted with two new laws; the Telecommunications Regulations of the People’s Republic of China and the Measures of Managing the Internet Information Services.
The first prohibited ISPs from making, duplicating, issuing or disseminating information that harmed the State and the second made ISPs responsible for the content they displayed and required them to record users access to the internet, their account numbers, the web addresses they visited and the telephone numbers they used for sixty days. As a result, ISPs and internet cafes set up their own monitoring systems in order to comply with Chinese law.

The PRC regularly shut down unlicensed internet cafes and internet service providers and employed 30,000 state security personnel monitors and ISP employees that remove unsuitable content. According to Reporters Without Borders, in 2004 the Chinese government closed 47,000 internet cafes and imprisoned more than eighty people in February 2006 who violated usage rules.\(^{97}\) AI considers many of these political prisoners and some are considered “potential POCs.” Typically those imprisoned for transgressing internet regulations are charged with criminal offenses rather than civil misdemeanors and are sentenced to prison terms of up to four years. Occasionally, American ISPs have been implicated in these imprisonments such as when the U.S.-based ISP Yahoo! turned over to Chinese authorities in 2004 the personal e-mail address of Shi Tao, who has since been sentenced to ten years in prison for sending messages to friends abroad about the government’s media restrictions on the 15\(^{th}\) anniversary of the massacre.\(^{98}\) The rapidly growing telecommunications industry in China, which had more than 78 million users by 2003, also tempted other U.S.-based ISPs to comply with China’s regulations in order to have access to this promising market. Several of these ISPs were called before Congress in 2006 and questioned about their compliance with Chinese rules regarding internet use.\(^{99}\) In addition to questioning Yahoo about its involvement in the detention of Shi Tao Google was also asked about the differences in its U.S. search engine and its Chinese search


\(^{98}\) Ibid, 30.

\(^{99}\) Google, Yahoo!, Cisco Systems, and Microsoft were the ISPs called to the hearing.
engine, which returned completely different results for the same search of “Tiananmen Square.” While access to the internet has provided a new level of freedom to millions of Chinese it has also become an instrument of repression that has created more political prisoners and POCs. China’s ability to control the internet has proven to be very difficult despite its measures to maintain control and the willingness of internet companies to assist them. Therefore many in the human rights company hold out hope that the internet will be an important element in the opening up of China.

AI, among many others, is watching to see what happens on these two new fronts of the human rights struggle in China, while it continues to seek justice for the human rights abuse of the past. It continues to call for justice regarding the tragic events in and around Tiananmen Square in June 1989, as well as the continued political repression since that time, including several “strike hard” campaigns against crime. As a result of these campaigns, there were record numbers of executions and a crackdown on dissidents; including those involved in the Falun Gong spiritual movement and North Korean asylum seekers. AI remained active in drawing attention to the political imprisonments which continued in China and to campaign for the release of POCs.

It appears that the PRC is using POCs and human rights in general, as a political tool reminiscent of what occurred during the Cold War. Chinese officials have gotten into the habit of releasing one or two high-profile POCs immediately before or after important international events or officials visits. This was the case with Wei Jingsheng’s, release in 1997, following President Jiang Zemin’s visit to the United States and the release of Wang Dan in 1998 following President Clinton’s trip to China. The pattern of releasing political prisoners as a “good-will

101 The first “strike hard” campaign was launched in 1996 and continued into 1998 and was re-launched in 2001.
gesture” continued during the current administration of President George W. Bush. Weeks before President Jiang was to visit President Bush at his ranch in Crawford, Texas, Chinese authorities released Ngawang Sandrol, a Tibetan nun imprisoned for nearly a decade. She was not due to be released for nine years but the Chinese released her early due to her good behavior and because of their commitment to “light or reduced sentences for individuals who enter prison as juveniles.” Those inclined to be cynical about China’s early release of some POCs and familiar with the harsh sentences imposed on juvenile offenders, can point out cases where early release of a political prisoner was arranged simply for political reasons. One such case was the October 2003 release of Kang Yachan. He was released five years early just prior to the European Union-Chinese human rights dialogue. These token acts have, for the most part, appeased governments around the world, allowing the uneasy balance of Chinese communism and capitalism to continue and experience tremendous economic success.

This appears to be the case not only in the United States but also in several countries within the European Union. Initially the EU was outraged by the Tiananmen Square Massacre and the brutal crackdown that followed and implemented an arms embargo; however, the economic opportunity available in China tempered that outrage by the mid-1990s. The EU sponsored a UN resolution condemning the Chinese human rights record every year between 1989 and 1997; however, these resolutions were successfully blocked by the Chinese every year. Meanwhile, the Chinese and several countries in Western Europe developed close economic ties. During a sixteen-day trip through Europe in 1994 the Vice-Chancellor of Austria refused to meet with Prime Minister Li Peng because of his involvement in the Tiananmen Square Massacre but

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102 The State Department also campaigned on behalf of eighteen other Tibetan political prisoners at the end of 2001 and one year later nine of them were released. Elisabeth Rosenthal, “China Frees Tibetan Nun 9 Years Ahead of Schedule,” *New York Times*, 18 October 2002, A7.
in Germany, Li signed contracts and letters of intent worth $3.5 billion.\textsuperscript{104} Also during this visit the German government agreed to help modernize the PRC’s telecommunications and transportations networks. These agreements further strengthened an already important economic relationship; Germany was China’s largest European trade partner.\textsuperscript{105} Not everyone in Germany was pleased with this economic union. Twenty-seven prominent members of Chancellor Helmut Kohl’s Christian Democratic Union Party signed an open letter protesting Li’s visit and calling on the government to emphasize human rights. Kohl’s responded that “commercial ties could improve the climate for political reform in China;” a statement that sounded very similar to President Clinton’s call for constructive engagement. Others in Europe also wanted to do business with China, including Airbus Industrie, a European consortium which signed a $1.5 billion agreement with the Chinese for the purchase of ten passenger planes. These and other economic agreements lead to the EU withholding its support for a UN Human Rights Commission resolution, which condemned China’s human rights record.

The EU had co-sponsored this resolution every year since the Tiananmen Square Massacre but in 1997 it withheld its support for this resolution. The EU also withheld its support for a similar resolution in 1998 citing progress in the area of human rights and instead focused on pressuring the Chinese to sign the International Covenant on Civil and Political Rights, which it has since signed but not ratified. While it appeared that several European countries had lost interest in China’s human rights record the arms embargo established in the aftermath of the Tiananmen Square Massacre remained in place. However, by early 2004 Germany and France began advocacy that the EU lift the arms embargo against China which provoked a series of


dialogues focused on China’s human rights record. The first of the talks occurred in May 2005 and EU representatives listed four areas of concerns: the continued imprisonment of Tiananmen Square activists, the need to ease media censorship, the need to reform the re-education through labor program and the need to ratify the International Covenant on Civil and Political Rights. The next round of talks was scheduled for 5 September 2005 and AI provided EU representatives with a briefing paper that found evidence of “unsatisfactory” progress in all four areas. The Tiananmen Square activists remained in prison, censorship and the re-education through labor programs remained in place and the Chinese had provided no timeline for ratification of the ICCPR. The director of AI’s European Union office summed up China’s unsatisfactory progress.

We welcome the fact that the EU has made the lifting of its arms embargo contingent on human rights reform but concerns remain in all areas under scrutiny. The Chinese government has yet to present a coherent plan of reform and steps to improve its human rights practices must be implemented in a clear and consistent manner.  

As of August 2006 the embargo has not been lifted and it appears unlikely that it will be lifted in the near future. In addition to pressuring the EU to keep the arms embargo in place AI also encouraged the EU to use its influence with the Chinese government to pursue an end to capital punishment and political imprisonment there.

AI’s work in China continues to be complicated by the fact that the Chinese authorities do not allow its representatives in the country, but that does not mean that information is not available in China to AI. The Chinese government itself sometimes uses AI’s reports to critique

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107 The European Parliament is opposed to lifting the embargo, the new Chancellor of Germany Angela Merkel is not in favor of ending the embargo, French President Jacques Chirac’s declining popularity suggests that he will not win re-election in 2007 and no other European nation appears willing to provide leadership on this issue. Therefore it appears that the embargo will remain in place.
those who criticize its human rights record, such as the United States. Following the U.S. State Departments release of its 2001 country report, the Chinese responded in kind with their own report on human rights abuses in the United States; including the prevalence of violent crime, rights violations by law enforcement officers, poverty and homelessness, the victimization of women and children—including the execution of juvenile offenders—and the wanton infringement upon human rights of other countries due to arms exportation and its high military expenditures. In order to provide evidence of these human rights abuses, the report drew on AI’s 2001 reports on female prison inmate abuse and arms trafficking. The Chinese report also paraphrased AIUSA’s Executive Director William Schulz regarding the United States exportation of devices AI categorizes as implements of torture. The report ends gleefully with the fact that in 2001 the United States was ousted from the United Nations Human Rights Commission: “This shows that it is extremely unpopular for the United States to push double standards and unilateralism on such issues as human rights, crackdowns on drug trafficking, arms control and environmental protection.” As the Chinese report indicated, it received AI’s information so it would appear that China is not as closed off as many believe it to be. The Chinese government is very sensitive to criticism and appears to be well-informed about what the problems are; it just simply believes that it can maintain tight control by not allowing those criticisms to be voiced. But as was noted by R. H. Tawney in 1931, “Political forces in China recall Chinese rivers. The pressure on the dam is enormous but unseen, and it is not till it bursts that the strain is realized.” Perhaps that dam already burst back in 1989 and the political repression of the 1990s and early 2000s have been attempts to repair the damage but the hidden

109 Ibid.
and muted political force of over a billion people is creating a lot of stress on the CCP’s repair efforts. Outside forces from AI and the limited efforts of the United States government have kept the human rights issue on the table. This also creates pressure, but we will have to wait and see its effects.
CHAPTER VIII. EVALUATION OF AMNESTY INTERNATIONAL’S HUMAN RIGHTS CAMPAIGNS

James O’Dea, Director of Amnesty International’s Washington office, testified before a House of Representatives subcommittee in 1995 “that human rights were an island off the mainland of U.S. foreign policy.” ¹ The case studies examined here appear to bear this conclusion out. All three case studies highlighted AI’s campaigns against forms of institutionalized violence and its efforts to shape U.S. policies in response to these violations. What has been the impact of AI’s work on U.S. policymakers in the countries this project examined? How effective was AI?

Guatemala’s civil war has officially ended, but the violence continues; it seems that after thirty-six years of war, violence is woven into the social fabric of the villages and cities. There are frequent vigilante killings and the election of General Ríos Montt to the president of the legislative body suggests that impunity will continue. The future of Guatemala remains bleak and the United States is partially responsible because it assisted the military-oligarch Guatemalan government during its counterinsurgency war. The United States accepted responsibility for its actions during the Clinton Administration but for most of the war, the United States and the Guatemalan government denied these charges when AI made them. AI’s early publications asserted shocking claims of massive human rights violations and insisted that the Guatemalan government and its auxiliary forces were responsible for most of the violence. Its charges and evidence were criticized by Guatemalan and U.S. officials who said the information was false and both governments attempted to smear AI for making false allegations.² Despite these

² Such as in 1981 when Guatemalan officials said “it [AI]does not even try to hide its true Soviet character.”
efforts, AI’s facts were consistently confirmed by evidence on the ground at the time and they were eventually verified by the UN Truth Commission.\(^3\) Its accuracy in reporting and analyzing evidence of human rights abuses has been instrumental in building the “determined protest” that leads to increased international pressure to end human rights violations.

Beyond the power of its collection and dissemination of information on human rights violations in Guatemala was AI’s dogged determination to work on human rights issues in Guatemala. At the time that AI began involvement in the country, it had almost no civil society due to the war and there was no AI chapter within its borders. This reality required that the organization create new strategies to deal with the unique human rights situation in Guatemala and AI’s answer was the country campaign. The country campaign would be felt strongly by U.S. policymakers because of the close relationship between the United States and Guatemala. U.S. policymakers provided one of the few points of access to address the human rights situation in Guatemala and were also a source of strength for the Guatemalan government; therefore AI’s efforts to sway policymakers in the United States were logical. If AI could sway the U.S. policymakers to help end the violence in Guatemala, then the closeness of the two countries would become an asset in the human rights struggle there.

The United States did play a role in eventually bringing that civil war to an end and it was likely that AI helped to make that relationship too uncomfortable for the United States to sustain. This was also achieved due to the deteriorating relationship between the United States and

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\(^3\) “AI is in fact rarely shown to have reported incorrectly. Many complaints from governments are not about what has been published, but about the very fact of publishing, or about the timing of publication. The organization is often accused of failing to appreciate the background to abuses or giving, at least indirectly, support to political opposition. This is a misconception. AI does not work against governments, but against human rights violations. It compares actual practice in a country with internationally accepted standards and demands compliance with these where they have not been respected. Neither the historic background nor the social and economic conditions in a country can justify contravening these principles, nor can the character of the opposition to a given government.” Amnesty International, *Amnesty International Report 1983* (London: Amnesty International Publications, 1983), 3, AI Index: POL 01/01/83.
Guatemala, which encouraged the United States to change the nature of its relationship with Guatemala and help end the war. Did AI single-handedly end the war and dramatically improve the human rights situation? No, but it helped to create an environment where powerful international bodies and national governments could no longer stand by and allow the abuse to continue. As for the United States, AI simply made it too difficult to reconcile American values with the continued support of such a brutal regime whose human rights abuses could no longer be denied. The war ended but the violence continues; so much so that AI recently reported that the country was in a “human rights meltdown” in 2002. While there was reason to be disappointed about the current status of Guatemala’s human rights situation, there has been improvement. When AI became active in Guatemala, civil society there was almost non-existent and many on the outside were ignorant of the situation. Now it has a growing and active civil society, which provides an important link with the international community. AI, despite not having a national chapter in the country, has better access to information and in turn, the local human rights advocates receive a measure of protection from AI’s ability to publicize human rights abuse internationally, even if it occurs in an isolated village. The ability to cover-up and deny human rights violations has largely evaporated.4

The second case study, which examined the United States use of the death penalty, challenged AI in a different way and looked at the foreign policy consequences of a domestic policy that AI deemed a violation of human rights law. Whereas in Guatemala the human rights violations were hidden and denied by the state, in the United States, the human rights violation was a policy sanctioned by the government and its citizens and the United States adamantly

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4 This does not mean that human rights violations do not occur in Guatemala any more but as Lord Shelbourne said around 1800 “It requires no small labour to open the eyes of either the public or of individuals, but when that is accomplished, you are not yet got a third of the way. The real difficulty remains in getting people to apply the principles which they have admitted and of which they are now so fully convinced.”
asserted its right to use it. So the violation was supported by the public and there was no need to deny its existence or to be ashamed about it, at least within the United States. AI’s attention became fixed on the United States following its re-instatement of the death penalty in 1976 and since that time it has campaigned for complete abolition, although it also worked on categorical abolitions as a means to reach its ultimate end. It was one of the voices educating Americans about capital punishment in the hopes of elevating the standards of decency to a point where the American public would turn against the death penalty. This has been an uphill battle, which does not seem to have borne much fruit, as a majority of Americans still support capital punishment.5

However, the parameters of the death penalty have been narrowed throughout the years due to U.S. Supreme Court rulings and AI has filed briefs that press for abolition. Once capital punishment was limited to capital murder, subsequent rulings disallowed the execution of the mentally retarded, some of the mentally ill and juvenile offenders. These successful limitations have not always been implemented as AI believed the rulings intended or the rulings themselves created loopholes which resulted in the continued execution of people within these excluded populations. For example, the ongoing court battle over the execution of Daryl Atkins whose 2002 case overturned his death sentence due to his mental retardation and found that the execution of the mentally retarded was unconstitutional. Virginia again sought his execution when test revealed that his IQ had risen above the state’s IQ designation of seventy which defines an individual as mentally retarded. Atkins’s score went from around 59 to 74 or 76. It appears that the “mental workout” he received participating in years of litigation, increased his

5 A Gallup Poll on June 1, 2006 asked – Are you in favor of the death penalty for a person convicted of murder 72% yes the death penalty is not used often yet 51% How many think in the last five years thought at least one innocent person was executed 63% Do you think it is applied fairly 60% yes But when given a choice between life imprison without parole and death penalty 48% favor life in prison and 47% favor death penalty. This poll indicate that Americans often contradict themselves on this issue and AI’s educational mission, while difficult, may be able to make some change. (gallop.com)
mental abilities and may have “ensured his own execution.” He went on trial in August 2005 and a Yorktown, Virginia jury found he was not mentally retarded and set an execution date for 2 December 2005; his attorneys appealed the verdict and the Virginia Supreme Court overturned the jury’s ruling.

Therefore, even the limitation “victories” have required continued work on AI and other anti-death penalty advocates behalf to prevent a rollback. AI’s advocacy at the U.S. Supreme Court will no doubt continue especially as the future of capital punishment is now in the hands of a reconstituted U.S. Supreme Court.

This reconstituted Court has been sending mixed messages in 2006 with regard to capital punishment. In May 2006, the Supreme Court refused to hear a Tennessee case, which challenged the constitutionality of lethal injection under the Eighth Amendment’s prohibition against cruel and unusual punishment. The Court’s refusal to hear this case was followed in June with a very narrow, unanimous ruling on a similar challenge to lethal injection. In Hill v. McDonough (05-8794) the Court did not express any opinion on the constitutionality of lethal injection, the specific procedures used, or combination of chemicals used: “The complaint does not challenge the lethal injection sentence as a general matter but seeks instead only to enjoin the respondents ‘from executing [Hill] in the manner they currently intend.’” Hill asserted that Florida’s lethal injection procedures were in violation of the prohibition of cruel and unusual punishment provision of the Eighth Amendment because the amount of sodium pentothal used was insufficient to render his execution painless. His claim was supported by a study published

7 The Court overruled the verdict because it found the jury had been prejudiced against Atkins when the state told the jury that he had been convicted of the crime and sentenced to death. It found that this create prejudice which undermined the juries ability to decided on the issue of Atkins’s mental retardation.
8 That case was Abdur’Rahman v. Bredesen. This approach demonstrates a continued dependence on the Eighth Amendment to challenge element of the death penalty in the United States.
in 2005 by the British journal *The Lancet*, which found that lethal injection was not pain-free.\(^{10}\)

It asserted that the amount of sodium pentothal was not sufficient to render the condemned unconscious, thus the effects of the remaining chemicals to stop heart and lung function were felt by the condemned as they died. While the May and June 2006 decisions failed to address the broader question regarding the constitutionality of lethal injection, it did establish the route for presenting such a lawsuit and that route was seen as inmate-friendly rather than state-friendly. The Court was taking baby steps on this issue possibly because the new Chief Justice John G. Roberts, Jr. has made it a priority to end the 5-4 decisions for which the Rehnquist court was famous. This narrowly constructed decision can be seen as a first step to positioning the Court to rule on the overall constitutionality of lethal injection, as well as an opportunity to build consensus among the Justices. Building consensus within the High Court will be difficult and this can be seen in a decision handed down on the same day as *Hill*.

In a five-three decision in the case of *House v. Bell*, 04-8990 (2006) the Court ruled that “in certain exceptional cases involving a compelling claim of actually innocent, the state procedural default rule was not a bar to federal habeas corpus petition.”\(^ {11}\) This decision followed *Schlup v. Delo* (1995) which allowed for a gateway to federal courts in the extraordinary case that an innocent person faced execution. The *House* decision demonstrated that the Court was increasingly sensitive to “the power of scientific evidence to reveal wrongful convictions.”\(^ {12}\) The majority found that new DNA evidence, the poor control of evidence and the confession of another to the crime, were sufficient to call into question the jury’s verdict and House’s federal habeas action was allowed to proceed. House’s attorneys wanted more from the

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Justices; they wanted the Court to find that innocence claims were possible and that House was in fact innocent. The Court stated, “House urges the Court to answer the question left out in *Herrera* and hold not only that free standing innocence claims are possible but also that he has established here. We decline to resolve this issue.”¹³ The Court’s refusal to take on the larger problem of innocence and capital punishment demonstrated that on controversial and difficult issues the Court defaults on procedural considerations. Both of the June 2006 decisions seem to indicate that this reconstituted Court, though conservative in nature, was taking the issue of capital punishment seriously and this could have important consequences on the practice of capital punishment in the United States.

The retentionist policies of the US were not typical of AI’s overall abolitionist campaign, which has been instrumental in increasing the number of abolitionist countries in the world to one hundred twenty-five, the Philippines being the most recent to abolish capital punishment in June 2006. There are many reasons why the United States retains the death penalty at a time when so many others have done away with it and AI and other anti-death penalty advocates has made little progress in the United States due to its high level of hard and soft power. It can resist the international pressure amassed by AI and anti-death penalty advocates more effectively than most other nations but there are still costs; especially when abolitionist governments and their citizens join in AI’s efforts to secure the abolition of the death penalty in the United States.

While it is impossible to say how much credit AI deserves for the trend toward abolition, it has been involved in rallying governments and people to the anti-death penalty campaign for over three decades and the change over those years is significant. Only nineteen countries were abolitionist in practice or law in 1979 and an average of nearly three countries every year between 1979 and 2006 have joined these countries. This has translated into increased pressure

on the United States to follow suit with the rest of the world. Just as in the Guatemala campaign, exclusivity in the United States did not produce the desired outcome, so AI also worked to co-opt other abolitionist countries to increase pressure on the United States. Its campaign continues, but the effectiveness of the campaign should be judged from a long-term perceptive. Some inroads have been made to limit the imposition of the death penalty and while the United States’s power has somewhat insulated it from AI’s abolitionist efforts, U.S. officials abroad are experiencing the difficulties of adamantly asserting its need and right to execute criminal offenders.

The People’s Republic of China case study also illustrates that despite AI’s efforts, human rights violations continue and as a result its “determined protest” also continues. Much like the United States, the PRC steadfastly asserted its right and need to act as its does, in order to create a stable society which benefits the whole country. AI’s concern regarding human rights violations in China can be traced to the founder of the organization, Peter Benenson, who stated that it was impossible to know how many prisoners of conscience were held in China. That remained true in 2006 as China remained in the midst of a political repression which has not significantly relented since June 1989. Just one example of this continued political repression and the lengths that the Chinese government goes to in order to maintain tight control, is the case of Zhao Yan, a long time journalist, social activist and researcher for the New York Times’s Beijing Bureau. He was arrested on 17 September 2004 and has been held in custody since that time for “disclosing state secrets” which appeared in the Times on 7 September 2004. The Times and Zhao’s lawyers denied the charges, which were finally handed down in December 2005. His trial was set to begin soon despite the fact that the “secrets” he disclosed were

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14 The state secrets he disclosed were that former President Jiang Zemin had offered to resign his post as head of the military. Jiang actually did resign that post two weeks after the Times reported this information. David Lague, “China to Begin Trial of Times Researcher,” New York Times, 13 June 2006.
common knowledge soon after his arrest. The political repression continues of those who threaten the stability of the Chinese state.

AI has no national chapter in China and it is not allowed into the country for the purposes of human rights research, yet it has campaigned for the release of political prisoners since the late 1970s in addition to other concerns. The growing economic power of China has created yet another challenge to addressing the human rights violations in that country. As a result of this economic leverage held by the Chinese government, countries such as the United States have been reluctant to join in efforts to put international pressure on the Chinese to improve their human rights record.

AI responded in numerous ways including increasing its contact with U.S. policymakers in an attempt to compel policy decisions that reflect the serious human rights problems in China. The political will to act on human rights concerns is largely absent from U.S. policymakers’ decisions even in the face of continued, widespread human rights abuse. Policymakers cannot claim ignorance, because AI ensures that they are well-informed, suggesting that the apparent lack of political will is rooted in the economic power of the Chinese and the failure of the American public to demand such action from their government leaders. Chinese officials have also been actively counter-attacking AI, its claims, and the appropriateness of applying human rights to an Asian society. This pattern of attacking AI is familiar; governments that violate human rights often cannot attack the facts as AI presents them, because they are accurate, they attack the organization to deflect criticism. Despite the fact that China remains a closed country to AI, the organization has increased its information networks over the years and its charges

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15 During the 1990s the Chinese asserted that human rights were a western-construction and therefore it was inappropriate to apply these standards on China and other Asian nations. This argument has been rejected by many especially because one of the primary drafters of the Universal Declaration of Human Rights was Peng-Chun Chang, a Chinese man.
against the Chinese government have later been verified. It is impossible to know exactly what AI has achieved within China; however, the release of numerous POCs indicates that the organization has some impact on the conditions in China. Wei Jingsheng told AI after his release that his treatment improved when the organization focused on his case in its letter-writing campaigns, proving that keeping “the pressure on” will help “forgotten prisoners” and can have a tremendous impact on individual lives. Certainly the number of individuals who benefited from improved treatment would argue that AI was indeed an effective organization.

All three case studies highlight AI campaigns against institutionalized violence and potential danger of that violence to the rule of law and the inconsistent response by the United States government to human rights abuse. This inconsistency was dangerous because it can appear to grant permission to others who want to disregard international law. At the heart of AI’s efforts documented here was AI’s call for the United States to provide consistent leadership on a variety of human issues. This call was not without precedent, for during the Nuremberg Trials the U.S. led the way in determining how to deal with Nazi war criminals. That way was not massive purges, executions, or show trials, but court proceedings that placed the rule of law firmly at the center of the trial. The U.S. Supreme Court Justice Robert Jackson, who served as the chief prosecutor for the United States, praised Allied leadership in ensuring that war criminals, guilty of unconscionable crimes against humanity, faced justice and argued that power was the servant of the rule of law.

The wrongs which we seek to condemn and punish have been so calculated, so malignant, and so devastating, that civilization cannot tolerate their being ignored, because it cannot survive their being repeated. That four great nations, flushed with victory and stung with injury stay the hand of vengeance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that Power has ever paid to Reason.  

16 U.S. Supreme Court Justice Jackson’s opening statement for the Prosecution during the Nuremberg Trials 21 November 1945
It should be noted that several of the men on trial were hanged following their convictions demonstrating that the hand of vengeance had not been completely restrained. AI’s call for U.S. leadership in the area of human rights simply calls on the United States, which proclaims to be a human rights leader, to implement policies domestically and encourage policies internationally, that reflect the responsibility of that role.

So is AI effective? The answer to this question depends on how one defines effectiveness. If effectiveness is defined only as achieving the best possible outcome and all objectives, then AI has not been very effective. But this assumes that AI has much more power than it does, that the struggle to secure human rights can be achieved, and that there will never be a threat to human rights once victory has been established. It also assumes that there is some end point at which human rights advocates can say definitively that human rights are secured. This ignores the evolving nature of human rights and the fact that as society evolves, it will require evolving human rights standards. Therefore there is no end point. William F. Shultz offers one way to judge effectiveness by coordinating it with AI’s power. He argues that the advocacy community, including AI, are primarily cheerleaders; he explains that this is not a disparaging characterization saying, “I mean that a major part of our role is to inspire public debate, form public opinion, bring constituent pressure to bear upon decision-makers—in short, to exercise our democratic prerogatives—and thereby try to sway government.”

Judged from this perceptive AI has been highly effective in achieving its goals but these examples of effectiveness are impossible to gauge and do not reflect concrete proof of effectively working on behalf of human rights, nor do they tell us much about AI’s effectiveness in influencing United States policies. It should also be noted that if one uses Schulz’s criteria other human rights

organizations have also been effective in improving the state of human rights around the world. This is especially true of large human rights organizations such as Human Rights Watch, which is often the first to publicize human rights problems around the world. In addition, other groups have been internationally recognized for their human rights work, such as Doctors without Borders, recipient of the Nobel Peace Prize in 1999. Such international attention and awards bestow legitimacy on these specific groups but also the larger human rights community and therefore aid in the overall effectiveness of the entire movement.

Perhaps the best way to judge the effectiveness of AI is to look at the man who created it in 1961. Peter Benenson was born in 1921 into a world without the United Nations, without the Universal Declaration of Human Rights and without a single international human rights treaty. Human rights were not an important consideration for governments and they acted with impunity. That began to change after World War II. The United Nations was chartered and the UDHR was drafted and ratified, putting human rights on the radar screen for governments. However, governments fumbled the task of human rights advocacy and civil society began to assert itself in this area. Benenson established AI when he was forty years old and helped to elevate human rights issues so that when he died in early 2005, he and the organization he formed, had assisted in creating nearly one hundred human rights treaties and other legal instruments. The most comprehensive of these, the twin international covenants, the International Covenant on Civil Political Rights and the International Covenant on Economic, Social and Cultural Rights, were signed by more than ninety percent of the countries in the world. This elevation of human rights considerations has resulted in the creation of hundreds of human rights INGOs and NGOs, several of which have replicated AI’s methods.  

cannot claim to be responsible for all of these achievements, it certainly has played an important role in making these achievements a reality. The United States, especially immediately following World War II, played an important role in securing these human rights achievements. In some ways, AI and the United States have been partners in advancing human rights around the world and the difficulty in that relationship stems from the fact that AI has only one concern human rights and the United States has multiple additional concerns, which it has to balance, in addition to human rights. AI sometimes disagrees with the balance the United States chooses and argues for a new balance. Never before has the United States position on human rights been more imbalanced then after 11 September 2001, according to AI.

George W. Bush’s administration, in order to fight global terrorism, has engaged in torture and ill-treatment of detainees who are imprisoned in detention centers around the world. It has argued that the “rules” has changed after September 11th and has consequently re-defined torture and ignored the provisions of the Geneva Conventions. AI condemned these acts and in early 2005 published two reports which detailed the human rights violations committed by the United States in its war against terror; *Guantanamo and Beyond: The Continuing pursuit of Unchecked Executive Power* and *USA: Human Dignity Denied: Torture and Accountability in the ‘War on Terror.’* AI drew quick criticism from the White House because in these reports it compared the prison at Guantanamo Bay to a Soviet-era gulag. President Bush responded to these charges during a Rose Garden news conference in May 2005 saying, “I’m aware of the Amnesty International report, and it’s absurd. The United States is a country that promotes freedom around the world. When there’s accusations made about certain actions by our people, they’re fully investigated in a transparent way.” He went on to say that “It seemed they [AI] based some of their decisions on the word of the allegations by people who were held in
detention, people who hate America."\(^{19}\) AI issued a press release in response to the President’s comments:

President Bush again failed to address longstanding concerns regarding US detention policies and practices in the context of the ‘war on terror.’ Guantanamo is only the visible part of the story. Evidence continues to mount that the US operates a network of detention centers where people are held in secret or outside any proper legal framework—from Afghanistan to Iraq and beyond. If President Bush and his administration are serious about freedom and human dignity they should recommit to the rule of law and human rights.\(^{20}\)

Vice-President Richard Cheney also commented on AI’s reports on CNN’s *Larry King Live* on 31 May 2005. He stated that he was offended by AI condemnation of the United States and “for Amnesty International to suggest that somehow the United States is a violator of human rights; I frankly just don’t take them seriously.” William F. Schulz’s the Executive Director of AIUSA responded to Cheney’s remarks; “He doesn’t take torture seriously; he doesn’t take the Geneva Convention seriously; he doesn’t take due process rights seriously; and he doesn’t take international law seriously. And that is more important than whether he takes AI seriously.”

This very public and hostile exchange between AI and the White House illustrates how wide the gap was grown between the two since 11 September; AI is absurd and the White House has been associated with the systematic human rights violations of its Cold War enemy. It is important to note that both the president and vice-presidents did not assert that AI’s facts were inaccurate they took issue with the characterization that the United States was a human rights violator.

Americans in general have difficulty believing that their country could be labeled this way; perhaps this failure to recognize that the United States, a powerful democracy, could be a human rights violator is the largest stumbling block to improving human rights at home and abroad.


\(^{20}\) Ibid.
This project has examined AI’s struggle to shape that balance between human rights and other considerations in U.S. policy. This evaluation of AI’s effectiveness is long overdue. While previous studies of AI have focused on the philosophy or the internal dynamics of the organization, this study looked at the outcomes of its efforts over the long term, to judge whether the organization achieved its objectives. By necessity this is not a complete study of AI’s body of work. In addition to the work documented here, AI lists some thirty-seven themed campaigns that it is actively engaged in around the world in 2006. It continues its information collection activities and published its respected annual report and numerous other reports on its campaigns throughout the year. The organization also continues to move into new areas of human rights concerns in keeping with its move to a full spectrum human rights approach and it has issued statements on environmental concerns as they relate to human rights. It has also been very active in the campaign to reform the UN Human Rights Commission and its replacement body, the Human Rights Counsel. The global reach of AI, as illustrated by all of these facets of its work, has allowed the organization to continue to grow; according to its 2006 annual report, it has at least 1.8 million members around the world. This growth has been partially assisted by technological advances around the world. According to AI, in 2003 its website contained nearly 38,000 files that were visited by 15,000 people per day and more than fifty million pages were viewed over the year.  

AI’s original work was based on working for POCs, but that original mission has been augmented to include work that aimed to change the climate of human rights around the world. Country and theme campaigns were designed to not only readdress specific human rights problems, but also to elevate the issue of human rights whether in public debates or policy

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decisions, to create an environment where POCs will no longer be held. This does not mean that AI is abandoning POCs; it does mean that AI is incorporating its work for individuals into its broader campaigns and is re-evaluating its priorities. However the organization resolves this tension within the organization will have ramifications not just on AI and its members, but also for the international human rights community in general, because of its prominence in the international human rights community. AI’s prominence is rooted in its forty-five year history; much of that history was with struggles against powerful countries and government officials. The simple fact that government leaders feel compelled to respond to AI’s charges indicates that it has indeed had an impact on policymakers; further its survival through the political turmoil of the last forty-five years provides further evidence that its work to move the island of human rights closer to the mainland of U.S. policy has been effective.
SELECTED BIBLIOGRAPHY


________. “Chinese Authorities Reject UN and AI Findings on Abuses.” *Amnesty International Newsletter* 19, no. 10 (October 1989).


Guatemala: Murder of Auxiliary Archbishop Juan Gerardi. AI News Service No. 73/98, 27 April 1998. (AI Index: AMR 34/15/98)

Guatemala: Those who forget the past are condemned to relive it. AI News Service No. 256/98, 30 December 1998. (AI Index: AMR 34/37/98)

Is Guatemala falling back to its tragic past? AI News Service No. 79/98. (AI Index: AMR 34/19/98)


________. *United States of America: Memorandum to President Clinton: An appeal for human rights leadership as the first federal execution looms.* London: Amnesty International Publications, 2000. (AI Index: AMR 51/158/00)


