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The International Human Rights Policies of New Democracies:

Brazil and Chile in Comparative Perspective

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A Dissertation

Presented to

the Faculty of the Josef Korbel School of International Studies

University of Denver University

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In Partial Fulfillment

of the Requirements for the Degree

Doctor of Philosophy

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by

Claudia Fuentes Julio

June 2014

Advisor: Tom J. Farer

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Title: The International Human Rights Policies of New Democracies: Brazil and Chile in Comparative Perspective

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## ABSTRACT

Since the beginning of the 1990s, the majority of Latin American states have attempted to incorporate in some way or another human rights concern into their respective foreign policies, highlighting a history of human rights abuses and the return of democratic political rule as a trigger for galvanizing a commitment to assist in preventing such violations in other countries. Yet, while human rights have come to play a non-trivial role in the contemporary foreign policy of many Latin American states, there is great diversity in the ways and the extent to which they go about incorporating human rights concerns into their foreign policies. Explaining the diversity of human rights foreign policies of new Latin American democracies is at the heart of this project. The main research questions are the following: *Why do new democracies incorporate human rights into their foreign policies? And what explains the different international human rights policies of new democracies?* To answer these questions, this research compares the human rights foreign policies of Chile and Brazil for over two decades starting from their respective transitions to democracy.

The study argues that states commitment to international human rights is the result of the intersection of domestic and international influences. At the international level, the search for international legitimacy and the desire for recognition and credibility affected the adoption of international human rights in both cases but with different

degrees of impact. International values and pressures by themselves, while necessary, are an insufficient condition for human rights initiatives perceived to have not insubstantial political, economic or strategic costs. New democracies will be more or less likely to actively include human rights in their international policies depending on the following four domestic conditions: political leadership legitimizing the inclusion of human rights into a state's policies, civil society groups connected to international human rights advocacy networks with a capacity to influencing the foreign policy decisions of their government, and the Foreign Ministry's attitudes towards international human rights and the degree of influence it exercises over the outcome of the foreign policy process.

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## CHAPTER 1: INTRODUCTION

### **The International Human Rights Policies of Latin American Democracies**

Since the beginning of the 1990s Latin American states have increased their participation in international and regional human rights regimes and reinforced their capacities to respond and aid states when they face human rights catastrophes. Most countries in the region have attempted to incorporate in some way or another human rights concerns into their respective foreign policies, highlighting a history of abuse within their own countries as a trigger for galvanizing a commitment to assist in preventing such abuse in other countries. These cases come from all the Latin American Sub-regions (North- Central- South America) regardless of geography or relative power in the international system. The majority of them are, however, states that ended up years and in some cases decades of authoritarian regimes to undergo important transition to democracy processes that led to consolidation years later.

In South America, Argentina represents a middle power that dramatically changed its international policies to more adequately incorporate human rights concerns after the end of the military rule. The trajectory of Argentina has been characterized as a transit from being a “Pariah state to a global protagonist in international human rights” (Sikkink 2008). Among the many actions that Argentina took to protect human rights beyond its borders, the country stands out for helping to define the very term of forced disappearance and developed regional and international instruments to end the practice.

Mexico, another middle power state and a country internationally known for its traditionally absolute sovereignty focus, also started to open up to the international human rights regime since the defeat of almost a century of one single party rule under the PRI—Institutional Revolutionary Party in 2000. During President Fox’s years, Mexico ratified all the major regional and international human rights treaties accepting the oversight procedures of these Conventions and opening its door to external scrutiny receiving multiple visits of human rights special rapporteurs from the United Nations Special Mechanisms and the Organization of American States (OAS).

Smaller states such as Uruguay, Costa Rica, Guatemala and Chile have also played a significant role shaping international human rights. Uruguay, for example, has focused on increasing its peacekeeping capacity worldwide. UN Secretary General, Ban Ki-moon in a recent visit to the country said that “Uruguay’s commitment to global peacekeeping is without rival”, highlighting that “when adjusted for population, no country contributes more troops than Uruguay ” (UN News Center, 2014). Costa Rica, without undergoing major democratic breakdowns since 1950s, has a historical record as a human rights champion. The country lobbied aggressively for the establishment of the UN High Commissioner for Human Rights and became the first nation to recognize the jurisdiction of the Inter-American Human Rights Court, based in San Jose. Costa Rica’s influence in multilateral institutions has helped to frame and ratify treaties, create and staff institutions, monitor and sanctions offenders, and introduce new understandings of rights to the global agenda (Brysk 2009). Guatemala after 36 years of internal conflict and the only genocidal situation in the region and despite continuous domestic vulnerabilities also decided to include human rights as a central part of its new

democratic foreign policy. This Central American country brings to the table its own knowledge as a peace-builder based on the positive experience of the United Nations Verification Mission (MINUGUA) which performed a role as a third actor in the peace negotiations and was subsequently overseer of the consolidation of the process. The presence of the International Commission Against Impunity (CICIG) in the country is also pioneering experience on an international scale, through which the United Nations were involved in the strengthening of justice (Aguilera 2012). Guatemala as a non-permanent member of the UNSC in 2012 had a leading role in the debates regarding the protection of civilians in armed conflicts and was strong supporter of the concept of Responsibility to Protect (R2P).

Chile is probably the best example of a small state actively promoting international human rights. The country is among the few Latin American states that have gone as far as to identify the international promotion and protection of human rights as one of the fundamental goals of its foreign policy. After the end of the military regime, the first democratic government quickly ratified all major international and regional human rights treaties and reactivated its participation in international human rights institutions. Since then, the country has engaged in strengthening international institutions protecting human rights, being active, for instance, in negotiations for the newly created UN Human Rights Council and the UN Peace Building Commission, augmenting the presence of Latin American representatives in human rights institutions, and sponsoring or co-sponsoring important UN resolutions on issues such as the right to truth, the protection for all persons against enforced disappearance, the optional protocol to the convention against torture, among many others. Chile has actively participated in

UN peacekeeping operations since the 1990s and clearly endorsed the concept of the Responsibility to Protect internationally (Vargas, 2012; Aranda & Morande, 2012).

Yet, while human rights have come to play a non-trivial role in the contemporary foreign policy of many Latin American states, there is a great diversity in the ways in which they go about incorporating human rights concerns into their foreign policies and in the priority assigned to these principles as part of their international policies. There is a group of Latin American states that are more passive when it comes to defending human rights internationally and a few are still skeptical of the value and legitimacy of human rights in world politics. Brazil has traditionally preferred to define its national interests differently emphasizing the importance of absolute sovereignty, non-intervention, and autonomy in international politics. In recent years there has been increasing criticism against Brazil's foreign policy in this area. A recent study comparing the six most influential rising democracies<sup>1</sup> in relation to their support to human rights at the multilateral level, characterized Brazil as "ambivalent and often unpredictable" when it comes to voting behavior in key UN bodies (Piccone 2011:139). Yet, these studies also have tended to downplay the fact that Brazil has been increasingly a more active actor, for example, in the process of reform creating the new UN Human Rights Council and has been at the forefront of important international initiatives at the United Nations on the right to health, development and non-discrimination.

Nicaragua, Venezuela, Bolivia and Ecuador are arguable more reluctant participants of the international human rights regimes and in several occasions they have

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<sup>1</sup> The study includes Brazil, India, Indonesia, South Africa, South Korea, and Turkey.

denounced human rights principles as an unjustifiable intrusion into the sovereignty of states. Venezuela, for example, withdrew its membership at the Inter-American Human Rights Commission and Bolivia and Ecuador recently announced that they would follow suit. At the international level, these countries' tendency has been to abstain from condemning human rights violations abroad. Recently, these states refused to condemn at the UN General Assembly and at the Human Rights Council the atrocities committed by Bashar al-Assad in Syria.

### **Research Questions**

The precise etiologies of these diverse policies among states that at least ostensibly have similar political values due to their experience with authoritarianism that led to democratic openings and consolidation, are members of the same regional institutions, and in some cases are at similar stages of economic development should be susceptible to clarification. This research addresses the following questions:

- 1) Why do new democracies incorporate human rights into their foreign policies?
- 2) What explains the different international human rights policies of new democracies?

### **Why this Research Matters**

The current literature on human rights and foreign policy focuses heavily on countries from the North—specially the United States and some Western European countries—and pays too little attention to what and through which mechanisms countries from different geographical areas and with different political and economic capacities are doing to protect human rights internationally. Scholars have paid even less attention to explaining why there is a great diversity in the way in which new democracies adopt

human rights as part of their foreign policies. This dissertation is the first one to concentrate on explaining the extent to which newly democratized states in Latin American support human rights beyond their borders and how and why their policies differ.<sup>2</sup>

Of particular importance is the inclusion of Chile and Brazil as case studies in this research. There is an emergent consensus that Brazil's status as a rising power has made the country an increasingly pivotal player in international relations. Yet, thus far there has been relatively little debate with regards to the values guiding Brazil's international policies and the particular place of human rights in its foreign policy. Chile's international trajectory, on the other hand, illustrates how a small state emerging from military rule can reconstruct its perception of national interests in order to incorporate humanitarian concerns into foreign policy decisions.

The experience of Chile and Brazil also contributes to contemporary debates about the means and circumstances in which states are likely to intervene in one way or another to prevent or to terminate violations of human rights or to strengthen the normative and institutional framework for defending human rights. Important policy lessons can be extracted from the foreign policy experience of these two countries that can serve as guidelines for government officials, local and international norms

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<sup>2</sup> To be sure, among the very limited literature on the subject it is important to highlight David Forsythe's volume (2000) on "Human Rights and Comparative Foreign Policy" and Alison Brysk's "Global Good Samaritans" (2009) both of them including some case studies from the Global South. Also at a regional level, Natalia Saltalamacchia and Ana Covarrubias recently published a book titled "Derechos Humanos y Política Exterior: Seis Casos Latinoamericanos" (2012) describing how six Latin American states have incorporated human rights into their international policies. Yet, none of these publications focus on comparatively explaining the different human rights performance of their cases and some of their chapters are largely descriptive.

entrepreneurs, NGOS and epistemic communities interested in the promotion of human rights internationally.

### **What is a Human Rights Foreign Policy?**

Democratic states have committed and also implemented international human rights policies for almost half a century.<sup>3</sup> Countries adopting such policies aim to improve the human rights practices of a targeted government and or to prevent further human rights violations in the future.<sup>4</sup> The broader aim of human rights foreign policies is, therefore, improving and securing the fundamental rights outlined in the Universal Declaration of Human Rights and the two International Covenants (Civil and Political Rights, as well as Economic, Cultural and Social Rights). In principle, this means that states are “concerned about human rights violations, wherever they occur, and that borders are not barriers for the protection of rights” (Sikkink 2004:5). In practice, the weight that each country assigns to international human rights varies considerably according to their foreign policy priorities, political and economist interests as well as with the intensity of the violations. The policy instruments and means that states select to achieve this goal are also diverse.

A human rights foreign policy has two related but analytically separate parts: a bilateral and a multilateral policy. States have a multilateral human rights policy when they decide to participate in global multilateral mechanisms that are part of the international human rights regime. The latter is generally understood as a set of

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<sup>3</sup> In Europe and the United States human rights foreign policies were implemented in 1970s. In Latin America human rights promotion started only after the wave of repressive regimes ended in the mid-1980s and early 1990s.

<sup>4</sup> In some cases the aim is simply deterring similar future violations.

principles, norms, rules and decision-making procedures that states and other international actors accept as authoritative on the field of human rights (Donnelly 2013:14). A major aspect of participating in international human rights regime refers to the ratification of international human rights treaties and a state's acceptance of specific mechanisms for multilateral supervision of domestic human rights practices. Of the hundred or more treaties that address human rights issues, broadly understood, six are usually taken to provide the core of international human rights law: the two 1966 International Human Rights Covenants plus the 1965 Convention on the Elimination of All Forms of Racial Discrimination; the 1979 Convention on the Elimination of All Forms of Discrimination Against Women; the 1984 Convention Against Torture and Other, Cruel, Inhuman, or Degrading Treatment or Punishment; and the 1989 Convention of the Rights of the Child (Donnelly 2013:14). In addition, there are particular types of international human rights treaties that are especially powerful in the sense that they have enforcement powers that permit a supranational institution like a regional human rights court to oversee human rights practices. Examples of such treaties include the European Convention on Human Rights, the American Convention on Human Rights, and the Rome Statute of the International Criminal Court (Sikkink 2004: 10).

Apart from the ratification of international human rights treaties, a multilateral human rights policy includes the participation in international organizations in particular UN institutions with a human rights mandate. At the core of these organizations are the UN Human Rights Council and the High Commissioner of Human Rights but it also encompasses organizations with a mandate that centrally includes but is not limited to human rights such as UNESCO, the International Labor Organization (ILO), the



International Criminal Court (ICC), and the UN Security Council and the UN Peace-Building Commission and UN Peacekeeping missions. Regional organizations are also included in this list, in particular when they have a system of human rights enforcement such as such as the European Court of Human Rights and the Inter-American Commission of Human Rights and the Inter-American Court. Participation in these organizations involves activities such as founding and or joining these diverse international bodies; drafting, sponsoring and supporting human rights resolutions and initiatives; financing these institutions or any relevant initiative that they sponsor; and providing personnel such as troops in the case of UN Peacekeeping missions.

Bilateral human rights diplomacy consists of state to state diplomacy. In other words, “states have a bilateral human rights policies when their foreign policies systematically takes human rights in other states into account” (Sikkink 2004:10). The implementation of bilateral foreign policy can take many forms and can be legitimately pursued using all the means of foreign policy—short of the use of force, which contemporary international law reserves for self-defense (Donnelly 2013:140). These means include a wide array of policies that can be arranged as a continuum from mild to severe including: private diplomatic discussions, public diplomatic statements, information generation and dissemination, reprioritizing aid decisions to decide on human rights goals, human rights training programs, sanctions trade sanctions and arms embargoes, among other initiatives.

States with both bilateral and multilateral policies can be considered as having a comprehensive human rights foreign policy. In practice, only some states have both. The United States has a strong bilateral policy and a very poor multilateral policy. Most of

Latin American countries have accepted the compulsory jurisdiction of the Inter-American Court of Human Rights and others human rights treaties but only a few of them have explicit bilateral policies. On the other end, Canada and some European Union countries are the best examples of states having both bilateral and multilateral human rights policies. Despite these differences, the historical trend shows a “gradual but clear movement toward the adoption of human rights policies. Before World War II no country in the world has a human rights policy”(Sikkink 2004:10). Today, the majority of democratic states in all the regions of the world have more or less ambitious international human rights objectives either in their bilateral or multilateral policies or in both. Even non-democratic regimes support or at least tolerate some of the multilateral mechanism discussed before. There is, however, a significant difference among states with respect to the priority given to human rights into their foreign policies, the targets of human rights pressures, the type of human rights that gain predominance in their respective international agendas, and the means and instruments they use to implement policy.

## **Research Design**

### **Selected Cases**

This study is a comparative historical analysis based on case-oriented research. The selected countries (Chile and Brazil) are suited to a comparative study based on the logic of most similar system design (George and Bennett 2005; Della Porta and Keating 2008). These two countries share similar general characteristics including a common historical experience of human rights abuses during their respective military regimes and a transition to democracy that led to a process of consolidation in the mid-1990s. Both countries have similar level of development and initiated processes of economic openness

either in the late 1980s (Chile) or in the 1990s (Brazil). Yet, they show important differences when comes to their human rights diplomacy.

Chile since the beginning of its transition to democracy has actively incorporated human rights policies into its foreign policy, ratifying major international treaties and supporting international human rights institutions. On the other hand, Brazilian decision-makers took more than ten years after the transition in 1985 to accept the legitimacy of human rights in international affairs through the acceptance the external international scrutiny of international human rights treaties and it is country that still remains a reluctant promoter in many areas of the global human rights regime specially when comes to denounce country abuses and the discussion on humanitarian intervention. This study wants to explain this difference. Why Chile has been an active human rights promoter while Brazil has a more ambivalent policy towards international human rights?

To explain the different foreign policy outcomes, this research focuses on four independent variables that present an important degree of variation between the selected cases. Chile ranks high on these variables while Brazil is significantly lower. The variables are the following: a) Impact of international influences in accepting human rights as standard of international behavior; b) Commitment to human rights of political elites involved in foreign policy-making; c) Ministry of Foreign Affairs strength and openness to international human rights; d) Civil society involvement on foreign policy and human rights (more on this in the hypothesis section).

This case comparison is supplemented with within-country qualitative analysis using process tracing to evaluate casual processes within cases. Process tracing—a procedure designed to identify processes linking a set of initial conditions to a particular

outcome—has been acknowledged as an indispensable element of case empirical research and especially useful for comparative historical analysis (George & Bennett 2005, Vennesson 2008, Mahoney & Rueschemeyer 2003). Process tracing is particularly suitable for this type of study because it provides way to learn and to evaluate empirically the preferences and perceptions of actors, their purposes, their goals, their values, and their specification of the situations that face them. This method requires document analysis (official speeches, reports, journals) but also and very importantly in depth and carefully structured interviews with key actors that help us to understand and to uncover previously unknown relations between factors.

### **Fieldwork**

The research entailed extensive fieldwork in the Brazilian cities of Brasilia, Sao Paulo, and Rio de Janeiro and Chile's capital, Santiago. In Brasilia, the librarians at the Brazilian Ministry of Foreign Affairs and Rio Branco Diplomatic Academy provided invaluable help to find official documents and relevant articles and other publications to complete this study. In Santiago, representatives from the "Andres Bello" Diplomatic Academy and its library provided invaluable logistic support and relevant documentation to complete this work. The data collected during fieldwork was invaluable to systematize the human rights diplomacy and the instruments used by these two countries to implement these policies in the past twenty years.

On the other hand, almost thirty interviews were performed for this research with government officials, diplomats, scholars, and civil society members. The majority of the interviews were held personally while the rest were performed by telephone or through written questionnaires that were previously sent by e-mail. Interviews were crucial to

understand actor's motives, the context in which foreign policy decisions took place, and to test the possible casual mechanisms operating in these two cases.

### **Timeframe**

As for the time frame, this research covers more than two decades of Brazilian and Chilean foreign policy. This provides a longer perspective on the domestic and international changes conditioning the international human rights policies of these two countries. The study starts with the respective transitions to democracy and continues examining several presidencies until 2010. For the case of Brazil, the research covers the following Presidential terms: Jose Sarney<sup>5</sup> (1985-1990), Fernando Collor de Mello (1990-1992) and Itamar Franco (1992-1994). Brazilian consolidation started with Fernando Henrique Cardoso who was President of Brazil for two terms (1995-2002), followed by other two terms of President Luis Inacio "Lula" da Silva (2003-2010). Chile's time-frame covers the whole period in which the Coalition of Parties for Democracy was in government. This includes four administrations: Patricio Aylwin (1990-1994)<sup>6</sup>, Eduardo Frei (1994-2000), Ricardo Lagos (2000-2006)<sup>7</sup> and Michelle Bachelet (2006-2010).

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<sup>5</sup> Jose Sarney was the first civilian President in Brazil since 1964.

<sup>6</sup> First democratically elected President, after 17 years of military regime led by General Augusto Pinochet.

<sup>7</sup> There has been an intensive debate regarding when to mark the end of the Chilean transition to democracy. Yet, in 1998 the detention of General Pinochet in London opened the space for a further dialogue on pending human rights issues and civil-military relations. It also played an important part in generating a consensus for constitutional reform in 2005, eliminating important non-democratic areas of the text such as the existence of non-democratically elected senators.

## **Assessing Human Rights Foreign Policies**

This section identifies a state's degree of commitment to the promotion of international human rights—the dependent variable in this study. The aim is to operationalize into measurable factors the variables included in this research. The adoption of human rights foreign policies is often inconsistent; lack continuity over time, and in many cases consist more of grandiloquent statements than the serious investment of diplomatic capital.

Evaluating the actual performance of countries regarding their international human rights agenda remains a critical component in the analysis of the foreign policy of states. Systematic assessments are, in fact, very rare and this is even more so for countries coming from the global south. The first objective of this study, therefore, is to elaborate metrics for assessing the record and international performance of different states in the promotion and protection of human rights. This systematization helps to identify critical moments in which the foreign policies of these two countries differ, to trace the evolution of the policies over time, and to identify the means used by each state in the pursue of human rights diplomacy.

This assessment considers only the multilateral human rights policies of Chile and Brazil. Bilateral foreign policies are not part of this study due to fact that much of diplomacy takes place behind the scene and because Ministries of Foreign Affairs in Latin America keep poor public records of bilateral initiatives on this subject. At the same time, the majority of Latin American countries have explicitly indicated some sort of commitment with multilateral human rights policies. Chile and Brazil, despite the

different degrees of activism, have contributed in some way or another to the global human rights regime.

The study considers four dimensions that altogether cover the core activities of states participating in global multilateral mechanisms on human rights. These dimensions are legal, human rights institutions, humanitarian protection and peace promotion, financial assistance. (Table 1 illustrates the relevant dimensions included in the assessment with specific variables per dimension and observations identifying the kind of information on relevant data.)

**(1) Legal.** The legal dimension traces states ratification of international and regional human rights treaties. It looks specifically at the numbers of ratified treaties, the timing and process of ratification.

**(2) Human rights institutions.** This dimension evaluates states participation at relevant human rights institutions. These institutions include the UN human rights system especially at the Human Rights Commission and the Human Rights Council (established in 2006) and when necessary it also highlights important landmarks at the United Nations Security Council. At a regional level, the participation and responses to the Inter-American human rights system are also included.

The participation at UN human rights institutions is evaluated by a number of observations: number and type initiatives sponsored. These includes a wide array of initiatives encompassing the whole spectrum of human rights: civil and political rights along with economic, cultural and social rights; voting behavior when assessing country-specific human rights situations; voting behavior in cases of massive human rights abuses and humanitarian crisis; other high-profile human rights initiatives within the UN such as

Brazil's "Hunger Zero" initiative at the UN. At the Inter-American Human Rights system the observations concentrate on the Commission and include the following: number of petitions submitted by countries to the Commission; responses to the recommendations emanating from the Commission; number of commissioners that are Chilean or Brazilian in origin.

**(3) Humanitarian protection and peace promotion.** This dimension evaluates states participation in UN peacekeeping initiatives and responses to massive human rights violations. The relevant observations include number of peacekeepers and type of missions; responses to major humanitarian interventions such as Rwanda (1994); Kosovo (1999), and Libya (2011); reaction to the idea of Responsibility to Protect (R2P) and initiatives in this subject.

**(4) Financial assistance.** Effective financial contribution to international human rights institutions. This includes, for example, the contributions to the Office of the High Commissioner of Human Rights (OHCHR) and the United Nations Democratic FUND (UNDEF). At a regional level, the financial assistance to the Inter-American Commission for Human Rights.

A country that ranks significantly high across these dimensions qualifies as having a high degree of commitment to international human rights and, therefore, can be regarded as an "international humanitarianist." Ideally a country's performance can be examined each year examining each one of the relevant dimensions. Yet, this study covers more than twenty years of human rights diplomacy and therefore will assess the general performance of Chile and Brazil highlighting the significant differences and continuities across time.



Note that this this research focuses exclusively on the factors that shape states to commit to international human rights and in explaining the divergence in states' performances, leaving outside of its domain of inquiry any questions regarding the impact or effectiveness of these policies in the domestic human rights conditions of the recipient countries (Landman, 2006; Landman & Carvahlo 2010; Cardenas 2007).

Table 1

*Assessing Human Rights Foreign Policies: Chile and Brazil*

<b>Dimensions</b>	<b>Variables</b>	<b>Observations</b>
<b>Legal</b>	- International and Regional Human Rights treaties ratified	a) Number of treaties ratified, year of ratification-timing, process of ratification.
<b>Human Rights Institutions</b>	-Participation at the Human Rights Commission and the Human Rights Council (since 2006).  -Voting patterns in other key UN bodies (UNSC)  -Other relevant multilateral initiatives at the UN.  - Participation at the Inter-American Human Rights System.  -Acceptance of international scrutiny on domestic human rights issues.	a) Number and type initiatives sponsored. b) Voting behavior when assessing country-specific human rights situations.  a) Support for UN resolutions against 'pariah states' or states committing human rights abuses. b) Relevant votes in cases of massive human rights abuses and R2P situations.  a) For example, Brazil sponsored the "Zero Hungry challenge".  a) Number of petitions submitted by countries to the Commission; b) Responses to the recommendations emanating from the Commission. c) Number of commissioners that are Chilean or Brazilian origin.  a) External monitoring on local human rights issues such as: acceptance of UN/OAS experts (timing, topic, etc).
<b>Peace Promotion and humanitarian protection</b>	-UN peacekeeping missions.  - Responses to humanitarian crisis- mass atrocity.	a) Number of peacekeepers, type of missions.  a) Responses to major humanitarian interventions: Rwanda (1994), East Timor Kosovo (1999), Libya (2011). (political statements and position of the country, sending troops, humanitarian assistance, etc.) b) Tracing each country's response to R2P.

Table 1 (continued)

Dimensions	Variables	Observations
<b>Financial Assistance</b>	-Contribution to the HRC*/ OHCHR*** or other relevant UN institution for human rights promotion.  -International Cooperation	Monetary contribution by GDP percentage of the GDP.  -Relevant initiatives that are cataloged as cooperation for human rights.

\*Human Rights Council

\*\*Inter-American Commission for Human Rights.

\*\*\* Office of the High commissioner for Human Rights

### **Sources of International Human Rights Policies**

There is an extensive literature on foreign policy analysis (FPA) dating from 1950s that seeks to explain why governments make the foreign policy decisions that they do (Hudson 2007; Smith, Dunne, Hadfield 2008; Beasley et al 2012). Researchers have investigated how regime type, bureaucratic politics, interest groups, social and individual psychology and a significant number of other variables influence government decisions. However, current studies on human rights diplomacy do not originate from FPA but from the intersection of IR theory with the specific domain of human rights. The IR literature on the subject is basically divided in three main approaches— realism, constructivism and liberal institutionalism—three of them emphasizing different ways of understanding the role of human rights in foreign policy. This subsection reviews each of these three approaches situating them within the broader discussion of human rights diplomacy, analyses the current research gaps, and then draws hypotheses for this study.

#### **Realism**

Size, distribution of power, and the position in the international system are seen by realists as the determinants of a state's national interests. Jan Egeland (1988) in his

book comparing Norwegian and U.S. international human rights policies, for example, offers an explanation that focus on the international structure to explain differences between these two countries: “small and big nations are differently disposed to undertaking coherent rights-oriented foreign policies.” In the case of the United States, its relatively modest international human rights policies are “because of, rather than in spite of, her superpower status.” Furthermore, “the frequency and intensity of the conflict between self-interests and (international human rights) norms seems, in short, proportional to a nation’s economic and military power, as well as its foreign policy ambitions.” Small states, with fewer constraints and international responsibilities, rarely have to choose between human rights and other foreign policy goals and therefore they based their strategies on multilateral institutions in order to exert international influence. In sum, small democratic states are likely to be strong human rights promoters while big and powerful states are skeptics or moderate human rights promoters.

Realists also emphasize that in the very unlikely circumstances that powerful states decide to pursue human rights at some perceived political, economic or strategic cost this is due exclusively to self-interest: human rights enhance the relative power of the state or if human rights are used to justify certain acts in foreign policy. Human rights promotion, therefore, becomes the product of “dominant nations or group of nations” espousing moral principles that serves their own interest (Carr 1939:211; Morgenthau 1960). Most notably, when powerful states deem it necessary, they will employ coercion or inducement to unilaterally spread human rights internationally.

Realist structural explanations, however, seem to be insufficient to explain the many foreign policy differences regarding human rights. If it were only for “small” size,

most of Latin American countries would be international human rights promoters. The reality shows a region with diverse policies regarding its engagement with human rights and the most “big and powerful” countries in the region (Mexico, Brazil, Colombia and Argentina) are comparatively more inclined to participate in international human rights regimes than middle size countries such as Peru or Venezuela, for example. No common patterns regarding international human rights policies can be deduced from size, geography and power alone. Realist predictions regarding the spread of human rights internationally do not account for why less powerful states would accept international or regional human rights regimes when they are not coerced to do so. In sum, realist explanations do not seem to account for the differences in the human rights foreign policy of the cases considered in this research.

### **Liberalism**

Liberal approaches hypothesize that states pursue international human rights because it is in the self-interest of states to comply with international norms and institutions. Moravcsik’s work deals specifically with the human rights foreign policies of new democracies. He attempts to empirically demonstrate that the participation in an international human rights regime constitutes an act of political delegation that could be used by governments to ‘lock-in’ and consolidate domestic policies, thereby enhancing their credibility and stability vis-à-vis domestic political opponents. The pursuit of human rights abroad in other words would be a result of political calculations at home. The type of regime (democratic, authoritarian, newly democratic) becomes a crucial factor for liberals in explaining and predicting the adoption of international human rights. For Moravcsik, newly established democracies are likely to ratify binding international

human rights commitments to protect their still unstable regimes against overthrows or to reduce political uncertainty at home (Moravcsik 2000).

Liberal predictions when comes to the foreign policies of new democracies are at the crux of this study. Thus, one of the purposes of this research will be to test this assumption by addressing the specific question of whether the newly elected governments of Chile and Brazil felt pressure to consolidate the credibility of the new democratic regime vis-à-vis non-democratic forces in the society and commit to international treaties and institutions as a means to reach their goals.

### **Constructivism**

While liberalism focuses on how human rights norms alter incentives thereby making it rational for new democracies to support international human rights (logic of rational consequentialism), constructivism stresses the power of strongly held principles, ideas about what is right or wrong.

A critical characteristic of political action in this area [constructivism] is that it is “principled”—that is, the altruistic and moral motives of actors have persuasive power in themselves. Accordingly, the most fundamental motivating force behind human rights regimes is not rational adaptation, let alone coercion, but transnational socialization—the logic of appropriateness. (Moravcsik 2000: 223)

In explaining state’s support for international human rights, some constructivist scholars have looked to salient historical events or dramatic policy failures, yet recurrent explanations comes either from the identity of states (who they are) or from the notion that international norms and ideas have a powerful effect in shaping states’ policies. Identity-based explanations focus on the democratic character of a state and or its role as middle power. According to what Thomas Risse terms “liberal constructivism”, established democratic governments seek to extend their domestic values abroad and

recognize others who do so (Risse-Kappen 1996). The more democratic they are, the more likely their espousal of human rights values. Democratic human rights foreign policy, therefore, may be more direct expression of liberal democratic identity as a community of values (Risse-Kappen 1996).

Other authors add state identities as “middle powers” as an additional explanatory variable for the adoption of human rights in foreign policy (Cooper, Higgott, & Nossal 1993; Cooper 1997; Brysk 2007). Middle powers, from this approach are countries defined by “[...] the tendency to pursue multilateral solutions to international problems, the tendency to embrace compromise positions in international disputes, and the tendency to embrace notions of ‘good international citizenship’ to guide diplomacy” (Cooper, Higgott, and Nossal 1993: 19). Alison Brysk specifically uses the criteria of middle powers to explain why certain countries decided to act as “Global Good Samaritans.” She highlights that “candidate states [*humanitarians*] are usually globalized, democratic, moderately developed, and secured middle powers” (Brysk 2007:5). The problem with this definition is that it is so broad that it encompasses a wide spectrum of countries. In the specific case of Latin America, the majority of the countries in the region would actually classify within this category of Middle Powers. Yet, only some states in Latin America are active human rights promoters while others have remained more reluctant.

In sum, identity-based approaches lack a substantive explanation of what a middle power or a democratic identity means and how this identities project into the international community and its specific effects on human rights diplomacy. This perspective have led scholars to exclusively concentrate their work on demonstrating the link between the social democratic values of a state (democratic identity) and/or its role as middle powers

with the international promotion of human rights. The unintended result has been an extensive focus on the human rights foreign policies of very few countries that possibly fit the former explanation: Sweden, the Netherlands, Norway, Canada and to a lesser extend Australia. The processes by which newly democratic states adopt human rights foreign policies have been largely overlooked by identity-based explanations and therefore the motives of a more extensive list of countries that decide to adopt international human rights remains understudy.

Constructivist's scholarship, however, have built an important research agenda on norm diffusion and the persuasive power of principle ideas in bringing about political change (Keck & Sikkink, 1998; Rice, Roop, & Sikkink, 1999; Finnemore & Sikkink, 1998; Nadelmann, 1990; Klotz, 1995). This literature can offer further insights for this research due to its focus on how international norms such as human rights have impacted state policies. In what has been called the first wave of scholarly research on norm diffusion, the main concern has been with international or regional norms that set standards for the appropriate behavior of states.

Finnemore and Sikkink (1998) introduced the concept of "norm cascade", a mechanism in which countries adopt new norms through a process of international socialization that is driven by a need to enhance international legitimation, pressure for conformity, and the desire of state leaders to enhance their self-esteem. In the past decade, scholars have generated important accounts of international legitimacy and on the sources of legitimization in shaping state behavior (Barnett and Finnemore 1997; Clark, 2007). States also care about international legitimacy because it has become an essential contributor to perceptions of domestic legitimacy held by a state's own citizens.

“International legitimation is important insofar as it reflects back on a government’s domestic basis of legitimization and consent and thus ultimately on its ability to stay in power” (Finnemore, M. & Sikkink, K. 1998:903).<sup>8</sup> Conformity can be seen as analogous to “peer pressure” among countries. Conformity involves a “social proof” demonstrating that states have adapted to the social environment that they belong—they are part of a group (Axelrod in Finnemore & Sikkink, 1998:903) Sikkink and Finnemore suggests that leaders of states sometimes follow norms because they want others to think well of them and the want to think well themselves (903). In this sense, “states care about following norms associated with liberalism because being ‘liberal states’ is part of their identity in the sense of something that they take pride in or from which they gain self-esteem” (904).

There is also an incipient second wave of norm scholarship that contributes to previous literature by adding a new focus on the effects of international norms on state behavior via domestic political processes. These perspectives emphasize the role local leaders—political elites and societal groups—as “norm entrepreneurs” promoting the legitimacy of international norms through a process of “accommodation or localization” that bridge international with local understandings and experiences (Acharya, 2004; Checkel 1998).

Checkel use the concept of “cultural match” to describe a set of preexisting domestic understandings that condition the impact of transnational norms. According to this scholar, diffusion is faster when ‘a cultural match exists between a systemic norm

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<sup>8</sup> The international legitimacy of military or authoritarian governments, for example, has been signaled as an important driving force for regime transition in Latin American regions.



and a target country, in other words, where it resonates with historically constructed domestic norms.” Checkel further defines a cultural match as

a situation where the prescriptions embodied in an international norm are convergent with domestic norms, as reflected in discourse, the legal system (constitutions, judicial codes, laws), and bureaucratic agencies (organizational ethos and administrative procedures). (Checkel, 1998)

More recently, Amitav Acharya, proposes a dynamic explanation of norm diffusion that describes how local agents reconstruct foreign norms to ensure that the norms fit with the agents’ cognitive priors and identities. Acharya calls this process “localization” and it is said to occur where there is contestation between emerging transnational norms and preexisting regional and normative and social orders” (Acharya, 2004: 241). Specifically he argues that successful norm diffusion depend on the extent to which they provide opportunities for localization.

In parallel to the previous debate, constructivist highlights the process by which these new norms are institutionalized. This perspective emphasize that ideas and norms have a strong and continuous influence on state policy as they become embodied in institutions and that institutions themselves can become autonomous and powerful political actors (Barnett & Finnemore 2004). Cortell and Davis stress the role of institution “as providers of the rules of the game for citizens and state officials, establishing rights and obligation, identify what is legitimate or not, and, in the process, help national actors define their interests domestically and internationally” (Cortell & Davis, 2000: 79).<sup>9</sup>

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<sup>9</sup> Another interesting example of the role of institutions is Legro’s (1997) perspective which mixes a cultural and organizational theory that “focuses on the way that the pattern of assumption, ideas and beliefs that prescribes how a group should adapt to its external environment and manage its internal affairs, interests, and calculations”. Legro applied his “organizational cultural approach” to explain the varying use of force in World War II.

Sikkink specifically emphasize that human rights principles acquire strong and continuous influence when they become embedded in institutions (Sikkink 2004).

As explained before, constructivists have done very little research on the human rights diplomacy of the Global South. This study adds to current constructivist research by looking at both the role of domestic and international factors described in the two waves of constructivist research described previously. These include assessing the following variables: a) International dimensions: Human rights as international standards of behavior as the possible product of socialization among states; b) Domestic dimensions: the role of “norm entrepreneurs” (defined here as political elites and civil society in this research) and political institutions (Ministry of Foreign Affairs) in the prospects for adopting international human rights. Looking at both domestic and international dimensions simultaneously is an innovation of this study since the majority of constructivist work focuses only in one dimension or primarily in one.

### **Gaps in the Literature and Hypothesis**

The previous review of the current scholarly work on human rights foreign policy reveals important gaps in understanding the process by which state adopt these policies. This research seeks to fill these gaps.

First, when explaining why states adopt human rights the three predominant IR approaches tend to focus on one level of analysis either domestic or international. This is an important shortcoming considering that current foreign policy analysis is increasingly incorporating perspective that see any state’s foreign policy as a reflection of the subtle interplay of domestic and international conditions and pressures (Evans, Jacobson,

Putnam 1993; Milner 1997). This study will look at the intersection of both domestic and international factors to explain foreign policy outcomes.

Second, research on the domestic factors that drive new democracies to adopt international human rights is very limited. Moravcsik's work from the liberal front is a potential good starting point to explain why new democracies adopt human rights in the first place and this research will test this proposition. Still, an obvious shortcoming of this perspective is its incapability of explaining why states' commitment to international human rights persists once democratic consolidation takes place. On the other hand, constructivist research on the domestic processes shaping the adoption of international norms into the foreign policy process is scant and the majority of it is still very much at the theoretical level with little empirical work. This approach highlights the importance of looking at "norms entrepreneurs" and institutions but without specifying which specific factors to look at. This study focuses on political elites and civil society as the "norms entrepreneurs" and identifies the Ministry of Foreign Affairs as the most relevant institution when comes to foreign policy decision-making and implementation.

Domestic considerations are especially critical for the selected cases. The political leaders of Chile and Brazil put forward a series of political, economic and social reforms in order to move beyond the authoritarian practices of the past with the goal of securing and strengthening the democratic regimes at home. In both cases— but with different degrees—these domestic reforms conditioned foreign policy decisions. Simultaneously, other domestic conditions such as institutional and bureaucratic practices, the predominant ideology of decision-makers significantly affect the ways in which international norms such as human rights are perceived locally.

Third, when comes to the effects of international dimensions, structural realist accounts provide very little value-added to understand the incorporation of human rights into foreign policy due to its almost exclusive focus on material power in the international system. Constructivist approaches are more appropriate to understand why and how international human rights ideas affect the behavior of states. Yet, one of the shortcomings of this approach is that it assumes that the process of socialization by which states adopt human rights as standards of appropriate behavior affect all countries equally or at least similarly. So far, states responses to international human rights are so diverse that there seems to be no good reason to hold this assumption especially when comes to new democracies from the global south. Understanding the different ways in which international and domestic factors influence the foreign policy of states can provide a better clue as to which are the causal mechanism affecting the adoption of human rights foreign policies. This will allow scholars to better understand the possible ways in which states especially those from the global south will engage with the international human rights regime and to better account for their critiques and potential contributions.

This study builds upon the relevant literature on human rights foreign policy and fills some of its gap. In light of the above theoretical and empirical discussion, this study assess the following international and domestic variables as possible drivers for the inclusion of human rights into foreign policy, testing the following hypotheses.

### **International Dimension: Human Rights as International Standards of Behavior**

The role of international human rights ideas and norms in changing the perception of a country's national interest and in setting international standards for the behavior of states has been documented by constructivist research on the subject. From this

perspective, states adopt human rights foreign policy as a result of a process of international socialization that is driven by the search for international legitimacy and “peer pressures” for conformity (to be part of a group), and the desire of leaders to enhance its credibility. Yet, international pressures and the normative force of international human rights do not seem to affect all countries in the same degrees and there is a need to understand the different ways in which states respond and adapt to these influences.

*Hypothesis: International influences affect the adoption of human rights foreign policies differently depending on a state’s perception of what constitutes international legitimacy and its international role.*

### **Domestic Dimension**

**The democratic “lock in.”** Liberal theories predict the adoption of international human rights instruments in order to protect unstable new democracies or as a formula to consolidate the credibility of the new authorities vis-à-vis domestic political opponents (See next chapter). Thus, the question to be asked is whether governments of newly democratic states feel pressure to consolidate the credibility of the new democratic regime vis-à-vis non-democratic forces in the society and commit to international treaties and institutions as a means to reach their goals.

*Hypothesis: Political elites during the transition to democracy use international human rights foreign policy instrumentally for domestic gains.*

**Elite leadership’s role.** The personality, values and beliefs of a leader, or group leaders, can shape the policies of a state. Characteristics of leaders are generally more influential when they have significant latitude in shaping policy and in ambiguous,

uncertain, or complex situations as is normally the case in process of transition to democracy. In these cases, the leaders have a larger opportunity to act as “norms entrepreneurs”, providing legitimization to foreign norms or ideas. In this particular case it is important to assess if political leaders and decision-makers’ have an unusual personal commitment to promoting and legitimizing human rights initiatives.

*Hypothesis: Political leaders and decision-makers’ commitment to human rights are important drivers for promoting and legitimizing human rights values into a state’s international policies.*

**Foreign Ministry and its impact on the foreign policy process.** The role of domestic institutions has been often overlooked in the literature dealing with human rights in international politics.<sup>10</sup> The institutional dynamics and the prevalent ideas within the bureaucracies that decide over foreign policy can critically influence the potential inclusion of human rights policies. The identification of particular foreign policy ideologies inside the foreign ministry will allow a better understanding of the potential fit of human rights into the shared ideas and values that have historically motivated states foreign policies. In other words, the attitude of Ministry of Foreign Affairs is fundamental. Is it sympathetic or at least not hostile to a strong human rights foreign policy? How do its history, structure, ethos and recruiting patterns affect the policy views it communicates to political leaders? And what is the degree of influence it exercises over the outcome of the foreign policy process?

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<sup>10</sup> Depending on the selected countries some state institutions are more critical than others to understand foreign policy outcomes. This research focuses specifically on the role of the Ministry of Foreign Affairs due to the low impact of congress or other state institutions for these cases.

Hypothesis: *A high degree of fit between universal human rights and the prevalent ideas motivating decisions inside the Ministry of Foreign Affairs positively impacts the commitment of a state to international human rights policies.*

**Civil society.** Foreign policy scholarship is increasingly moving away from an exclusive governmental focus towards looking at the role of societal groups in explaining policy choices. The impact of domestic civil society when advocating for human rights increases with the support of international actors. This has been sufficiently documented by the work on “transnational advocacy networks” (TANS) (Keck and Sikkink 1998). TANS—groups motivated by principled ideas and values rather than material concerns—are critical drivers for policy change towards international human rights policies.

Hypothesis: *Strong domestic civil society groups connected to international human rights advocacy networks effectively pressure governments to commit to international human rights policies.*

### **Overview of the Argument**

Existing International Relations approaches explaining state’s support of international human rights fail to explain adequately why some new democracies commit to human rights more than others. The empirical work on human rights diplomacy from countries in the Global South is also very limited. To fill this theoretical and empirical gap in the literature, I examine the domestic and international factors that determine the commitment to international human rights of new democracies from the global south.

I find that the search for international legitimacy and the desire for recognition and credibility affected the adoption of international human rights in both cases but with different degrees of impact. International values and pressures by themselves, while

necessary, are an insufficient condition for human rights initiatives perceived to have not insubstantial political, economic or strategic costs. New democracies will be more or less likely to actively include human rights in their international policies depending on the following four domestic conditions: political leadership legitimizing the inclusion of human rights into a state's policies, civil society groups connected to international human rights advocacy networks with a capacity to influencing the foreign policy decisions of their government, and the Foreign Ministry's attitudes towards international human rights and the degree of influence it exercises over the outcome of the foreign policy process.

In the case of Chile, the higher degree of commitment to international human rights was significantly shaped by the timing of its transition to democracy in the early 1990s, which coincide with the end of the Cold War and a new wave of democratization across the region. The favorable external environment was combined with a pressing need to recover Chile's international credibility after years of being isolated from the international community of states due to human rights abuses during the military regime.

At the same time, important domestic factors significantly pushed Chile to commit to international human rights policies. The uncertain conditions in which the transition to democracy took place and the lack of maneuver of the new authorities prompted the government to use foreign policies for domestic purposes. But human rights values were not use only for instrumental purposes. This new group of leaders also had an unusual level of commitment to promoting and legitimizing human rights initiatives due to their personal history of struggle during the Pinochet regime. This led to development of new foreign policy ideas that were convergent with human rights values. The limited bureaucracy of the Chilean foreign ministry and a civil society with extensive



ties with international human rights organizations and the government further strengthened this process. Finally, the same political elites were in power for more than twenty years, further institutionalizing Chile's commitment to international human rights.

Unlike Chile, Brazil's international status and prestige did not diminish significantly during the military regime and there were no significant foreign policy changes during the transitional period. Brazil's diplomacy maintained its traditional suspicious attitude towards international human rights. However, starting in the 1990s Brazil's foreign policy experienced a strategic change as a result of the consolidation of the democratic system especially during Cardoso's Presidency along with the country's economic opening. The search for international credibility and legitimacy became only during this period an important objective of Brazil's diplomacy and the adherence to international human rights and international human rights institutions played a role in attaining those goals. Indeed, this study documents how Brazil's foreign policy experienced a shifted from a defensive posture to broadly accepting the role of human rights in international politics. Yet, despite Brazil's increasing acceptance of humanitarian ideas, the country was still pretty much anchored on international strategies privileging importance of absolute sovereignty and non-intervention in international affairs. Domestic factors played a critical role explaining this variance. The Brazilian case demonstrates that democratic transitions not always generate local incentives for accepting international human rights norms. Most importantly, it highlights how history, institutional and bureaucratic practices, and the kind of ideology of decision-makers and political elites affect the ways in which international human rights norms are perceived locally. Brazilian foreign policy has traditionally been dominated by a powerful and

fairly autonomous Foreign Ministry that has been somewhat suspicious of international human rights and that had tended to disregard humanitarian interventions as a cover for great power involvement in the domestic affairs of other states. The lack of local NGOS<sup>11</sup> working on monitoring and influencing foreign policy decisions further constrained the prospects of a more active inclusion of human rights into Brazil's international policies.

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<sup>11</sup> Brazilian NGOS started monitoring Brazil's foreign policy on human rights only during the mid-2000s.

## CHAPTER 2: CHILE'S HUMAN RIGHTS DIPLOMACY

Following General Augusto Pinochet's departure from power in 1990, one of the first objectives of the center-left coalition in power ("Coalition of Parties for Democracy" or CPD) was to actively promote the reinsertion of Chile into the community of democratic states as a way of recovering the country's international credibility that was lost due to the multiple condemnations made by international institutions, states, and transnational NGOs aiming to stop the human rights abuses perpetrated by the military regime. Because the CPD continued to win presidential elections, holding office for four consecutive terms<sup>12</sup>, policymakers were able to develop a consistent and coherent agenda on foreign relations for over twenty years. They promoted the notion that a relatively small country like Chile without geostrategic or economic prominence needs to search for alternative sources of power actively participating in the creation and strengthening of international norms and institutions and reinforcing Chile's traditional emphasis on international law and multilateralism as a way of leveling the playing field among nations.

Chile's historical preference for building multilateral institutions, however, is not a sufficient condition for becoming an international human rights promoter. In fact many small countries have active multilateral foreign policies in different issue-areas but are

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<sup>12</sup> President Patricio Aylwin (1990-1994), Eduardo Frei (1994-2000), Ricardo Lagos (2000-2006), and Michelle Bachelet (2006-2010).

less active than Chile on the realm of human rights. Among the conditions that were key for Chile to commit to international human rights is the presence of domestic actors willing to mobilize, promote, and legitimize human rights ideas into the foreign policy process. A key element in this analysis is the unique role played by a group of highly qualified experts in international relations with extensive ties with human rights advocacy networks that entered as part of the new democratic government in key positions at the Ministry of Foreign Affairs. The similar political backgrounds of these individuals enabled them to transform their personal ideals into more than two decades of effective foreign policy. These actors shared common values, had similar beliefs about what constitutes Chile's national interest and, most importantly, developed concrete foreign policy initiatives with an emphasis on international human rights and the promotion of democracy.

Chapter two explains Chile's support for international human rights and places it within the context of Chilean foreign policy since the transition to democracy. The first chapter provides a detailed assessment of Chile's diplomatic actions from 1990 to 2010 in three arenas that are crucial for the promotion and protection of human rights: a) Legal (ratification of International human rights treaties); b) Institution-Building/ international human rights regimes (Participation in multilateral human rights institutions at the UN and OAS); c) Peace promotion and humanitarian protection (UN peace keeping initiatives and responses to humanitarian crisis especially massive human rights violations) Chapter three discusses the international and domestic determinants that explain why, and under which conditions, human rights principles came to be an important part of Chile's foreign policy.

## Chile's Assessment<sup>13</sup>

Chile's involvement with the promotion of universal human rights dates back to the creation of what is today the international human rights regime after the Second World War. Chilean diplomats along with a reduce number of leaders from other developing countries particularly from Asia and Latin America were able to play a significant role during the drafting of the UN Charter, the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Chile's Permanent Representative at the UN, Hernán Santa Cruz, was one among the group of ten international figures who drafted the UDHR in 1948 (Sikkink 1993(b)/2004; Reus-Smit 2011). Chile was also active in the ensuing debate. Speaking in the Third Committee of the General Assembly on the draft Declaration, the Chilean Representative stated almost prophetically "no one could infringe upon the rights proclaimed in it [the Universal Declaration] without becoming an outcast from the community of states" (Reus-Smit 2011: 532).

The coup d'état in 1973 and subsequent military regime broke Chile's traditional engagement with the international human rights system. During this period, Chile's participation in the United Nations and other international and regional fora was drastically reduced. Those very same international institutions that Chile had helped to create were at the forefront of the fight against the massive human rights violations

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<sup>13</sup> There is very little written on Chile's Human Rights Foreign Policy. It is also important to note that the Chilean Ministry of Foreign Affairs does not regularly publish or keeps a public record of the country's voting record at UN human rights forums. Unlike other countries, including Brazil, there is no NGO or any other institution monitoring Chile's foreign policy decisions on this subject.

perpetrated by the military regime. The United Nations condemned the Chilean government several times, at critical moments of state repression. Following the coup against President Salvador Allende, the United Nations established an ad hoc working group (1975) to inquire into the situation of human rights in the country. This ad hoc working group is generally perceived to be the first “Special Procedure” of the United Nations Commission on Human Rights. In 1979, this working group was replaced by a special rapporteur and two experts to study the fate of the disappeared. This led to the establishment of the first thematic Special Procedure in 1980: The Working Group on Disappearances to deal with the question of enforced disappearances throughout the world. The Inter-American Commission on Human rights also presented several reports on the human rights situation of the country (Vargas, 2012).

By late 1970s and early-1980s, Chile was increasingly seen as a pariah state within the international community and the country’s international image was at its lowest levels. Chile’s relations with Latin American countries dramatically deteriorated after the country decided to withdraw from the Andean Pact; some European countries issued complaints against the country due to the killing of their nationals in Chile’s territory—most notably Spain, and the lessening of United States’ support after the killing in 1976 of the former Chilean Minister of Foreign Affairs, Orlando Letelier and his American assistant, Ronni Moffit, in Washington DC significantly affected the country’s standing within the international community. Agents of the Chilean secret police planned and perpetrated this assassination, the first one of this kind committed not only beyond Latin American borders but in US soil and with one local casualty. The international repercussions of the killings were considerable and accentuated

international criticism of the military regime. In the words of the Chilean diplomat and scholar, Heraldo Muñoz: "...each time the government increases its authoritarian measures domestically there will be a revitalization of the negative image of the regimen externally and political isolationism will continue characterizing the foreign relations of the military regime" (Muñoz 1982: 597).

The reestablishment of democracy opened an enormous window of opportunity for the restoration of Chile's diplomatic prestige. Consistent with its historical tradition, and in light of the new democratic government's redefined objectives, Chile's most immediate foreign policy objective was to re-insert itself into the international community. Promotion of human rights became an integral part of the country's international strategy. The newly elected President Patricio Aylwin defined this objective clearly in his 1992 State of the Union—a speech that traditionally has an almost exclusive domestic focus— in which he explains the importance of human rights for Chile's foreign policy:

We consider that the defense of human rights is an ineluctable duty of any government that is committed to peace, one in which there is no room for invoking the principle of non- intervention. As a designated member of the United Nations Human Rights Commission, Chile will act according to this conception. (Aylwin in Morande and Aranda 2010: 95)

The first step toward the effective inclusion of human rights into Chile's foreign policy was the creation in 1990 of a Human Rights Unit within the Ministry of Foreign Affairs—that later became the Human Rights Department (DIDEHU)— and the appointment of a very well-known Chilean human rights lawyer, Roberto Garretón, as Ambassador and chief of the new unit. The prompt institutionalization of human rights issues within the Ministry of foreign Affairs signaled Chile's commitment to human

rights protection abroad. This decision also paved the way for the next three administrations (Eduardo Frei 1994-2000, Ricardo Lagos 2000-2006 and, Michelle Bachelet 2006-2010) to embrace human rights as a salient national interest.

Yet as comparative experience indicates, strong rhetoric and the creation of governmental departments do not necessarily lead to diplomatic action (Farer & Fuentes, 2013). A State's rhetorical and formal commitment to the promotion of human rights does not lead invariably to consistent performance in this area. The following section provides a detailed assessment of Chile's international human rights policies and diplomatic actions from 1990 to 2010 in three arenas that were explained in the introductory chapter: a) Legal (ratification of International human rights treaties); b) International human rights Institutions; c) Peace promotion and humanitarian protection; d) Financial assistance.

### **Legal: Human Rights Treaties**

In 1972, a year before the military coup against the elected government led by Doctor Salvador Allende, Chile ratified the the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. While not withdrawing the nation's signature from the two treaties, the Pinochet dictatorship avoided ratifying them. So they remained dead letters until 1989 when according to Chilean custom, ratification was effected through publication in the Official Newspaper (Vargas 2012). Ratification of other important human rights treaties followed rapidly (See Table 1). Thereafter, through successive administrations additional human rights treaties were ratified as they became available. The present list includes the International Labour Organization (ILO) Convention concerning Indigenous and Tribal



Peoples in Independent Countries (ILO No. 169); the Second Optional Protocol to the International Covenant on Civil and Political Rights, aimed at the abolition of the death penalty; the Protocol to the American Convention on Human Rights to Abolish the Death Penalty; the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the Convention on the Rights of Persons with Disabilities. As today, Chile has ratified all of the most important human rights agreements.

Among that now considerable list of treaties one occasioned significant political debate. The Statute of the International Criminal Court stirred controversy. Despite being one of the first nations to sign the Rome Statute, the country's ratification process was delayed by a number of legal and constitutional difficulties and could only be ratified after the Chilean Chamber of Deputies approved a constitutional amendment recognizing the Court's jurisdiction.

At the Inter-American Level (Table 2), Chile ratified the American Convention only a few months after its transition to democracy (August 1990). At the same time the country recognized the contentious jurisdiction of the Inter-American Court of Human Rights, that is to say, it accepted that the Commission or any other state party could refer cases against the Chilean state to the Court. Chile followed the majority of the Latin American states that also ratified regional human rights instruments in the early 1990s. Brazil, however, was one of the last countries among Latin American States accepting the jurisdiction of the Inter-American Court only in 1998.

Table 2

*Chile: Selected International Treaties*

<b>Treaty</b>	<b>Year of Ratification</b>
International Covenant on Civil and Political Rights	1972 (It came into force in 1989*)
International Covenant on Economic, Social, and Cultural Rights	1972 (It came into force in 1989*)
Convention on the Elimination of All Forms of Discrimination against Women	1989
Convention on the Rights of the Child	1990
Ottawa Convention	2001
Convention on the Rights of Persons with Disabilities.	2008
ILO C169 Indigenous and Tribal Peoples Convention	2008
International Convention for the Protection of All Persons from Enforced Disappearance	2009
International Criminal Court/ Rome Statute	2009

Sources: Coalition for the International Criminal Court, <http://www.iccnw.org/?mod=country&iduct=35>; Office of the High Commissioner for Human Rights, <http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>.

Table 3

*Chile: Selected Regional Human Rights Treaties*

<b>Treaty</b>	<b>Year of Ratification</b>
American Convention of Human Rights	1990
Convention to Prevent and Punish Torture	1988
Convention on the Prevention, punishment and Eradication of Violence against Women. "CONVENTION OF BELEM DO PARA".	1996
Protocol to the American Convention on Human Rights to Abolish Death Penalty	2008
Convention on Forced Disappearance of Persons	2010
Convention on the Elimination of all Forms of Discrimination Against Persons with Disabilities	2001

Source: IACHR, [http://www.oas.org/en/iachr/mandate/basic\\_documents.asp](http://www.oas.org/en/iachr/mandate/basic_documents.asp)

**International Human Rights Regimes**

Chile's involvement with international human rights is set within its broader strategy of strengthening multilateralism. Table 3 summarizes the country's involvement with major UN institutions since 1990, in particular the ones with a human rights focus.

Chile has been elected twice to a non-permanent seat on the UN Security Council in spite

of an intense domestic debate on the possible political costs associated with such a post. The country was recently re-elected to occupy a seat in the Security Council in 2014-2015. Chile actively participates in the UN Economic and Social Council (ECOSOC), even holding the presidency on several occasions. In addition, Chilean diplomats working at the United Nations mission in New York under the leadership of Ambassador Heraldo Muñoz, strongly supported the creation of the UN Peace-Building Commission in 2005, holding the presidency of that organization for two years. It is important to note that securing the election to the Security Council and to have a diplomat elected to a position like the Presidency of ECOSOC or the Peace-Building Commission is an intensive diplomatic task. Chile invested considerable political capital and significant diplomatic efforts to be part of these organizations and to obtain the Presidency of some of these international institutions.

Additionally, Chile incorporated the concept of human security into its foreign policy, and correspondingly created a special unit within the Ministry of Foreign Affairs dedicated to bringing a human-security perspective to bear on diplomatic issues. Since 1999 Chile has been part of the Human Security Network<sup>14</sup>, a group of likeminded countries that have made human protection an integral part of their foreign policy concerns (Brauch & Fuentes 2009). Finally, Chile was one of the founding members of the Community of Democracies<sup>15</sup>, a global, intergovernmental coalition of democratic

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<sup>14</sup> This network involves thirteen countries: Austria, Canada, Chile, Greece, Ireland, Jordan, Mali, the Netherlands, Norway, Slovenia, South Africa, Switzerland, and Thailand.

<sup>15</sup> The Community of Democracies was initiated by seven countries: Poland, Chile, the Czech Republic, India, the Republic of Korea, Mali, and the United States. Today, this organization

countries, whose goal is the promotion of democratic rules and the strengthening of democratic norms and institutions around the world.

Table 4

*Chile's Participation in Multilateral Initiatives Related to Human Rights*

<b>UN Institution</b>	<b>Years of Participation (since the 1990s)</b>
Security Council	1996-1997 2003-2004 2014
Economic and Social Council (ECOSOC)	Presidency 1993, 1998 (Somavia)
UN Human Rights Commission	1998-2000 2002-2004
UN Human Rights Council (UNHRC)	2008 (3 years) 2011(3 years)
Peace-building Commission (PBC)	Presidency 2009-2010
<b>Other Initiatives:</b> Human Security Network Community of Democracies	1999-Present Presidency 2001-2002 2000-Present, Presidency 2003-2005

Sources: United Nations, <http://www.un.org/>; Ministerio de Relaciones Exteriores de Chile, [www.minrel.gov.cl](http://www.minrel.gov.cl).

### **UN Human Rights Commission**

The democratization process brought Chile back to its diplomatic work with the UN human rights institutions and in particular to the United Nations Human Rights Commission in Geneva. Chile's participation at the UNHRC was significant during this period. An assessment of Chile's work at the UN Human Rights Commission from 1990 to 2005 (until the Commission changed to Human Rights Council in 2006) shows three distinctive trends: voting behavior, resolutions and thematic motions, and creating and improving human rights regimes.

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consists of seventeen member countries. In 2000, in Warsaw, ministerial delegations from 106 countries signed the final declaration calling for the establishment of the Community of Democracies.

**Voting behavior.** Chile consistently voted at the Commission in favor of addressing country-specific human rights situations as violations escalated in many nations and regions. This is the case of resolutions regarding Cuba (with the exception of one year), Iran, Iraq, Rwanda, Sudan, Myanmar, Belarus, Zaire (currently named the Democratic Republic of Congo—DRC), and North Korea (Piccone, 2004).<sup>16</sup> Chile has systematically voted in favor of resolutions addressing abuses in the Israeli occupied territories. One of the exceptions to the rule was the case of East Timor. Chile voted in favor of the resolution in 1993 condemning the grave human rights abuses committed by Indonesian authorities and encouraging Indonesia to invite a Special Rapporteur, but it abstained the following year.<sup>17</sup>

Two cases particularly stand out, the resolutions on Cuba and on Belarus. In the case of Cuba, the different resolutions generated political debate over the years within and among the political parties that were part of the governmental coalition in Chile. Yet, the country's vote has consistently remained in favor of examining the violations occurring in the Caribbean country. Cuba's case has been very contentious among Latin American states. Brazil always abstained on Cuba's resolution at the Commission while other Latin American states had a more erratic voting behavior. Argentina, for example, voted in favor of a resolution on Cuba in 2001/2002/2003 but abstained in 2004 and

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<sup>16</sup> Note that the Ministry does not keep a systematized record of Chile's votes with the Commission or the Human Rights Council (at least up to 2010).

<sup>17</sup> According to an interview with Roberto Garreton, the lobby from Indonesia was extensive and reached important Chilean officials. After Chile voted in favor of the resolution in 1993, Indonesia managed to propose a project at the Non-alignment Movement over Bolivia's access to the sea—one of the most sensitive topics for Chilean diplomacy. Under these circumstances, Chile abstains the following year at the Commission.

2005. Central American countries have consistently voted in favor, while Paraguay, Ecuador and Venezuela have abstained in several occasions. Mexico has voted in favor only since 2002. Internationally, the case of Cuba also generates controversy. A study from the Democracy Coalition Project indicates that only 58% of Democratic states in 2005 voted in favor of the Cuba's resolution at the UN Commission on Human Rights in 2005 while 21% voted against and 21% abstained (Piccone, 2004).

The different resolutions on Belarus also generated controversy at the Human Rights Commission. Chile, once again voted in favor in all the instances in which this case came into vote. Other Latin American countries such as Argentina (2004), Ecuador (2005), Honduras (2005, 2005) and Brazil (2005) voted abstention in some of years in which member states decided to take this situation into a vote. At the international level, several countries decided to abstain or vote against resolutions on Belarus. In 2004, for example, India, South Africa, and Russia voted against the resolution. The Democracy Coalition Project indicates that in 2005, 33% of democratic states voted against or abstained on the Belarus vote at the UN Human Rights Commission.

**Resolutions and thematic motions.** Chile co-sponsored several resolutions addressing severe human rights situations in countries such as Burundi, Myanmar, and Sudan as well as thematic resolutions. Due to Chile's very limited staff working on international human rights and lack of resources, the country joined forces with like-minded countries (particularly European countries) and co-sponsored some of their proposals. It is also important to highlight that Chile was an active promoter of new international human rights instruments, most notably it sponsored UN Resolution 60/127 on "the Basic Principles and Guidelines on the Right to a Remedy and Reparation for

Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law” and the then United Nations Commission on Human Rights endorsed the Updated Set of principles for the protection and promotion of human rights through action to combat impunity (impunity principles).

**Creating and improving human rights regimes.** Chile actively worked on the creation and the improvement of international human rights regimes. At the 1993 World Conference on Human Rights (Vienna Declaration) Chile acted as one of the Vice-presidents and played a role in promoting the universality of human rights.<sup>18</sup> Chile’s delegation was also active on the attempted reform of the UN Human Rights Commission in the course of its transformation into the Human Rights Council-HRC (Vargas, 2011). During the discussion to create the HRC (and the review process that took place after its initial four years of functioning), Chilean diplomats favored proposals to improve controversial issues related to selectivity and membership. They also favored the inclusion of procedural aspects such as quicker response to emergencies and ways to strengthen of Special Procedures with the Council. For example, Chile along Argentina, Mexico, and Peru, proposed a mechanism through which the Council would examine situations formally brought to its attention by the High Commissioner (HRW 2011).

### **UN Human Rights Council**

After the 2006 morphing of the Commission into the Human Rights Council, Chile continued with its strategy of supporting institutions for the protection and

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<sup>18</sup>In an interview with Roberto Garretón in July 2013, Chief of the Chilean delegation, he recalls that Chile was very active and that its contribution was internationally recognized as indicated in the Journal “Liberation de Paris”, 26 June 1993.

promotion of human rights within the UN. Indeed, Chile has been praised by Human Rights Watch as one of the most influential countries from the Global South in the promotion and protection of universal human rights internationally (Kenneth, 2009; HRW 2010, 2011). Human Rights Watch latest report (2011) on the Council's work states that "Chile has a strong and coherent voting record at the Council. Its positions are based on a principled approach to human rights, which is consistent and non-selective". Table 4 summarizes Chile's participation within the UNHRC. The country has been elected member of the Council twice (2008 and 2011) for three years terms and in 2009 it was selected as Vice-president of the Council for one year to represent its regional group. In terms of resolutions addressing country or special sessions considering urgent situation's, Chile systematically voted in favor of examining situations or resolutions on Sudan, North Korea, Iran, Belarus, Sri Lanka, Congo and Syria (HRW 2011).

The Eleventh Special Session (2009) at the UNHRC on the human rights situation in Sri Lanka was particularly interesting when comes to assessing the voting the behavior at the Human Rights Council of different countries and Latin American states in particular. Germany sponsored a session on behalf on behalf of 17 member states and 20 member states. Among these countries were Argentina, Chile, Mexico, Canada, Ukraine, Uruguay and European Union member states. The majority of the states in the African group, and NAM withheld support for the session. While consultations were held on an outcome text, an alternative and largely self-congratulatory resolution was introduced by Sri Lanka, the concerned country. This resolution included for example an explicit reference to "the principle of non-interference in matters which are essentially within the domestic jurisdiction of states," a statement that directly undermined the central mandate



of the Council to monitor human rights violations internationally especially under situations of armed conflicts as it was the case in Sri Lanka (Piccone, 2004).

In response to this draft, Germany once again offered a set of amendments to strengthening it. States were split between those who have called for the special session and favored a strong role of the international community with regard to humanitarian assistance and accountability, and those which did not support the convening of a special session and supported the government of Sri Lanka's prerogative to deal with the crisis. Arguing that the amendments were an attempt to redraft the document, Cuba presented a no-action motion. Cuba's non-action motion on the amendments was approved by a vote of 22 in favor, 17 against and seven abstentions. As it was the case on the vote in the call for the session Argentina, Chile, Mexico and Uruguay all voted against the no-action motion. A number of states including Brazil and Nigeria abstained.

Another example of Chile's voting behavior vis-à-vis other UNHRC members was the resolution in the Tenth session of the Council on the resolution on the Democratic People's Republic of North Korea (2009). The resolution strongly called the government of the DPRK to stop the human rights violations occurring in the country and to cooperate with special procedures. The resolution was adopted by a vote of 26 in favor, six against and 15 abstentions. The Group of Latin American and Caribbean States, the GRULAC group as it is known in the Council, were noticeable divided between those who supported the resolutions and those which abstain or voted against. Chile, Argentina, Mexico, Uruguay voted for the resolution while Brazil, Nicaragua, and Bolivia abstained. It is important to note that in this particular vote, Brazil changed its position from support

from the mandate from previous years to abstaining. China, Cuba, Egypt, Indonesia, Nigeria, and Russia all voted against the resolution.

Table 5

*Chile and the UNHRC 2006-2011*

<b>Years of Membership</b>	2008-2011 2011-2014
<b>Voting on relevant country-situations/ resolutions</b>	<b>In favor:</b> Sudan North Korea Iran Belarus Syria
<b>Other relevant thematic initiatives:</b>	-Sponsor resolution to mainstream gender throughout the UN, especially within the Human Rights Council and treaty bodies. Several initiatives to promote women’s rights.  - Active member of the bureau of the Preparatory Committee for the 2001 Durban World Conference. Also on its review process in 2009.  -Supports the implementation of the Council’s mandate to respond promptly to emergencies. Cosponsor of the special session on Libya and also sponsor the resolution on Iran, which led to the creation of the special rapporteur mandate.
<b>Universal Periodic Review</b>	2009 (submitted) and also extended a standing invitation to the Human Rights Council mechanism.

Source: HRW (2011), Office of the High Commissioner of Human rights, <http://www.ohchr.org/EN/countries/LACRegion/Pages/CLIndex.aspx>.

In terms of initiatives on the HRC, Chile has been an important actor when it comes to supporting the effective implementation of the Council’s mandate to respond promptly to human rights emergencies. It was a cosponsor of the special session on Libya and the only council member of the Group of Latin American and Caribbean countries to sponsor the resolution on Iran, which led to the creation of the special rapporteur mandate (HRW 2011). In a note to the UN General Assembly presenting its candidacy for

reelection to the Human Rights Council, this point was made fairly clear by the Chilean delegation:

We believe that, as part of the Council's action, there can and must be a strengthening of the procedures for the early warning of and response to situations of mass violations of human rights in a particular State, including special sessions, on-site visits and stronger resolutions on such countries. (Permanent Mission of Chile at the General Assembly, 2011)

Chile is also among the states that regularly advocate for the strengthening the Council's mechanisms and in particular the independence of the special procedures, as well as promoting NGO participation (HRW 2011). In the same concept, Chile's delegation indicated:

We stressed the importance of improving the Council's working methods. We also stressed the need for it to be a principal organ of the United Nations system and for the review process to be conducted using transparent, inclusive and open procedures, with the participation of non-governmental organizations, the Council's special procedures and the organizations and agencies of the United Nations system. (Permanent Mission of Chile at the General Assembly, 2011)

Thematically, Chile promoted at the Commission and later in the Council initiatives mainly on civil and political rights. Several interviewers indicated that there was not a deliberate policy to focus on these rights but that the recent transition to democracy combined with the depth of the human rights violations perpetrated by the military regime marked the country's international commitment with the promotion of political and civil rights. Chile has sponsored or cosponsored relevant initiatives in the Council and other UN mechanisms to offer reparations to victims human rights violations, the right to truth, the protection against forced disappearances, among others.

For the past decade, in particular, Chile has been a strong advocate of women's rights. The country sponsored the Commission on Human Rights resolution on

integrating the human rights of women throughout the United Nations system and cosponsored the resolutions on maternal mortality and the elimination of discrimination against women. Chile's human rights agenda also included efforts to combat racism, racial discrimination, xenophobia and related intolerance. It participated actively as a member of the bureau of the Preparatory Committee for the 2001 Durban World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance, at which it was one of the Vice-Presidents. Before that, in December 2000, Chile had hosted the Regional Conference of the Americas in preparation for the 2001 Durban World Conference.

Finally, despite of the relatively small size of the country, a considerable number of Chileans have occupied relevant positions within the UN human rights machinery as special rapporteurs or in special procedures of the Human Rights Commission and Council (Vargas, 2012).<sup>19</sup>

### **The Inter-American Human Rights System**

Only a few months after the democratic government of Patricio Aylwin took over, the American Convention of Human Rights was ratified, also recognizing the jurisdiction of the Inter-American Court over contentions cases. According to Felipe Gonzales,<sup>20</sup>

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<sup>19</sup> Just to mention some Chilean experts at the UN human rights system since 1990: Cecilia Medina, member of the Committee for Civil and Political Rights; Alejandro Gonzalez y Claudio Grossman, Committee against Torture; Marta Mauras, Committee for the Rights of the Child; Maria Soledad Cisternas, Committee for Persons with Disabilities; Maria Magdalena Sepulveda, expert on the issue of human rights and extreme poverty; Roberto Garreton, Special Rapporteur for the CDR and member of the Committee for Arbitrary Detention; and Jose Bengoa, member of the UN working group on minorities.

<sup>20</sup> Felipe Gonzalez is today a member of the Inter-American Commission of Human Rights.

Chile repositioned itself within the Inter-American system very quickly, assuming during the first years of the transition to democracy a protagonist role in the strengthening of the system, calling in the different OAS forums for states to implement the mandates of the Commission and the Court. It also played an active role in the preparation of the Inter-American Convention on Forced Disappearance that was finally adopted in 1994. (Gonzalez, Felipe 1997: 11)

Yet, “Chile’s attitude towards the Inter-American system started to change as soon as the Commission questioned the country against certain cases” (Gonzalez, 1997: 11).

In the 1990s and the early years of 2000s the Commission issued several decisions on specific cases against Chile, which the state either did not obey or took several years to do so. There were two groups of cases in which the Commission declared the Chilean Amnesty law to be contrary to the American Convention. No action was taken by the state at the time, and it was only years later that Chilean jurisprudence would change in this regard (Gonzalez 2010). The latter does not come entirely as a surprise considering that when Chile ratified the American Convention of Human Rights in March 1990—probably foreseen future controversies with the Commission due to the Amnesty Law in place in the country since 1978 by the military regime—it was signed with a special reservation. The Chilean Delegation explicitly declared

the Government of Chile places on record that this recognition of the competence and jurisdiction of the Commission applies to events subsequent to the date of deposit of this instrument of ratification or, in any case, to events which began subsequent to March 11, 1990.

In the end of the 1990s there was also the case in which the commission decided that appointed senators adversely affected the political rights of Chilean citizens. It took six years to respond to this decision (Gonzalez, 2010: 11).<sup>21</sup>

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<sup>21</sup> Chile, however, was more active in implementing the Court’s decision in the case of *The Last Temptation of Christ*.

Experts have criticized Chile's involvement with the Inter-American human rights system particularly during the 1990s because "the Chilean state did not engage in amicable settlements during proceedings at the Commission, in contrast to the trend among other states that were interested in supporting the Inter-American system."<sup>22</sup> (Gonzalez, Felipe 2010:167). Yet, since the turn of the century, Chile's attitude towards the Commission has been more positive. The government has engaged in more negotiations that have led to some amicable settlements and "generally playing a role more consistent with that of a state that allegedly supports the enhancement of the Inter-American system" (Gonzalez, 2010: 168).

Finally, it is important to note that a significant number of Chilean lawyers have been selected to part of the Inter-American Human Rights Commission and the Court. Chile is one of the countries with the highest number of Commissioners in the past twenty years. Since 1990 the Chilean selected member of the Inter-American Commission of Human Rights includes: Claudio Grossman, Jose Zalaquet y Felipe Gonzalez. Three Chilean judges have been members of the Inter-American Court: Maximo Pacheco, Cecilia Medina y Eduardo Vio.

### **UN Peace Operations and Humanitarian Protection**

Chile's response to the international intervention in Kosovo in 1999 was cautious. The government did condemn the atrocities perpetrated in Kosovo but at the same time explicitly manifested their concern about NATO'S decision to intervene without UNSC approval. This position is probably due to the coincidental arrest of General Pinochet in

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<sup>22</sup> Moreover, during the 1990s Chile repeatedly argued before the commission that it had not responsibility for actions of the judiciary (invoking the separation of branches in power).

London and the need to be consistent with the notion advanced by the government that prosecuting Pinochet outside Chilean jurisdiction was not in the interest of Chile, a sovereign state capable of judging him at home. Domestically, the low Chamber of the Congress issued a declaration on April 19, 1999 addressed to the Chilean Minister of Foreign Affairs declaring their opposition to an illegitimate intervention lacking the support from the UNSC (Serrano 2000).

Yet, despite Pinochet's arrest and unlike other Latin American countries such as Mexico that were up front defenders of an strict notion sovereignty, the Chilean Mission at the UN explicitly manifested that respecting sovereign integrity does not precludes that under exceptional circumstances and under the right authority the international community should contemplate the possibility of intervening for humanitarian reasons (Serrano 2000). Chile ultimately decided to participate in peacekeeping and policing in the area when solicited by the United Nations Peacekeeping Unit in 2000.

Chile also contributed to peacekeeping operations in Iraq, Cambodia, and El Salvador, among other missions (see Table 5). However, it was not until 2010 that Chile drastically increased its participation in peacekeeping, sending troops to the Multinational Force for Haiti and later to the United Nations Stabilization Mission in Haiti (MINUSTAH). With more than 500 troops on the ground since the beginning of the mission in 2004, Chilean officials see participating in MINUSTAH as one of its greatest contribution to the protection of human rights, human security and regional peace. The latter point is continuously emphasized by Chilean delegates, which indicate that this operation is at the core a regional one. Two Chilean diplomats have been selected as Special Representatives of the Secretary-General and Head of Mission since the

beginning of the mission in 2004. Additionally, since 2010 Chile's International Cooperation Agency (AGCI) has been implementing programs on education and development in the Caribbean nation.

Table 6

*Chile's Participation in UN Peace Operations since 1990*

- UNIKOM (Iraq – Kuwait), 1991-1993
- UNTAC (Cambodia), 1992-1993
- ONUSAL (El Salvador), 1992-1995
- MOMEPE (Ecuador- Peru), 1995, 1999
- UNSCOM (Iraq), 1996-1998
- UNMIBH (Bosnia Herzegovina), 1997-2002
- UNTAET (Timor Oriental), 2000-2002
- UNMOVIC (Iraq), 2000-2003
- UNMIK (Kosovo), 2000-Present
- UNFICYP (Chipre), 2001-Present
- UNMISSET (Timor Leste), 2002-2003
- MONUC (DRC), 2003
- UNAMA (Afghanistan), 2003-2004
- MINUSTAH (Haiti) 2004-Present

Source: CECOPAC-Chile, [http://www.cecopac.cl/chile\\_en\\_opaz/contribucion.html](http://www.cecopac.cl/chile_en_opaz/contribucion.html).

Chile has also been one of the leading countries in the region to support the concept of “Responsibility to Protect” (R2P) as conceptualized by the International Commission on Intervention and State Sovereignty’s (ICISS) in 2001 (Fuentes & Fuentes, 2013). Unlike a substantial minority of Latin American governments that claim that R2P is a threat to their sovereignty or represents a new form of interventionism, Chilean leaders have insisted that no country is less sovereign because of its willingness to accept an international responsibility to respond to mass atrocities. Chilean policy makers explicitly state that R2P is a legitimate alternative for responding to humanitarian



crises (Fuentes & Fuentes 2013). In fact, this is one of the reasons why Chilean delegations have been supportive of the UN Human Rights Council's mandate to respond promptly to human rights emergencies.

Chile clearly stated its position in relation to R2P during the 2005 UN World Summit, when the country supported the inclusion of specific international commitments endorsing R2P in the Outcome Document. As expressed by the former Chilean Minister of Foreign Relations, Ignacio Walker, at the Sixtieth Session of the UN General Assembly,

When States are unable or unwilling to act, this organization cannot remain indifferent in the face of genocide, ethnic cleansing, war crimes and crimes against humanity. We have an international responsibility to protect that which we cannot ethically shrink. (Walker, 2005: 2)

During the Summit, the Chilean delegation insisted on its interpretation of the Responsibility to Protect as a "continuum," which included the international responsibility to prevent and assist (Labbe, 2005). It argued that efforts to prevent genocide and other crimes against humanity needed to address root causes, such as hatred among ethnic groups and inequality among various groups within a country.<sup>23</sup> Finally, in accordance with the UN Charter, the Chilean delegation concurred with the idea of a collective international obligation to take timely and decisive action when needed. The concept of decisive action included the provisional use of coercive tactics only under certain extreme conditions and only with the collective consent of the Security Council.

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<sup>23</sup> Yet, there is no evidence of Chile, or of any other Latin American country, taking a global lead in generating international or regional initiatives specifically aimed at preventing mass atrocities.

## Financial Assistance

The financial contribution to international human rights organizations is also another indicator of a state commitment in this area. Since 2000 the contribution of Chile to the Office of the High Commissioner of Human Rights (OHCHR) is limited but constant across the years. According to the annual OHCHR reports, in 2011 Chile contributed US\$ 25,000 leaving the country according to OHCHR's donor ranking per capita in the place 52 out of 71 states (OHCHR, 2011). The United Nations Democratic FUND (UNDEF) that was created in 2005 is another UN institution providing grants to civil society groups for democracy promotion. Chile is among the 39 countries contributing financially to UNDEF with a total amount of US\$320,000 from 2005 to 2013. Mexico, Peru and Argentina have also contributed to the UN Democratic Funds while the rest of Latin American countries have never been donors.

Regarding Chile's assistance to the Inter-American Human Rights System, the country has been a longstanding contributor to the Commission's special budget. In terms of numbers Chile's contribution is not that significant<sup>24</sup> (IACHR, 2012) (US is the main contributor to the Human Rights Commission, financing more than 75% of the budget). Yet, Chile along with Costa Rica and Mexico have consistently contributed to the Commission's budget every year and they have recently indicated that they will increase these funds. In contrast, Brazil, has not contributed any funds in several years (2007/2010/2011/2012).

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<sup>24</sup> Chile's contribution is not more than 3% of the budget total that comes from the IACHR member states. Information available only from 2006.

## **Conclusions**

The transition to democracy that began in March 1990 prompted Chilean foreign policy officials to start a process of international re-insertion with the objective of recovering the country's lost prestige within the international community of states due to the massive human rights abuses committed by the military regime for seventeen years. This process included coming back as an active participant at the very same international and regional human rights institutions that were at the forefront of the struggle against General Pinochet during the dictatorship. The fast signature and ratification of many international human rights treaties in which the country was not part due to the military regime's policy of not accepting international scrutiny over domestic issues were part of this process. The ratification of the American Convention and the jurisdiction of the Inter-American Court, for example, were made only three months after the newly democratic government took over.

The politics of re-insertion also included the participation in multilateral human rights institutions such as the UN Human Rights Commission. What is more striking is that these policies continued after the government of Patricio Aylwin ended in 1994 and long after Chile had left behind its stigma as an international pariah. Moreover, human rights were integrated into the foreign policy of the three following governments of the Coalition of Parties for Democracy up to 2010. The assessment of Chile's human rights diplomacy from 1990-2010 can be summarized as follows:

Chile was an active player at the multilateral level, especially within UN human rights institutions. At the Human Rights Commission and later on in the Council the country evidences a consistent voting behavior when comes to country-specific

situations. In other words, it voted on the basis of the facts rather than calculations of political advantage. It has been a significant promoter of international human rights instruments and thematic initiatives and is permanently searching for mechanisms for strengthening these institutions. At the Inter-American, it has supported the system politically and also economically, but it has been weaker when comes to implement recommendations from the Commission. When it comes to humanitarian protection, Chile has increased its participation in UN Peace operations with a special emphasis on of Haiti (MINUSTAH). At the same time, it's supportive of the concept of the Responsibility to Protect emphasizing the need for displaying a continuum of mechanisms and instruments to prevent and effectively respond to human rights emergencies.

## CHAPTER 3: UNDERSTANDING HUMAN RIGHTS IN CHILE'S FOREIGN POLICY

### **Contextualizing Foreign Policy**

In explaining why Chile became an international human rights promoter, we first need to situate it within the larger international and regional context of post-Cold War in which this nation's transition to democracy took place. Second, to understand the domestic drivers of foreign policy with a focus on the shared national experience of the military regime's rule and the way that the transition to democracy took place in Chile—what is called the mode of the transition. Finally, locate the discussion as part of the general objectives and priorities driving the newer, democratically elected government's foreign policy.

### **International and Regional Context**

Only a few months after the fall of the Berlin Wall and the demise of several communist regimes across Eastern Europe, Patricio Aylwin took over as the first Chilean President after 17 years of military rule. The new government arrived at the outset of a new international order, a world with a power dynamic and a normative structure far different from the one which faced the last democratically elected President, Salvador Allende in 1970. As a Chilean historian aptly puts it:

Between 1989 and 1990, it seemed that Chile was confirming international tendencies...Chile was a protagonist within itself of the end of the Cold War, even before it (*the Cold war*) disappeared from the international scene. (Fernandois 2004: 494)

International changes came hand in hand with regional ones. The democratic transition initiated in the Southern Cone (Brazil, Uruguay, Argentina, Chile) was coupled with the pacification and democratization process developed in Central America during the 1990s. Between 1978 and 1991, “no fewer than fifteen of the twenty countries returned to or established elected civilian governments after experiencing one form or another of authoritarian rule” (Scott Palmer, 1996). The depth of the democratic wave in each one of the Latin American countries, at least in terms of establishing electoral democracies, paved the way for the creation of a regional system for the promotion of democracy at the regional level.

Domestic changes together with the vastly decreased salience of ideological rhetoric in US-Latin American relations, due to the end of the Cold War, opened the political space for better Inter-American relations and for strengthening democratic governance in the Americas. As Tom Farer has written, the end of the Cold War “sharply reduced the risk that resolutions endorsing hemispheric action on behalf of democracy would be treated as licenses for the pursuit of political ends related only loosely (if at all) to the consolidation and preservation of representative democracy” (Farer, 1996:15). In June 1991, the OAS adopted the Santiago Commitment to Democracy and the Renewal of the Inter-American System and an accompanying resolution on representative democracy. It provided that the interruption of a democratic or constitutional form of government would trigger a process of consultation to consider measures for restoring democratic legitimacy. Moreover, through the Protocol of Washington of 1993, the OAS

Charter was modified allowing for the suspension of non-democratic states (Acevedo & Grossman, 1996).

Liberalism became the reigning orthodoxy in the economic as well as the political sphere. During this period the so-called “Washington Consensus” drove economic reforms in Latin America. Leading orthodox economists from the United States and within the region pushed for an agenda of deregulation of capital markets, free exchange rates, privatization of national companies. Almost all of the countries in the Americas, and numerous others outside the hemisphere, followed important parts of the policies of the Consensus during the 1990s and many continued to do so afterwards. Chile was at the forefront of these economic reforms and initiated an aggressive policy for market liberation as described in the next section.

By the beginning of the next decade, many of these economic policies and even democratic principles have been significantly challenged fundamentally due to the incapacity of many Latin American governments to overcome increasing levels of economic and political inequality that are so pervasive throughout the region (UNDP, 2010). The beginning of the new century also brought important international changes as the rise of other powers—most importantly China— and the advent of a multipolar world became more evident. Yet, Chile’s international policies up to 2010 present no significant shifts as a result of these new international developments.<sup>25</sup> As the Chilean case goes, the fundamental tenets of its foreign policy were developed at the beginning of the 1990s and

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<sup>25</sup> Several Interviewers with different policy makers (including some that are part of the electoral campaign of Michelle Bachelet who is running to be in office by 2014) said that there is lack of thinking on Chile’s foreign policy agenda and future goals in light of the current international and regional agenda.

since then its international policies have remained very much shaped by the national and international context in which the transition to democracy took place.

### **The Mode of the Transition**

One of the key characteristics of the transition to democracy in Chile was the highly constrained condition under which new democratic authorities took office on March 11<sup>th</sup> 1990. The military regime imposed an institutional framework (accepted by the opposition as a condition of the armed forces' toleration of a democratic transition that allowed for very few reforms without the approval of the right-wing forces, which still by and large supported General Pinochet. For instance, the Constitution (1980) established that the head of the armed forces and the chief of police had fixed appointments of four years, and that the president could not remove them without the approval of the National Security Council (NSC). However, the military controlled the majority of votes in that Council (4 out of 7 votes). Two members of the NSC could call a meeting if they considered the state to be under threat. Moreover, through the NSC, the head of military institutions appointed four senators and two members of the Constitutional Tribunal. Military institutions also held seats in regional and municipal development councils, the Council of Cinematography (responsible for revising and censoring movies and TV programs), and the National Mining Company (CODELCO) (Fuentes S. 2006). Due to the aforementioned system of appointed senators, conservative sectors controlled the majority of the Senate between 1990 and 2005. Thus, any substantive reform promoted by the new government necessarily demanded the agreement of the right wing parties in congress.



These constraints led the first democratically elected president of the transition, President Patricio Aylwin (1990-1994), to adopt a very cautiously incremental approach toward the policy agenda. After March 1990, incumbents decided to strategically define what would comprise the most essential reforms for the new government, postponing conflictive issues such as the reform of the Constitution, the reform of the electoral system, and several other deep institutional challenges to unconstrained electoral democracy. Between 1990 and 1994 the government launched a special effort to pass a relatively moderate bill on tax reform, municipal elections, and the reestablishment of certain basic civil and political rights, which had been suspended under Pinochet's 1980 Constitution. Rather than promote grand institutional reforms, new authorities opted instead to establish cooperative agreements with the opposition, thereby advancing some smaller reforms.

It is in this context of moderation that the new government formulated an international relations agenda. The international arena provided democratic authorities with an excellent vehicle for the advancement of specific policies, while also allowing them to diplomatically circumnavigate political opposition from right-wing parties at home. Foreign policy could significantly contribute to two major domestic goals: to generate governability and a peaceful transition to democracy through the reestablishment of civil and political rights; and to promote economic growth and social development. For instance, on the economic front the government initiated an aggressive strategy of opening international markets in order to move forward with specific social and economic policies. At the political level, as we will see in the next pages of this chapter, international organizations and governing bodies were used strategically by local

actors as source of internal legitimacy and as a way of controlling the authoritarian sectors of Chilean society.

### **Objectives and Priorities in Chilean Foreign Policy**

As Chilean policymakers developed foreign policy objectives they simultaneously assessed the opportunities and challenges of a new post Cold World War international context and the domestic priorities of democratic consolidation and economic development (Van Klaveren, 1998; Insulza, 1998). In this context, the government set three core foreign policy goals, goals that remained very much unchanged until the Coalition's defeat in the 2010 election. First, the new authorities put a special emphasis in the internationalization of the economy, which in Insulza's words implied "strengthening and widening our international presence in terms of commerce and investment abroad. A country like Chile, which is open to the world, needs to link its economic and foreign policy objectives" (Insulza 1998: 18). The international economic strategy was labeled 'open regionalism' and was meant to promote trade agreements between Chile and countries both within and outside of Latin America. Consecutive administrations signed economic as well as free-trade agreements with various countries in Asia, Europe and the Americas. Among the most prominent arrangements were the complementary agreements with Bolivia (1993), Venezuela (1993), Colombia (1993), MERCOSUR (1996), and Cuba and Peru (1998). Free trade agreements were signed with Canada (1996), Central America (1998), the European Union (2002), the United States (2003), South Korea (2003), and China (2006). Moreover, this strategy also entailed the promotion of Chilean private investment abroad. Between 1990 and 2004, Chile invested more than US \$15 billion in Argentina, US \$5 billion in Brazil, US \$4 billion in Peru and US \$2 billion in

Colombia (Fuentes S. & Fuentes J. 2006). This strategy proved to be one of the most successful foreign policy decisions that was made at that time. Today, Chile has a network of signed free trade agreements with 56 countries, representing over 60 percent of the world's population. Seven out of every ten pesos of Chilean wealth come from foreign trade. (Fuentes & Rojas 2010: 145).

A second objective established early on in the transition was a great strengthening of Chile's participation in international institutions (and international politics more generally) with the aim of giving Chile the profile of a resolute contributor to the building of a more "stable and more secure international order" (Insulza 1998: 35). According to Insulza,

we have pointed out that Chile is an intermediate country within the international system, and in a highly complex world it is essential to cooperate and to respond to international responsibilities in order to promote peace and the well-being of the people. This is a country that needs to not only take advantage of the opportunities of the international system, but also to assume some responsibilities. (Insulza 1998: 61)

This strategy represented Chile's position as a small country, which wanted to promote global rules within an international framework. As we will see, human rights promotion became an integral part of this strategy.

The third foreign policy objective was proactive involvement within the Latin American region. This implied the promotion of economic agreements with individual countries (almost all the countries within the Pacific rim), economic agreements with groups of countries (MERCOSUR, Central America, the Andean Community), and political initiatives such as the resolution of all border conflicts with Argentina, the

promotion of political initiatives within multilateral regional fora and the development of other confidence-building measures with bordering countries.

### **Explaining Chile's Foreign Policy Choices**

As described in the previous section, Chile's transition to democracy occurred in a particular international and regional context that combined with the domestic constraints of the time prompted the creation of a new foreign policy agenda that prolonged itself for almost two decades. The remaining question is *why* human rights ideals have occupied such a privileged position in the foreign-policy-making process during this period? The following section explores a series of international and domestic forces driving Chile's commitment to the defense and promotion of international human rights.

#### **International Dimension**

As a relatively small country without geostrategic or economic prominence at the international level, Chile's foreign policy historically emphasized the promotion of international law and multilateralism as a way of leveling the playing field among nations. As the Chilean Foreign Policy Blue Book<sup>26</sup> indicates, the goal is to

strengthen our involvement in international institutions and to participate within the multilateral system with our own vision and capacities, making the principles that inspire Chilean foreign policy a true reality through the effective promotion of standards, norms, rules and international regimes, which facilitate the task of 'global governance' in order to confront new international challenges. (Ministerio de Relaciones Exteriores de Chile, 2010)

Chile's historical preference for building multilateral institutions, however, is not a necessary or a sufficient condition for becoming an international human rights promoter.

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<sup>26</sup> The Chilean Foreign Policy Blue Book is a government initiative to provide a public report stating core principles and objectives of the state on Chile's international policy.

In fact many small countries have active multilateral foreign policies in different issue-areas but are less active than Chile on the realm of human rights.

The search for legitimacy and the need to recuperate what local policymakers called “Chile’s lost international prestige” was at the forefront of the nation’s international strategy in the early 1990s. All the policymakers interviewed for this project concurred that the best way to recover full membership in the international society of states was to portray an international image in tune with the democratic values and human rights principles that were the prevalent pattern among democratic states in the context of the Post Cold War. “Democracy and human rights promotion was central to the country’s international insertion” (A. Van Klaveren, personal communication, July 2013), “human rights were at the time of the transition an international reality. Chile had to be able to meet these new international challenges” (R. Garretton, personal communication, July 2013), “Chile had to recover its traditional multilateral stand as a defender of universal human rights” (E. Vargas, personal communication, July 2013) are some of examples of the quotes used by government officials explaining human rights promotion beyond its borders. In other words, the judgment of Chilean elites was that their international policies were best served by following a liberal international order that among other features set human rights promotion as an increasing international standard of appropriate behaviour for states.

International human rights promotion was, therefore, used as a means for rapid international insertion after years of isolation due to the notorious human rights violations perpetrated by the military regime, notorious in part because Chile had previously exemplified democratic governance in a Global South nation. Yet, it would be misleading

to assume that the promotion of international human rights was purely instrumental. It also responded to a moral commitment based on the historical experience of a nation and in particular with new elected leaders that had experienced first-hand the horrors and abuses of the Pinochet's years. In fact, the new coalition of governing parties as we will see later in the chapter, brought into the bureaucracy human rights ideas acquired in exile and learned during the intensive struggle against the military regime. The Chilean historian, Joaquin Fernandois, nicely illustrates this point:

The importance of being a 'morally correct' country was a first priority for the Coalition of Democratic Parties when introducing themselves to the international public. This was based upon a significant dose of passion due to sometime terrible past experiences. (Fernandois 2004: 506)

At the time of Chile's transition to democracy there was also significant evidence of "peer pressures" from other states—especially European Union members— pushing Chilean diplomats to be active human rights promoters. Roberto Garreton, who was in charge of Chile's newly created human rights unit at the Ministry of Foreign Affairs from 1990 to 1994, recalls that there was an enormous interest in Chile's transition to democracy and an expectation that "Chile would become part of the international group of countries that are well known human rights promoters" (R. Garreton, personal communication, July 2013). He indicates that at the beginning of the 1990s Chilean diplomats quickly learned that it was smart to team up with like-minded states that were eager to form coalitions to promote human rights resolutions within the United Nations.

As an example of the international interest in getting Chile involved in the promotion of human rights, Garreton remembers how the country became the sponsor of the Resolution on "the Basic Principles and Guidelines on the Right to a Remedy and

Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law”. All the work to present this project was performed almost exclusively by the Netherlands including a leading study by Theo van Boven concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms that is at the core of the basic principles and guidelines that were agreed at the United Nations. Yet, the Dutch government “offered us (*Chilean delegation*) the opportunity to sponsor this initiative. Something that came as a gift since we did not have the capacity to systematically work on presenting such projects” (R. Garretton, personal communication, July 2013).

Unlike the “peer pressures” from European states, the influence of regional actors on Chile’s decision to include human rights as parts of its foreign policy are difficult to gauge at this point. Latin American states played a more significant role pressuring counterparts with respect to democracy promotion rather than human rights protection. Indeed, in 1991 Santiago was the site chosen for the OAS General Assembly at which Hemispheric political leaders met to sign the democratic commitment to promote and defend democracy throughout the hemisphere. This event symbolized a pledge from the rest of the Inter-American countries to promote democracy throughout the region and in Chile in particular. Domestically it also gave new political actors additional leverage in a period when the recently elected government was still struggling to exert control over the military, and simultaneously attempting to establish political mechanisms to seek truth<sup>27</sup>,

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<sup>27</sup> The Report of The National Truth and Reconciliation Commission was released in 1991.

apply justice and provide reparations to the victims of human rights violations committed by the military regime. Yet, regional effects towards international human rights promotion—except for participation in the UN peacekeeping mission in Haiti in 2004—were not mentioned by policymakers as an important driving force.

After the first democratic government of Patricio Aylwin came to an end in 1994, Chilean policymakers concluded that the main objectives of international reinsertion were accomplished. Yet, the search for international legitimacy and prestige through multilateralism and as member of the team of states that are recognized as human rights and democracy activists remained at the forefront of Chile's foreign policy aims.

General Augusto Pinochet's detention in London in 1998 at the end of Eduardo Frei's administration illustrates this trend. The international arrest warrant issued by judge Baltasar Garzón of Spain on charges of genocide and murder negatively affected Chile's international standing as it was evident that the country still suffered from important institutional constraints precluding further democratic strengthening. It also made evident the new political leaders were unable for two consecutive governments to prosecute the perpetrators of past human rights violations. Under those circumstances, Chilean diplomats promptly used the country's newly recovered international credentials in the human rights field as a way of deflecting international criticism about the incapacity of the government to effectively pursue justice and as a platform to push for the return of the General to Chilean soil (Rojas & Stefoni, 2001). As part of the government's strategy to block Pinochet's extradition to Spain, the Minister of Foreign Relations of the time, Jose Miguel Insulza, wrote a letter to UN Secretary General Kofi



Annan highlighting Chile's diplomatic action in favor of human rights protection and the universalization of justice:

As the member states of the United Nations are aware of, since the re-establishment of the democracy in 1990, Chile has been advocating for the international protection of human rights, and our diplomatic actions are very consistent in this realm. My government had placed special interest in contributing to the universalization of justice when comes to crimes against humanity and the development of international norms when comes to individual criminal responsibility when comes to human rights abuses. Chile was from the beginning an active participant in the negotiations for the International Criminal Court Statute that was signed in Rome on June 1998 and it was one of the first states to subscribe to it on the past September 11. (Insulza in Aranda & Morande 2009: 102).

Chile's international credentials continued to concern the government in the wake of Pinochet's return to Santiago. During his first year as President in 2000, Ricardo Lagos, presenting the results of the Roundtable for Dialogue on Human Rights<sup>28</sup> reiterated, as he had during his election campaign and earlier in his political career that seeking truth and justice was an inescapable goal primarily for the people but also as a way for the government to demonstrate to the international community that Chile is a responsible nation. In his words:

We cannot fail, we owe this to the victims and the Chilean people and also to international community that is looking at us... Today, after this agreement, we are a better country. We have grown and learned from our own adversity, by reaching this consensus we have been able to say to Chile and the rest of the world that the country is capable of facing the challenges that our own history asked us to face. (Ricardo Lagos in Aranda & Morande 2009: 106)

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<sup>28</sup> The Round Table for Dialogue on Human Rights was formed on the 21st of August 1999 during the government of President Eduardo Frei Ruiz-Tagle. It was made up of a group of people who included, among others, representatives from the Government, the Armed Forces and the Police and religious and moral institutions. Its principal objective was to propose measures that would contribute towards determining the fate or whereabouts of detainees that had disappeared.

The international recognition of Chile as responsible stakeholder was a key concern throughout this period and indeed an important driver to include human rights as part of the country's foreign policy.

The final government of the Coalition of Democratic Parties headed by Michelle Bachelet (2006-2010) was especially active in the human rights field. Chilean diplomats participated on the discussion to reform the UN Human rights Commission and to make the newly formed Human Rights Council a better vehicle than its predecessor for carrying out its stated mission. They occupied the vice-presidency from 2008-2010. The government was also finally able to ratify the Rome Statute establishing the International Criminal Court. The normative ethical commitments as a motive for promoting international human rights became more evident during Bachelet's Presidency. During her time in office, Bachelet was particularly sensitive to the topic, as she herself was a victim of the Pinochet regime's ruthless methods of torture and imprisonment. Explaining the Chilean commitment to the UN Security Council, Bachelet stated:

You will be aware of my own personal experience with the abuse of human rights. Those were painful times for me, for my family, and for my country. They were certainly the darkest chapter in Chile's history (...). But we are striving to create a world in which such abuses are no longer possible. *Nunca Más*, never again, as we said in Chile after our experience in the 1970s and 1980s. And that is what we must also say in the United Nations, and act accordingly. Chile subscribes fully to a broad concept of freedom and emancipation under which respect for human rights—along with economic and social development, peace and security—is one of the pillars of the mission of the United Nations in this new century. As we would like to contribute our experience and commitment to the new Human Security Council. (Bachelet, 2011).

In sum, the search to improve Chile's international credentials in the context of recovering the country's international prestige was a triggering factor for the inclusion of human rights into its foreign policy. Chile, however, continue pursuing a human rights

foreign policy long after fully recovering its membership within the international community at the beginning of the 1990s. The persistent inclusion of human rights into Chile's foreign policy can be interpreted, in part, as a search for legitimacy and prestige through the projection of an international image of a "good international citizen".

### **Domestic Factors**

International factors generated the appropriate conditions for Chile to include human rights into its foreign policy. Yet, Chile's diplomatic commitment to human rights is also a function of specific domestic conditions. In what follows, several possible domestic drivers for foreign policy decision are assessed to establish the relative weight of each one of them when it comes to human rights promotion. The main argument of this section is that a key aspect for explaining Chile's commitment to international human rights can be found in the personal commitments and political influence of a small group of experts on international politics. Together, these individuals formed a leadership alliance that would have a profound impact on the nation's foreign policy decisions for more than twenty years (1990-2010). This group of experts understood how to use the international community to their advantage in order to gain political influence internationally and at home. The emergence of Chile's foreign policy on human rights during the 1990s can be understood as result of these actors' choices and values, as well as domestic political conditions during the democratization process and thereafter.

### **Transition to Democracy and the "Lock in" Effect**

Democratic liberal theories predict that states commit to international human rights instruments to protect unstable new democracies and to consolidate the credibility of the new democratic authorities vis-a vis domestic political opponents (Moravcsik

2000). In the case of Chile, there is evidence indicating that this assumption holds. Chilean political leaders persistently emphasized that engaging with international human rights was an effective way of exerting pressures on the non-democratic sectors of the society and particularly the armed forces to preserve the democratic rules of the game. In fact, during the first five years following the transition to democracy, any military uprising—such as “Ejercicio de Enlace (1990) and “Boinazo” (1993)—was closely scrutinized by the entire international community, putting additional informal pressures on the armed forces to respect democratic rules (Fuentes 2006). From this point of view, participation in international regimes in general and human rights in particular allowed further scrutiny from the international community in times in which the main objective of the political elites was to secure a peaceful transition to democracy.

After the transition to democracy and especially since the early 2000s, the country started to contribute more significantly to the military dimension of UN peace operations. This represents a significant foreign policy shift for a country that had limited participation in these activities. Here the motives were to strengthening Chile’s democratic process and institution building through the strengthening of civil-military relations. Juan Emilio Cheyre, Commander in Chief of the Chilean Army from 2002 to 2006, indicated that the government was very effective in using foreign policy tools as a way of reaching domestic objectives:

The orientation by President Lagos was to consolidate the transformation of the military in order to ensure that its organization, equipment and doctrine were in full harmony with Chilean foreign policy, its focus on peace and regional integration, and on its desire to assume a role wherever international organizations might require support from Chile and where Chile would agree to participate. (Cheyre, 2008: 88)

Thus, military participation in international peacekeeping missions sponsored by the United Nations was an additional tool used by civilian authorities to open new spaces for dialogue with the armed forces.

The armed forces, which had consistently defended the prerogatives and privileges they had acquired during the military regime, were surprisingly willing to discuss their functions in the context of international peacekeeping missions. For the military, participating in peacekeeping operations offered a window of opportunity for the creation of a new military mission. After all, on the national stage the armed forces' role was already being scrutinized and limited. Simultaneously, being part of the United Nations in situations of humanitarian emergency gave the armed forces a unique chance to atone for previous human rights abuses by supporting peace, security and human rights abroad, and to cleanse themselves of the negative national and international image they had acquired. Their participation in peacekeeping operations also helped the military to obtain economic benefits in the form of payment for international missions, and provided opportunities for international training and joint exercises with armed forces from around the world (Aguero Felipe & Fuentes Claudio 2009).

It is important to note that this case illustrates that the reasons for new democracies to pursue "lock in" strategies can vary. Chile's high levels of uncertainty and the constrained conditions in which the transition took place pushed the newly elected political leaders to pursue this strategy as a way of preventing drawbacks and ensuring the continuity of the democratic process as well as an alternative to strengthening civil-military relations through peace-keeping. Unlike other new democratic states, in the Chilean case there is little evidence indicating that they use the

logic of subscribing international human rights treaties as a way of fulfilling domestic goals in the realm of transitional justice that is characteristic of other states experiencing transitions. Argentina is the case that comes most immediately to mind. In Argentina the main human rights treaties have constitutional standing, making the country exceptionally open to international human rights law (Engstrom 2011). Under President Raul Alfonsin, the government instrumentally used international human rights treaties to move forward his domestic agenda in particular the Trial of the Juntas (Sikkink 2008). Chile under Aylwin's policy of "justice under the limits of what is possible" was very cautious not to open such possibility. In fact, the administration paid special attention to the domestic effects of international human rights treaties especially when dealing with the amnesty law in place since the military regime. The best example is the already mentioned reservation that the Chilean delegation made when signing the American Convention, namely that it would be inapplicable to previous events. Even when the Inter-American Commission declared the Chilean Amnesty Law contrary to the Convention, no action or responses were taken on the government side.

To summarize, the newly elected government of Patricio Aylwin deliberately invoked international human rights treaties and employed international human rights monitoring as a formula to exert additional pressure to the non-democratic sectors of the Chilean society and to secure a peaceful transition to democracy. Later in the early 1990s, participation in peacekeeping operations opened a new window of opportunity for both the government and the armed forces to cooperate on an issue that was mutually advantageous. While the military saw UN peacekeeping operations as a way of gaining public recognition, increase resources and further access to training; the government

detected an opportunity to further exert further civilian control over the military and strengthening civil-military relations. Indeed, when dealing with peacekeeping missions domestic actors (government officials and the military) astutely took strategic advantage of international mechanisms to promote domestic objectives.

### **Political Leadership and the Ministry of Foreign Affairs**

A key variable for explaining Chile's commitment to international human rights can be found in a small group of experts on international politics. Together, these individuals formed a leadership alliance that would have a profound impact on the nation's foreign policy decisions for more than twenty years (1990-2010). This group of experts understood how to use the international community to their advantage in order to further pursue domestic goals. Simultaneously, they shared a set of common values emphasizing democracy and human rights, due largely to their personal histories of struggle against Pinochet's regime. They took key positions within the Ministry of Foreign Affairs soon after the transition to democracy and remained in power for almost two decades. This next section is dedicated to understanding this group's ideals, values, objectives, and impact on foreign policy decisions.

While the military regime was in power, several non-governmental organizations, universities, and think tanks, both in Chile and abroad, worked extensively on issues related to democracy and human rights in Latin America and global politics. Institutions like FLACSO-Chile, PROSPEL, CERC, ILE, and academic networks like the Latin American Network of International Relations (RIAL), developed a myriad of seminars, workshops, publications, and policy initiatives facilitating the formation of what can be understood as an international epistemic community (Hass, 1992). During the 1980s, a

vibrant community of internationalists gathered in different parts of Latin America to discuss ideas about democratic peace, confidence-building measures, Latin American integration, U.S.-Latin American relations, and the prospects for democratization.<sup>29</sup> This group not only concentrated on academic work. They also worked extensively with transnational human rights networks either when they were in exile and upon their return in Chile as part of struggle against Pinochet's dictatorship. Almost a decade later, the Chileans that were part of this regional and international community of scholars and human rights networks became government officials and used their international connections to advance and coordinate action as well as to disseminate their ideas both locally and throughout Latin America.

What stands out in the case of Chile is that, following the initial election, the same center-left coalition maintained power for four consecutive terms. This unique situation not only gave these new political leaders an opportunity to advance their careers within the government but also allowed them to implement policies over a relatively long period of time. In order to illustrate the main characteristics of this group and how its members' common backgrounds affected the policymaking process, this section provides brief profiles of five key political appointees within the Ministry of Foreign Affairs between 1990 and 2010: José Miguel Insulza, Heraldo Muñoz, Carlos Portales, Juan Gabriel Valdés, and Alberto van Klaveren.

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<sup>29</sup> A good snapshot of this network is presented in the collection "Anuario de Política Exterior de América Latina" produced by RIAL-Prospél as well as in the publications produced by the Area of International Relations of FLACSO-Chile during the 1980s.



These five political figures share important commonalities. All of them were recognized professionals who developed their academic careers either in non-governmental organizations or in universities in Chile and abroad. They all hold post-graduate degrees from prestigious U.S. universities. All of them were active members of political parties in Chile and they each played an important role in the struggle to recover democracy, and two of them (Valdés and Insulza) lived in exile. Finally, they each occupied at least three key positions within the Ministry of Foreign Affairs in different periods, allowing for long-term continuity of the policies they promoted. Each of these leaders had a striking political career in the Ministry of Foreign Affairs. Four of them occupied at least one of the top five positions at the Ministry, and one of them (Muñoz) was Minister of Communication and later the Chilean Representative to the United Nations.

Jose Miguel Insulza began his career as an advisor in international affairs for the Ministry of Foreign Affairs in 1990, becoming Undersecretary of Foreign Affairs in 1994. During President Frei's administration he was appointed Minister of Foreign Affairs (1994-1999) and during the Ricardo Lagos' presidency he became the Chief of Cabinet as Minister of the Interior (2000-2004). In 2004, Insulza was supported by the Chilean government in his successful campaign to head up the Organization of American States (OAS).

Muñoz' also fits our description of an expert in international relations because he built extensive academic networks throughout the Americas during the 1980s, and, after obtaining his PhD in the United States, he decided to return to Chile to confront the military regime and reestablish democracy. Soon after the transition, he was appointed

ambassador to the Organization of American States (1990-1994) and during the second administration of the center-left coalition he became ambassador to Brazil (1994-1998). Then the government appointed him Minister of Communication, offering him access to top-level decision-making processes in the Presidential Palace. In 2003, President Lagos appointed Muñoz the Chilean representative to the UN. During his time at the UN he was a key actor in advancing R2P and establishing the Peacebuilding Commission. He occupied key positions within the UN system, including chairing a special UN committee on Al-Qaeda sanctions, President of the Security Council, and the head of the special panel to investigate the death of Benazir Bhutto. Currently, Muñoz is the United Nations Development Program's Regional Director for Latin America and the Caribbean.

Table 7

*Political Leadership and the Ministry of Foreign Affairs in Chile (1990-2010)*

	<b>Insulza</b>	<b>Muñoz</b>	<b>Portales</b>	<b>Valdés</b>	<b>Van Klaveren</b>
Institution	CIDE	Prospel	FLACSO	CIDE	U. Chile
Studies	M.A. University of Michigan	Ph.D. University of Denver	M.A. Stanford	Ph.D. Princeton	M.A. University of Denver
Abroad during military regime	Italy and Mexico (Exiled)	USA	USA	USA and Mexico (Exiled)	USA
Political party	PS	PPD	PS	PS	PPD
Main Positions in Chile	-FA Minister (1) -FA Under Sec (2) -FA Multilateral Office Director (5) -Int'l. Agency Ministry -Vice-Pres AGC	-Comm Minister	-FM Foreign Policy Director (3) -FA Planning Director (6) -FA Diplomatic Academy Dir.	-FA Minister (1) -FA Economic Director (4) -Int'l Division at Finance Ministry	-FA Under Sec (2) -FA Planning Director (6)

Table 7 (continued)

	<b>Insulza</b>	<b>Muñoz</b>	<b>Portales</b>	<b>Valdés</b>	<b>Van Klaveren</b>
Main Positions Outside Chile	-Amb. for Int'l Cooperation -Secretary General of the OAS	-Amb. UN -Amb. OAS -Amb. Brazil	-Amb. Mexico - Amb. Geneva - Amb, OAS	-Amb. UN -UN special repres. in Haiti -Amb. Spain	-Amb. Belgium -Amb. Luxem. -Amb. To the EU

**Note:** FA = Foreign Affairs Ministry; Under Sec = Undersecretary; AGCI = Chilean International Agency for Cooperation; Amb. = Ambassador; Comm = Communication Minister; PS = Socialist Party; PPD = Party for Democracy; UN = United Nations; EU = European Union. For appointment information, see: <http://www.minrel.cl>.

A third case study is Juan Gabriel Valdés. After the transition he was appointed Ambassador to Spain (1990-1994), during the second administration of the *Concertación* of Political Parties, he was appointed Economic Director at the Ministry of Foreign Affairs (1996-1999), and in 1999 he became Minister of Foreign Affairs. From 2000 to 2003 he served as the Chilean Ambassador to the UN, and in June 2004 he was appointed as Special Representative and Head of the UN Stabilization Mission in Haiti (MINUSTAH). More recently, he was appointed the head of the governmental agency “Chile-País,” whose mission is improving the nation’s image internationally (2008-2010).

Carlos Portales joined the Ministry of Foreign Affairs in 1994 as Ambassador to Mexico (1994-1997) and later as Ambassador to the Organization of American States (1997-2000). Then, he led the Diplomatic Academy (2000-2001) and the Planning Division at the Ministry of Foreign Affairs in Santiago (2001-2002). In 2002, as Director of Foreign Policy, he became the third most important advisor in the ministry (2002-

2008). He was appointed Ambassador to Geneva (2008-2010) where he focused on developing an intensive human rights agenda.

Finally, Alberto van Klaveren is a lawyer and political scientist who specializes in international relations (University of Denver and University of Leiden). Prior to the mid-1990s he worked at the Institute of International Relations at the Universidad de Chile. Then, in 1996 he was appointed Director of Planning at the Ministry of Foreign Affairs, and subsequently was appointed Ambassador to Belgium, Luxemburg, and the European Union (2001 through 2006), and Undersecretary of Foreign Affairs (2006-2009). He is the current coordinator of the Chilean team handling a territorial dispute with Peru before the International Court of Justice.

The description of this group's political careers and professional backgrounds attempts to underscore the relevance of key agents within the foreign policy-making process. Ambassadors Muñoz, Portales, van Klaveren, Insulza, and Valdés became principal actors in the definition of programmatic goals as well as in the development of specific policy initiatives within the Ministry of Foreign Affairs. Muñoz was a key actor within the U.N. system as well as within the ministry. He promoted Chile's involvement in peacekeeping operations, the notion of the Responsibility to Protect, and preventative peace building, among others. Ambassador Portales became a key actor in defining the main guidelines for foreign policy during most of the Lagos and Bachelet presidencies, including the approval of several international treaties by the National Congress (Treaty of Rome, congressional guidelines for peacekeeping operations, and the ILO's N° 169 agreement, among others). As Head of the Ministry of Foreign Affairs (1994-1999), José Miguel Insulza also took key foreign policy decisions to consolidate Chile's

internationalization policies. Finally, Ambassador Valdés also played a vital role at the UN and became a key actor in promoting Chile's proactive involvement in Haiti, as he led the UN mission in that Caribbean country.

An additional dimension of their capacity to influence Chilean foreign policy relates to the particular characteristics of Chile's Ministry of Foreign Affairs, as bureaucratic features played a role in allowing this group of leaders to effectively implement their ideas. Unlike similar bureaucracies, the Chilean Foreign Ministry is relatively small and therefore it was easier for the new leaders to take over during the transitional period. Even though many diplomats and members of the Foreign Service that worked during Pinochet's year remained in their positions, the new group of policymakers could be inserted above them either formally or de facto. Within the Ministry of Foreign Affairs, the key agencies in defining foreign policy decisions are: the Policy Division, which is in charge of coordinating all programmatic agencies within the ministry; the Multilateral Organizations Division, which is in charge of coordinating policy actions at different multilateral levels; and the Planning Division, which is in charge of establishing guidelines within different divisions. Other offices relevant to policy decisions are the Chilean Embassies at the UN in New York and Geneva, due to their role in dealing with multilateral topics. All of these divisions and units were effectively taken over by this new group of foreign-policy makers.

In sum, each of these individuals held positions of power within the Ministry of Foreign Affairs for almost twenty years, gaining important expertise in the field and access to multilateral organizations. What all of them have in common is not only a similar professional background but also a shared commitment to the promotion of

democracy at home and abroad and of human rights more generally. This commonality of interests and values was clearly reflected in a set of foreign policy priorities that for more than twenty years supported international initiatives for the promotion and protection of international human rights and democracy.

### **Civil Society and Foreign Policy**

While the last section highlighted the relevance of certain key individual actors who have made key decisions within the state apparatus, this section will focus primarily on the role of non-state actors, in particular NGOs in the policymaking process. In particular it assess the idea the role of what has been called advocacy networks (local or transnational) in affecting foreign policies on human rights (Keck & Sikkink 1998).

The democratization process during the 1990s did not increase civil society participation in Chile. On the contrary, many of highly organized human rights organizations during the military regime decided to terminate their advocacy activities when the democratic system was restored. Indeed, as several scholars have mentioned, civil society organizations had played a pivotal role during the cruelest period of the Pinochet regime. They were critical in documenting violations of human rights, articulating social disapproval of the regime, and providing important transnational networks to advance the democratic agenda of freedom, human rights, social rights, and gender equality.

After the military coup and the subsequent banning of political parties, various NGOs were created with the aim of defending and advancing human rights. Many NGOs emerged during the 1970s and 1980s as the result of conscious efforts by activists with strong links to political parties. An extensive network of non-governmental organizations

was developed at the local as well as national level. These organizations devoted their attention to diverse issues, including, among other topics, women's rights, the media and freedom of expression, rural studies, the environment, housing, education, and decentralization (Piña 1989; OXHORN 1995).

The transition to democracy proved a turning point for many individuals working in NGOs, with one of the immediate impacts being that many of these professionals went to work for the government. The newly-elected officials represented a broad coalition of Christian Democrats and Socialists, who had previously been part of the opposition to the military regime. This political climate presented social actors with a golden opportunity to influence public policy. The personal backgrounds of many of the newly-elected politicians made them sensitive to the demands of civil society. The story of activists within human rights organizations is particularly illustrative. The organizations that had close ties with the governing *Concertación* coalition saw their leaders assume government positions in the new administration. They entered those posts with the explicit intention of lobbying authorities from within. Activists from the Vicariate of Solidarity and the Chilean Committee for Human Rights (CHCHR) were politically connected to the *Partido Demócrata Cristiano* and the *Partido Socialista*. Several of them actively participated in the formation of government strategies, first in developing the new government's electoral platform, then in implementing the platform once the transition to democracy took place.<sup>30</sup> Particularly relevant was the Catholic Church's

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<sup>30</sup> To mention some of them, Alejandro González, Jorge Domínguez, Roberto Garretón, Carlos López, Felipe Portales, and José Zalaquett used to work in the Vicariate of Solidarity and in the CHCHR, and assumed new government positions related to human rights issues soon after the transition.

decision to dissolve the Vicariate of Solidarity, and the CHCHR's decision to dissolve a network of more than five thousand volunteers nationwide.

As the principal leaders of both organizations were assuming new positions within the state bureaucracy, it was impossible for them to maintain the same level of grassroots activity as before. The CHCHR transformed itself from a dense network of grassroots organizations into a bureaucratic entity with few staff members, fewer resources, and a lower level of interaction with social organizations. Another major shift in the non-governmental sector after the democratic transition was the significant decline of funding and sponsorship from international agencies. Thus, many of the NGOs working on issues concerning human and social rights disappeared after the transition. The reasons commonly provided by the literature include the dominance of political parties in the transitional political process, and the transition of leadership talent from NGOs to the new democratic government (Delamaza 2005; Fuentes 2005). Several organizations managed to maintain some of their influence, effectively monitoring the instatement of human rights clauses by the new Chilean government. However, such pressures were almost exclusively related to past human rights violations and specific human rights issues in the current agenda. Indeed, organizations linked to the indigenous movement, children's rights, and the monitoring of violations of human rights committed during the military regime organized alternative reports to be submitted before the UN human rights system (Fuentes 2010).

The Chilean Ministry of Foreign Affairs was not an exception. As said before, many of the key new foreign policy authorities had created important ties with human rights networks as part of the struggle against the military regime allowing them to bring



human rights ideas and values into their work. On the other hand, local NGO activists were also designated to occupy bureaucratic positions at different levels of the state apparatus and the Ministry of Foreign Affairs. This was particularly evident in the case of the newly formed Human Rights Unit at the Ministry. The designated Director from 1990-1994 was Roberto Garreton—a human rights defender with an outstanding public trajectory as a human rights lawyer at the Vicariate of Solidarity. President Patricio Aylwin personally appointed Garreton to this position and they had a close relationship while in office. Indeed, Roberto Garreton previously worked at the Vicariate with Andres Aylwin—the president’s brother and also a prominent human rights lawyer— which made the human rights movement and its people even closer to the Presidency. During 1990 an early 2000s, the directors and sub-directors of the Human Rights Unit had a clear human rights background<sup>31</sup>: Carmen Hertz, an active human rights lawyer for the Vicariate that lost his husband in the hands of the Caravan of the Death; Felipe Portales, sociologist, scholar and human rights activist; Alejandro Salinas, human rights lawyer trained in the United States who participated in the team of experts that was part of the Truth and Reconciliation Commission in 1990 and consultant for international NGOs (Amnesty, Human Rights Watch).

What is remarkable about this case is that the newly created unit at the Foreign Ministry was occupied not by the diplomatic service and its bureaucracy but by a small group of selected experts with a personal commitment with the human rights cause. The inclusion of human rights activists within this unit was pivotal for Chile’s international

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<sup>31</sup> For this research it was possible to interview three of them: Roberto Garreton, Alejandro Salinas, and Felipe Portales.

human rights commitment. This group brought specific knowledge within the Foreign Ministry in an area where there was no previous expertise and where the predominant view was that human rights were not inherently part of the national interests.

Paradoxically, the only previous training on this subject within the Ministry was how to respond to the criticism of international community in light of the abuses committed by the military regime. Garreton and the directors thereafter were able to bring human rights within the foreign policy decision-making procedures, a process that was reinforced by their ties with other recently appointed high-ranked governmental officials and in some circumstances with their close ties with the President itself.

The newly created human rights unit was also critical to help training diplomats on human rights issues. Roberto Garreton and Alejandro Salinas recall that part of their work was to interact with the Chilean delegation in Geneva (base of UN Human Rights Commission/Council) and sometimes Washington (Inter-American Human Rights Commission) a process that prompted a common learning: Chilean diplomats learned about the human rights world through the expertise of these group and the human rights experts relied on the delegation specific knowledge regarding diplomatic procedures. The inclusion of human rights experts within the Ministry was also beneficial for enhancing the links between Chile's diplomacy and international human rights groups. The expertise of the Directors of the Unit and their prestige as human rights lawyers made them closer to international NGOS and helped them to establish a working relationship during international meetings and United Nations settings. Garreton, for example indicates: "I felt part of the NGOs. Due to my background as a human rights defender I was much closer to the international advocacy groups rather than the diplomatic world" (R.

Garreton, personal communication, July 2013). The interaction between diplomats and international NGOs continued over time and is something that was very much set in motion due to the experience of the appointed directors of the human rights unit.

In sum, NGOs did have a role in the way in which Chile responded to international human rights. However, its role has been slightly different than the one that is traditionally highlighted by the literature on the subject that portrays a group of transnational groups (domestic and international) pushing from the outside for governmental changes (Keck & Sikkink 1998). In Chile's case the very same people that advocate for the overthrow of Pinochet was able to enter the government during the transition to democracy and from that position pushed for changes from within.

What is worrisome for the future is that since the transition to democracy the field of foreign policy has been characterized by top-down action, with policymakers trying to address international human rights domestically but facing weak civic engagement on this matter. When dealing with civil society it is possible to observe a lack of human rights non-governmental organizations pushing for the implementation of foreign policy initiatives. This is an important weakness considering that these types of organizations are fundamental to ensuring that states abide by international norms, especially in the area of human rights.

Of course, the involvement of civil society activism has varied greatly according to theme. Civil society activism is most likely found in issues concerning international commerce, international environmental standards, and the adoption of international standards concerning indigenous rights. But in issues concerning the protection of human rights abroad, civil society actors have not played a relevant role at all. Put in another

way, the protection of human rights internationally, humanitarian catastrophes or issues such as emergent debate on norm of the Responsibility to Protect have not been part of the agenda developed by Chile's local civil society's most influential actors.<sup>32</sup>

### **Conclusions**

This chapter explains Chile's foreign policy (1990-2010) as the product of the interplay between international and domestic conditions and pressures, actors' preferences and values, and a set of institutional determinants that resulted in a strong commitment to human rights policies during the 1990s and in the following decade. The inclusion of human rights into Chile's foreign policy can be interpreted as an expression of principled commitment to human rights values combined with and strategic use of foreign policy as a means for managing the transition to, and consolidation of, democracy. A key explanatory factor can be found in a small group of experts on international politics with extensive ties with human rights networks that took over the Chilean Ministry of Foreign Affairs since the return of democracy. Together, these individuals formed a leadership alliance that would have a profound impact on the nation's foreign policy decisions for more than twenty years. Their influence in the promotion and implementation of foreign policy based on human rights and democratic principles has been characterized by remarkable longevity.

This case also highlights the limits of international relations approaches to understand human rights foreign policy. Chile's diplomacy illustrates that a country does

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<sup>32</sup> Few nongovernmental organizations have addressed the topic. Among the exceptions are Amnesty International (Chilean Section), FLACSO-Chile, and Ignire.cl. The topic has not garnered media attention either.

not need to be coerced by a great power to adopt human rights policies. If anything, Chile's human rights performance has been consistent with human rights values beyond economic or political pressures. The country has voted in favor of examining human rights situations in almost all the instances at the UN Human Rights Commission and later in the newly created Human Rights Council. Chile's decision at the Security Council in 2003 of not supporting the United States invasion of Iraq despite the pending signature of a Free Trade Agreement with the US reinforces this argument.

The liberal explanations predicting that transitional democracies will ascribe to international human rights to protect unstable regimes played a role here. Government officials used the international community and international human rights groups as a source of power, thereby, counteracting the institutional legacy of the military regime and keeping the authoritarian sectors (particularly the armed forces) of the Chilean Society under control. Yet, the persistence of Chile's active human rights diplomacy once democratic consolidation took place and once there were no clear motives for effective "lock in" policies cannot be explained by this approach. The evidence suggests that human rights were incorporated into foreign policy driven by a group of political leaders that has been exposed to human values and ideas and advocacy groups during the struggle against Pinochet and effectively introduced them not only for instrumental reasons but also as a matter of principle. They also created a specific human rights unit within the Ministry as a way of further institutionalizing these policies.

Chile's policy also illustrates that constructivism is right in highlighting the role of ideas and values in foreign policy. It demonstrates that a state democratic identity does make them immediately a human rights promoter and that those international ideas are

not easily diffused into domestic politics. The case shows that political elites are key drivers of the human rights values, that beliefs are also combined with strategic interests, and that favorable institutional settings especially at the Foreign Ministry are key.

The final conclusions are dedicated to highlight some of the most recent trends in the government's foreign policy decisions and their implications for Chile's commitment to international human rights in the future. Domestically there were already significant changes as a new coalition came into office. At the beginning of 2010 the Coalition of Parties for Change, lead by Sebastian Piñera, won Chile's presidential election. This was the first democratic election of a right-wing leader in fifty-two years, and serves as the perfect test for evaluating the endurance of foreign policy priorities established by previous governments. The question is, to what extent President Piñera's administration will maintain the previous human rights approach to foreign policy and whether a policy shift is likely to occur. If Piñera is unsympathetic to the policies adopted by the previous coalition, then the degree of institutionalization of human rights ideals within the state apparatus will be crucial to their future sustenance.

So far Piñera's administration has maintained a similar foreign policy approach toward human rights. Chile was selected as a member of the Human Rights Council in 2011 showing an active participation within this institution; the country has also increased its financial contributions to Inter-American Human Rights System indicating that is crucial to enhance and strengthened regional human rights mechanisms; and finally the government with congressional approval decided to keep Chilean troops from the continued UN peacekeeping mission in Haiti (MINUSTAH). Despite strong discussions between the Ministry of Defense, the armed forces, and the Ministry of

Foreign Affairs, and the disapproval of some of its political supporters, the government kept Chilean troops and civilian personnel in the Caribbean country. This decision speaks of the persistence of Chile's policies on this subject and says much about the future of Chile's performance on international human rights and humanitarian aid.

On a less positive note, the Chilean foreign ministry's showed lukewarm support of recent protests for democracy and the protection of human rights in the Arab World. In the case of the Egyptian protests for example, the Chilean government failed to release any sort of declaration calling for democratic elections or for the peaceful resolution of the conflict. Despite Chile's experience with similar democratic struggles, the country opted to remain silent. Regarding Libya, the Ministry of Foreign Affairs issued a timidly-worded declaration, calling for the prevention of further civilian casualties caused by the Gaddafi-led government's repressive action. The language of R2P was not used by the government, despite international evidence indicating the need to protect the Libyan population from the risk of mass atrocities. More recently, Chile condemned violence against civilians in Syria but, again, it did not use R2P language. These three crises reveal the new government's timidity in addressing ongoing human rights struggles. Nevertheless, it is still too soon to evaluate the administration's long-term approach to this matter.

Despite Chile's commitments, there is still much room for improvement when comes to international human rights promotion. Past experiences can illuminate some of the future challenges. Two topics are particularly relevant for the task of strengthening international human rights policies of the current government of Sebastian Piñera and the incoming administration in 2014.

First, this study shows the importance of political leadership to introduce important policy changes. Yet it also highlights that in many cases the prevalence of individuals over the construction of institutional capacities has prevented the consolidation of institutional rules and structures with the capacity to more permanently shape future foreign policy decisions. It is true that specific units were created within the Ministry of Foreign Affairs for human rights and humanitarian affairs. However, when relevant decisions regarding human rights and international security are made, these units show very little capacity for generating responses. Rather than elaborating on the state's human rights policies internationally, the main task of the human rights division is basically to respond to Chile's monitoring requirements for international treaties. Responses to R2P is another good example of an international human rights norm, which has been strongly supported by Chilean representatives at the UN but has remained relatively absent from debates at the Ministry of Foreign Affairs in Santiago. There is no single official in charge of this topic within the Ministry. This situation poses the immediate question of whether there is enough institutional strength to sustain human rights policies when leaders that might be less sympathetic to the ideas and values of human rights come into power. Effective human rights promotion requires enhanced institutional capacities, a medium to long term agenda of action and strategies along with better diplomatic training (Fuentes, 2013).

Second, non-governmental organizations remain weak, and their access to the decision-making process in foreign policy is limited. There is no evidence that the political opposition or other relevant groups are currently engaged in monitoring Chile's international action. Furthermore, unlike in the late-1980s, there are very few national



academic institutions dedicated to the systematic study of Chile's international policies and even less so specifically following up the government's efforts to uphold human rights and democratic principles abroad. Thus, there is relatively little pressure on the government to keep its previous commitments to international human rights. The experience shows that adequate channels for NGOS engagement with the policy world enhance foreign policy activity.

## CHAPTER 4: BRAZIL'S HUMAN RIGHTS DIPLOMACY

### **Brazil's Human Rights Policy-Shift: From Defense to Acceptance**

The return to civilian rule in 1985 opened the space for a gradual opening up of Brazilian diplomacy to the institutional and normative framework of the international human rights regime. In fact, scholars and local policymakers have compellingly argued that since the transition to democracy Brazil's foreign policy has shifted from a defensive and almost exclusive focus on state sovereignty to broadly accepting and legitimating the role of human rights in international politics (Engstrom, 2010; Macaulay, 2010; Pinheiro, 1999). Paulo Sérgio Pinheiro, a Brazilian scholar and human rights expert, indicates that since the military dictatorship there has been a "sea of change when comes to Brazilian human rights policy ... Democracy provoked decisive changes in Brazil's foreign policy vis-à-vis human rights" (P. Pinheiro, personal communication, August 2013).

Brazil's position during the military regime (1964-1985) in relation to multilateral organizations and human rights institutions was "contradictory at the beginning and eventually it turned out to be increasingly defensive and isolationist, particularly during 1976 to 1981" (Martin Solon, Clara 2011: 15). Brazilian delegations were part of the human rights system but they participated as a way of defending themselves from the increasing international criticism towards domestic abuses especially during the 1970s. In 1977, Brazil was selected for the first time as a member of the UN Human Rights Commission, its main objective being to strengthen the position in which human rights

are seen as an exclusive responsibility of the state and, therefore, denying any legitimacy to international actions intended to promote and protect human rights beyond national borders (Lindgren Alves, 2009). Chancellor Azeredo da Silveira in his opening speech at the XXXII UN General Assembly, most clearly represents the Brazilian vision of the time:

In the end, the solutions to issues pertaining the Rights of Man are responsibility of national governments. In a world that is unfortunately characterized by interventionist attitudes, either open or concealed, and by the distortion of certain issues, no state or group of states, can be attributed with the capacity to judge other countries in issues that are that serious and pertaining only to the intimacy of the national life of a state. (Azeredo da Silveira in Martin Solon, Clara 2011: 15)

Brazil's human rights violations were analyzed and discussed between 1974 and 1976 through a confidential procedure within the UN Human Rights Commission, a procedural alternative illustrating the skill of Brazilian diplomats in avoiding any possibility of public condemnation. During the military dictatorship, Itamaraty (the idiomatic short hand for Brazilian diplomatic service) was particularly careful in avoiding expressing any opinion regarding human rights situations abroad. When resolutions on country situations were voted, Brazil voted against them in a majority of the cases and abstained on the rest. (Martin Solon, 2011: 15).<sup>33</sup>

The return to civilian rule had important effects on Brazil's response to violations of human rights in other countries. The Sarney government (1985-1989) has been characterized by scholars and policy-makers as an "intermediate stage" between the defensive isolationism of the military regime and the more active multilateralism of its

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<sup>33</sup> Exceptions were South Africa (Apartheid), Namibia, and Palestine and the Occupied Territories.

successors (Macaulay, 2010: 137). As Paulo Sergio Pinheiro has said, “we can note yet speak of a genuine new course because the legacy of continuity would prevail during the Sarney government, limiting bold initiatives” (Pinheiro,1999: 9). Sarney during his speech at the United Nations General Assembly, praised the International Declaration of Human Rights as the “most important document written by man in contemporary history”. This is not a minor change considering that between 1977 and 1984, Brazilian speeches, which traditionally open the UN General Assembly, “had never even mentioned human rights” (Pinheiro, 1999: 9).

During this period the executive submitted to congress several human rights instruments including the International Covenant on Civil and Political Rights (ICCPR), the Covenant on Economic and Cultural Rights (ICESCR) and the American Convention on Human Rights. Despite the hovering presence of the military institution, only recently returned to its barracks, Sarney’s government was also able to insert a number of very important human rights guarantees into the 1988 Constitution (Macaulay, 2010: 137). Yet, the transitional government remained abstentionist within the UN system, “only faintly acknowledging the legitimacy of multilateral initiatives to enforce human rights norms” (Pinheiro, 1999: 10). At the same time, some governmental officials used dismissive language when referring to human rights issues, in particular international assessment of national human rights practices and associated international assessment with “imperialist” attitudes.<sup>34</sup>

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<sup>34</sup> Former Minister of justice and Senator, Paulo Brossard, attacked Amnesty on national television accusing it of being a subversive organization.

The Sarney Administration's successor, the Collor de Mello (1990-1992) government, more broadly accepted the legitimacy of international human rights and actively pursued initiatives to open Brazil's doors to international scrutiny. It hastened to ratify international human rights instruments--the ICCPR and the ICESCR in 1992--with the significant help of more progressive senators.<sup>35</sup> In a psychologically-related move, the government also hosted important international conferences dealing with issues that had resonance in the human rights domain including the UN Conference on Environment and Development, held in Rio de Janeiro in 1992. Most notably, the government explicitly recognized that the UN Human Rights Commission "has the right to comment on the status of human rights on any part of the world" (Pinheiro, 1999: 10). Brazilian delegations abroad opened their doors to NGOs and external enquiries. In fact, the government issued a recommendation that missions should respond without resistance to complaints about the human rights situation and maintain contacts with NGOs. Collor de Mello was the first Brazilian President to receive representatives from Amnesty International investigating torture and the condition of street children. In meetings dealing with these issues, President Collor de Mello famously stated that "national sovereignty cannot be a protection against human rights violations" and in his speech at the XLIV UN General assembly he stressed that the world is marching "towards an advanced stage of democratic construction and of respects for human rights" (Pinheiro, 1999: 13).

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<sup>35</sup>The then Senator Fernando Henrique Cardoso was particularly supportive of human rights initiatives.

After Collor's resignation from the presidency due to an impeachment trial on charges of corruption, Itamar Franco (1992-1994) took over as an interim President. The highlight of this period was Brazil's active participation at the UN Conference on Human Rights in Vienna where Ambassador Gilberto Saboia acted as the Chair of the drafting Committee. Brazil played an important role defending the universality principle in the face of other delegations from Asia and Africa that were strenuously insisting on the affirmation of culturally distinct approaches to human rights, that is cultural relativism (Lindgren & Alves, 2001; Belli, 2000). The Brazilian delegation strongly promoted the notion that "democracy, development and human rights" are intrinsically linked and interdependent. The Vienna Conference had important effects at the domestic level, fostering a series of meetings between governmental officials and local civil society groups, NGOs, and scholars to generate a common diagnosis about the most pressing human rights issues in Brazil. One of the indirect results of the Conference was that "Brazil started to be more aware of the demands and compromises required as a result of being part of the international human rights regimes, including presenting periodic reports to UN Treaty bodies on the subject" (Martin Solon 2011: 23).

Foreign Relation Minister, Celso Amorim, clearly reflects the spirit of the time in his speech to the UN Assembly in 1993:

Transparency in the decisions and actions of the government constitutes an important aspect of Brazilian policy. This transparency is also manifested in the fluid and constructive dialogue with the segmentary organizations of society dedicated to the fight for the observance of human rights in the country. (Amorim in Pinheiro, 1999: 18)

Brazil took several steps under the presidency of Fernando Henrique Cardoso (1995-2002) to display its commitment to international human rights. As Fiona Macaulay

points out, it is during this government that “Brazil’s alignment with international human rights standards and active multilateralism intensified and became key foreign policy tenants” (Macaulay, Fiona 2010: 138). Eminent Brazilians diplomats, for instance Ambassador Lindgren Alves, signal the first year of Cardoso’s mandate as the time in which the country started a new phase of its human rights diplomacy, finally accepting the legitimacy of these principles as part of its foreign policy.<sup>36</sup> Among Cardoso’s most notable achievements was to finally recognize the jurisdiction of the Inter-American Court of Human Rights (Brazil was the last Latin American to accept its jurisdiction). In addition it accepted international oversight carried out by UN bodies in execution of their mandates under the six human rights Conventions ratified by Brazil (Macaulay, 2010: 140). In 2001, Brazil offered a standing invitation to all the mandate holders of Special Procedures of the Human Rights Council. As a result, Brazil became in the words of Macaulay, “the most inspected country in the hemisphere” (2010:40). Brazil has received visits by 17 such mandate holders since 1998 (Brazilian Mission at the UN, 2012). Along with the Special Rapporteurs<sup>37</sup>, the country has received the visits of three High Commissioner for Human Rights: Mary Robinson (2000), Louise Arbour (2007) and

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<sup>36</sup> Lingren Alves (1994) describes these phases as follows: 1978-1984: a conservative period, defensive positions; 1985-1989, Sarney’s transition government, characterized by the still relatively timid recognition of the legitimacy of the multilateral system when comes to human rights; 1990-1994, brazil experience a period of adhering, recognizing, and ratification of international human rights treaties. Finally, since 1995 the country entered a period in which the system is legitimized and therefore, they decided to play within the system and a more constructive role.

<sup>37</sup> These include, for example, Special Rapporteurs on: Torture (2000), Right to Food (2002, 2009), On the Sale of Children, Prostitution, and Pornography (2003), Extra-judiciary Executions (2003, 2007), Adequate Housing (2004), Independence of the Judiciary (2004), Racism (2005), Indigenous Peoples (2008), New Forms of Slavery (2010). See: abstained (Martin Solon, Clara 2011: 26)

Navanethen Pillay (2009). At the domestic level, and following the guiding of the Vienna Convention, the government launched in 1996 the National Human Rights Plan (PNDH)<sup>38</sup> that included a national plan of action on the subject along with some guidelines referring to Brazil's international policies on human rights (Brazilian Mission at the UN, 2012). The Foreign Ministry created a new Department for Human Rights and Social Issues to further institutionalize the inclusion of human rights as part of Brazil's foreign policy and to be able to better fulfill treaty obligations including the implementation of reports.

Under Lula da Silva administration (2003-2010) the country continued to manifest a conspicuous commitment to compliance with international human rights behavioral norms and procedures. Yet, unlike previous administrations and primarily due to the perception of Brazil as a rising power, Lula's foreign policy was more closely monitored locally and internationally. While there was much positive continuity, there was, as well, what one could describe as "negative continuity": Brazil continued abstaining when confronted with UN resolutions denouncing states for gross abuse of human rights. Even though abstentions at the United Nations was also a common feature of previous governments, during Lula's government this situation led more than in the past to strong criticism by international NGOS as well as by newly created local organizations<sup>39</sup> that were for the first time since the transition to democracy set up to follow up on Brazil's foreign policy decisions. Indeed, one of the most important features

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<sup>38</sup> PNDH is the acronym in Portuguese.

<sup>39</sup> Conectas, is a Brazilian NGO founded in 2001 with the mission of promoting human rights in the Global South. They have an specific program monitoring Brazilian foreign policy on human rights.



of this period is the strengthening of local NGOs and think tanks monitoring Brazil's international actions.

On the other hand, Brazil during this period acted as a global defender of economic, social and cultural rights. Lula's government actively promoted international initiatives to elevate the issues of poverty and hunger on the international agenda and, in particular, initiated important diplomatic actions on the right to health and access to medicine. At the same time, Brazilian diplomacy was active on issues such as the protection of the rights of sexual minorities, the defense of the International Criminal Court (ICC), and curbing the trade in small arms. Brazilian diplomats were also engaged on the reform of the UN Human Rights Commission and the creation of a new UN Human rights Council.

### **Assessment: Is Brazil a Human Rights Promoter?**

Even though Brazilian diplomacy towards human rights has changed in important ways since the return to democracy, its performance in the arena of international human rights defense is less impressive than that of certain other Latin American countries in which democracy was restored after a period of harsh military rule. The country's acceptance of international human rights as a legitimate issue in international politics did not go so far as make human rights a trump in relation to other foreign policy interests. On balance, I will propose, Brazil cannot reasonably be seen as a global human rights promoter or even a regional one. This conclusion reflects four dimensions of Brazilian behavior which I will sketch now and then develop in the following section.

First, even though Brazil has ratified the most important human rights treaties, the country in comparison with other Latin American peers was relatively slow to accept

intrusive international scrutiny – reflected in longstanding refusal to sign up to UN treaty bodies – and individual complaint procedures. This was also at the Inter-American Human Rights system. For example, Brazil was one of the last OAS member states in Latin America to recognize the jurisdiction of the Inter-American Court of Human Rights (See table 10). Second, an unwillingness to openly criticize human-rights-abusive-countries as has been evidenced by Brazil’s abstentionist record at the UN Human Rights Commission and later at the Council. At the same time, Brazil has very reluctantly entered the discussion on Responsibility to Protect and it has clearly pointed out its adherence to a softer concept “non-indifference”. Third, Brazil’s financial contribution to the international human rights system (UN and OAS) is comparatively lower than many western states or Latin American states in relation to their wealth and population. Fourth, despite enormous progress since the transition to democracy, Brazil still suffers from a poor domestic human rights record. It is true that different administrations have implemented successful social programs some of which have been exported to other developing countries (“Hunger Zero”, for example) but the government’s incapacity to ameliorate pressing human rights abuses—including unlawful police killings, the use of torture, prison overcrowding, and ongoing impunity for abuses committed during the country’s military rule—<sup>40</sup> leaves Brazil in a difficult position to promote human rights internationally.

As Brazil’s international profile has heightened, the country has been the target of more criticism of its behavior and calls to play a greater role in the promotion of

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<sup>40</sup> For a description of the human rights situation in Brazil see the Country reports from HRW that are issued yearly. See also CONECTAS and the NGOS associated to it.

international human rights have augmented. The following section looks at Brazil's human rights diplomatic performance in the same areas that were previously discussed in the Chilean case: a) Legal (ratification of International human rights treaties); b) International Human Rights Regimes (Participation in multilateral human rights institutions); c) Peace promotion and humanitarian protection (relevant UN peace keeping initiatives and responses to humanitarian crisis especially massive human rights violations); d) Financial assistance for human rights. In order to provide a better comparison, in each one of these four areas Brazil's performance is contrasted with other countries in Latin America and middle powers such as India, Turkey or South Africa.

### **Legal: International Human Rights Treaties**

Brazil has not ratified all the major international human rights treaties, including the regional ones such as the American Convention on Human Rights in 1992 (See table 9). The process of entering the major conventions started during the transitional government of Sarney and the majority of the treaties were signed in the following governments, especially during Collor de Mello's administration. President Sarney's first speech at the UN, explains why his government decided to become part of these treaties:

With Pride and trust, I bring to this Assembly the decision to be part of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, and the Convention against Torture and other Cruel, Inhuman, and Degrading Treatment. With this decision, the Brazilian people give a step towards the democratic reaffirmation of its state, in front of themselves and the international community, a solemn commitment with the principles embodied in the UN Charter and with the promotion of human dignity. (Sarney at Martin Solon, Clara 2011: 18)

It is also worth mentioning Brazilian efforts to maintain the integrity of the Rome Statute of the International Criminal Court (ICC). The Court became operational in 2002, with a

distinguished Brazilian jurist as one of its eighteen judges. In the face of this development the U.S. government engaged in a wide-ranging campaign to undermine the ICC, including an effort to bully states into signing “Bilateral Impunity Agreements” exempting U.S. nationals from the ICC’s jurisdiction. Brazil took a welcome stance at the time by not only refusing to sign such an agreement, but also by publicly stating that such an accord would “run counter to the letter and the spirit of the Rome Statute and constitutes a threat to the judicial equality of States” (HRW, 2004).

On the downside, although major conventions were ratified it took more than a decade for Brazil to recognize the jurisdiction of the oversight bodies associated with these treaties (Macaulay, 2010: 138). At the international level, Brazil was reluctant to accept international scrutiny and no jurisdiction of the oversight bodies created by the UN treaties were recognized until years after ratification. Following the democratic transition Brazil was also initially hesitant to issue invitations to UN Special Rapporteurs.

At a regional level, Brazil has been characterized a human rights “laggard” (Engstrom 2010). In fact, the country was one of the last Latin American states to recognize the jurisdiction of the Inter-American Court of Human Rights in 1998 (See table 10). Furthermore, when Brazil ratified the American convention of Human Rights, it became the only country in the region to make a reservation on Articles 43 and 48, claiming that the Inter-American Commission had no automatic right to conduct “in loco” visits, which could only occur with the express permission of the host country (Macaulay, 2010: 139). This was a striking redundancy in that the Commission had never claimed that it could undertake an on-site inquiry without permission from the target state.

Following the democratic transition, Brazil has had comparatively few dealings with the Inter-American system (IAHRS). By 1994 only two of the hundreds of cases pending before the IACHR concerned Brazil (Macaulay 2010: 139). This is an anomaly in that NGOs have documented an abundance of human rights abuses in Brazil. The anomaly stems from a number of factors. One is the success of successive Brazilian governments in persuading the Commission not to process the complains received. A second is the lack of awareness within Brazil of the resources and opportunities provided by the Inter-America system and the international human rights system more broadly (Engstrom, 2010, 2013). That lack of awareness is in part a function of the concentration of abuses among the poor and poorly educated, in part a function of a certain introversion, a widespread sense that Brazil is today a global rather than a regional actor, that regionally it is almost a system unto itself.

Recent studies indicate that when comes to Brazil this pattern of recourse to the Inter-American Human Rights System has continued throughout the 2000s. In terms of concrete engagement with the IAHRS on specific cases, “Brazilian state institutions have tended either to ignore judgments by the regional system or choose not to implement substantial measures” (Ensgtrom 2010). At the same time, unlike the case of Chile, Brazilian representatives acting as judges in the Court or as Commissioners at the IACHR<sup>41</sup> have been relatively few in comparison to other countries in the region.

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<sup>41</sup> Only Few Brazilians have been elected to the IACHR: Carlos A. Dunshee de Abranches, 1964-1983; Gilda Maciel Correa Russomano, 1984-1991 and Paulo Sergio Pinheiro, 2004-2011. Cançado. Trindade is the only Brazilian who has served as Judge on the Inter-American Court.

During Fernando Henrique Cardoso’s term, however, there was an increasing engagement with the Inter-American human rights system and the Brazilian government reached a number of “friendly agreements” with the Commission most notably an agreement to demolish the infamous Carandiru prison. Years later in 2001, and in a landmark ruling, the Court of Human Rights criticized the Brazilian government for not taking effective measures to prosecute and convict perpetrators of domestic violence. This time the Brazilian government responded in 2006 enacting a law under the symbolic name “Maria da Penha Law on Domestic and Family Violence.” Despite these notable exceptions, the general picture of Brazil’s engagement with the Inter-American system has been more of neglect rather than active engagement.

Table 8

*Brazil: Selected International Treaties*

<b>Treaty</b>	<b>Year of Ratification</b>
International Covenant on Civil and Political Rights	1992
International Covenant on Economic, Social, and Cultural Rights	1992
Convention on the Elimination of All Forms of Discrimination against Women	1984
Convention on the Rights of the Child	1990
Ottawa Convention	1999
Convention on the Rights of Persons with Disabilities.	2008
International Convention for the Protection of All Persons from Enforced Disappearance	2010
International Criminal Court/ Rome Statute	2002

Source: Coalition for the International Criminal Court, <http://www.iccnw.org/?mod=country&iduct=35>; Office of the High Commissioner for Human Rights. <http://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>

Table 9

*Countries that Ratified the American Convention on Human Rights (ACHR) and Accepted the Compulsory Jurisdiction of the Inter-American Court of Human Rights*

<b>Country</b>	<b>Acceptance of the Court</b>
Argentina	1984
Barbados	2000
Bolivia	1993
<b>Brazil</b>	<b>1998</b>
Chile	1991
Colombia	1985
Costa Rica	1980
Dominican Republic	1990
Ecuador	1984
El Salvador	1995
Guatemala	1987
Haiti	1998
Honduras	1981
Mexico	1998
Nicaragua	1991
Panama	1990
Paraguay	1993
Peru	1981
Surinam	1987
Trinidad y Tobago	1991
Uruguay	1985
Venezuela	1981

Source: Sikkink (2004: 84)

### **International Human Rights Regimes**

This section examines Brazil's role in the UN human rights system by looking at its performance at the Human Rights Commission and the Human Rights Council (established in 2006) and when necessary it also highlights important landmarks at the United Nations General Assembly. It systematizes Brazil's position (voting behavior) regarding resolutions condemning human rights abuses internationally and describes major initiatives and proposals submitted to the UN human rights system.

## **UN Human Rights Commission**

When it comes to initiatives within the Commission, Brazil has played a considerable role. Most notably, it took the lead in proposing a series of resolutions in the areas of development, health, and democracy. The Brazilian delegation in 2000 presented a proposal in the Commission that led to a resolution on “The Incompatibility between Democracy and Racism”. Later in 2005, Brazil presented a resolution at the Commission expressing concern at abuses against persons on the grounds of their sexual orientation and calling on states to “promote and protect the human rights of all persons regardless of their sexual orientation.” This was the first time that a resolution specifically focusing on sexual orientation had been brought before the Commission.<sup>42</sup>

In the area of health, Brazil has shown important leadership starting during Cardoso’s administration and later on reinforced by Lula’s government. In relation to HIV/AIDS, it has been one of the principal players in the global struggle for access to affordable antiretroviral medicines and in promoting flexibility in the patent rules of international trade agreements. In 2001 the Brazilian National AIDS Program won the UN Educational, Scientific and Cultural Organization (UNESCO)’s Human Rights and Culture of Peace Award. Later in 2003, Brazil contributed to the appointment of a UN Special Rapporteur on the Right to Health as well as to the Commission on Human Rights adopting resolutions recognizing that access to medication in the context of pandemics such as HIV/AIDS, tuberculosis, and malaria, is a fundamental right (Dauvergne, P. & Farias, D. 2012: 910-912).

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<sup>42</sup> Unfortunately, although it was co-sponsored by twenty other countries, the resolution was shelved at the last moment.



In regard to voting behavior, records show that out of 59 resolutions that were considered by the Commission on Human Rights, 24 were adopted by consensus among the country members. Out of the ones that were voted (35 in total), Brazil voted in favor 18 times, abstained 15, and voted against on two occasions (Martin Solon, 2011: 28).

Table 10 summarizes Brazil's voting pattern at the UN Human Rights Commission from 2001-2005. During this period, Brazil voted in favor of resolutions addressing abuses in North Korea, Iraq, the Israeli-Occupied Territories, and Sudan. Yet, Brazil's delegation to the Commission in Geneva voted against or abstained in critical human rights situations such as the following (Martin & Solon, 2011).

Voted against (twice) and abstained (twice) on resolutions criticizing abuses in Chechnya despite ongoing serious violations of human rights and international humanitarian law by both parties to the conflict. In 2004 the members of the Commission rejected a resolution introduced by the European Union condemning human rights abuses in Chechnya. In that opportunity, Brazil joined the majority of countries voting against the resolution with nations such as China, Congo, Cuba, Egypt, Ethiopia, India, Indonesia, Nigeria, Russia, Sierra Leone, South Africa, Sri Lanka, Sudan, and Zimbabwe.<sup>43</sup>

- Abstained on each one of the resolutions regarding Cuba (2001 to 2005), despite this country's longstanding restrictions against political dissidents. In contrast, since 2001 Chile, Uruguay, Costa Rica, Guatemala, El Salvador voted in favor of such resolutions. Mexico has voted in favor since 2002.

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<sup>43</sup> 18 countries abstained from voting including: the following Latin American countries: Argentina, Chile, Costa Rica, Guatemala, Honduras, Mexico, Paraguay, and Peru.

Argentina voted in favor in 2001/2002/2003 but abstained in 2004 and 2005.

- Abstained twice (2001 and 2002) on resolutions on the human rights situation in Iran. Brazil maintained this pattern of avoiding condemnation of the Iranian regime in the following years but at the UN General Assembly.
- Abstained three times on resolutions on Zimbabwe (2002/2003/2004). In the voting in 2004, among the countries blocking the resolution on Zimbabwe were India, South Africa, and Russia. The supporters included: Argentina, Chile, Costa Rica, Peru, Guatemala, Honduras, and several European countries.<sup>44</sup>
- Abstained on a resolution criticizing abuses in Turkmenistan (2003), a country characterized by Human Rights Watch as “one of the most repressive states in the world.” At the time of voting, no independent human rights organizations could operate in Turkmenistan, and the media was subjected to strict pre-publication censorship. However, a year later in 2004 Brazil voted in favor of the resolution on Turkmenistan.
- Abstained in 2005 on a resolution criticizing abuses in Belarus, a regime that since 1994 continues to severely curtail freedoms of association, assembly, and expression, and the right to fair trial. In this opportunity among the list of countries that voted in favor were Australia, Canada, Costa Rica, France, Germany, Mexico, Paraguay, and UK. China, India, South Africa and Russia were among the countries opposing the resolution. In previous resolutions

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<sup>44</sup> Mexico also abstained in this opportunity.

(2003/2004) Brazil had voted in favor.

### **UN Human Rights Council**

Brazilian diplomats were actively engaged in the creation of the UN Human Rights Council (2006) and took on a leadership role in the creation of a new mechanism, the Universal Periodic Review (UPR) (Belli, 2008). In Brazil's view, the UPR mechanism represents one of the pillars of the HRC, as it embodies the principles of universality, impartiality, and non-selectivity, essential to ensuring balanced and constructive treatment of countries under examination. Brazil played a constructive role in the interactive dialogue promoted with countries participating in the UPR First Cycle, contributing with questions and recommendations to the process. Brazil also supported capacity-building activities in countries undergoing evaluation under the mechanism, such as the exchange of experiences provided to foster the participation of Angola, Haiti, Panama, and São Tomé and Príncipe.

Table 10

*Brazilian Position and Status of the Resolution (UN Human Rights Commission)*

<b>Country</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>
Lebanese prisoners in Israel	In favor (Adopted)	In favor (Adopted)	In favor (Adopted)	No voting (Adjourned)	-
China (No action motion)	Abstention (Adopted)	-	-	In favor (Adopted)	
Afghanistan	Consensus	Consensus	-	-	-
Iraq	In favor (Adopted)	In favor (Adopted)	In favor (Adopted)	-	-
Myanmar	Consensus	-	Consensus	Consensus	Consensus
Cuba	Abstention (Adopted)	Abstention (Adopted)	Abstention (Adopted)	Abstention (Adopted)	Abstention (Adopted)
Iran	Abstention (Adopted)	Abstention (Adopted)	-	-	-
Russia	Abstention (Adopted)	Abstention (Adopted)	Against (Rejected)	Against (Rejected)	-
Sudan	In favor (Adopted)	In favor (Adopted)	In favor (Adopted)	Removed Project	Removed Project
DRC	Consensus	Consensus	Consensus	-	-
Sierra Leone	Consensus	Consensus	-	-	-
Burundi	Consensus	Consensus	Consensus	-	-
Equatorial Guinea	Consensus	In favor (Adopted)	-	-	-
Rwanda	Abstention (Adopted)	-	-	-	-
Cyprus	Consensus	Consensus	Consensus	Consensus	Consensus
Zimbabwe	-	Abstention (Adopted)	Abstention (Adopted)	Abstention (Adopted)	-
East Timor	-	Consensus	-	-	-
Turkmenistan	-	-	Abstention (Adopted)	In favor (Adopted)	-
Belarus	-	-	In favor (Adopted)	In favor (Adopted)	Abstention (Adopted)
Chad (1503 Procedure)	-	-	Consensus	-	-
Liberia (1503 Procedure)	-	-	Consensus	-	-
Democratic Republic of Korea	-	-	In favor (Adopted)	In favor (Adopted)	In favor (Adopted)

Table 11

*Brazilian Position and Status of the Resolution UN Human Rights Council*

Item	Country	Year				
		2007	2008	2009	2010	2011
Item 7	Palestine and the Occupied Territories	In favor (2 resolutions Adopted)	In favor (4 resolutions Adopted)	In favor (4 resolutions Adopted)	In favor (26 resolutions Adopted)	In favor (5 resolutions Adopted)
Item	Belarus	-	-	-	-	In favor (Adopted)
	Ivory Coast	-	-	-	-	Consensus
	Myanmar	Consensus	Consensus	Consensus	Consensus	Consensus
	Libya	-	-	-	-	Consensus
	Honduras			Consensus	-	-
	Iran	-	-	-	-	In favor (Adopted)
	Democratic Republic of Korea	-	In favor (Adopted)	Abstention (Adopted)	In favor (Adopted)	In favor (Adopted)
Sudan/Darfur	Consensus	Consensus	In favor (Adopted)	In favor (Adopted)	-	

**Source:** Based on (Martin Solon, Clara 2011) and Conectas yearbook (2008-2009, 2009-2010, 2010-2011 <http://www.conectas.org/en/>). Note that these tables only include resolutions, and not amendments. Brazil has also abstained in certain amendments in some occasions, including the one regarding the DRC in 2008.

In its first two terms at the HRC, Brazil led or co-sponsored a number of initiatives concentrated on economic and social rights and non-discrimination issues (Brazilian Mission at the UN, 2012). These initiatives included convening the 10th Special Session of the HRC in 2009 to discuss the impact of the global economic and financial crisis on human rights. In Brazil's view, the emerging effects of the crisis, which were then expected to manifest themselves through growing poverty and inequality, increasingly unstable and less secure working conditions, reduced social rights, and heightened discrimination and xenophobia, fully justified the organization of

the session and updated discussions on the issue. The Brazilian delegation decided to call the 13th Special Session of the HRC in 2010 to discuss strategies for incorporating the human rights perspective in Haiti's rebuilding efforts.

Brazil also sponsored important resolutions tackling racism and racial discrimination. They supported the follow-up mechanisms of the Durban Declaration and Plan of Action. In 2008, Brazil hosted the Regional Preparatory Conference to the Durban Review Conference. Brazil has also proposed a series of resolutions that reflect its commitment to overcoming racism and racial discrimination from a variety of perspectives. Brazil and South Africa, in their capacity as host countries of the 2010 and 2014 FIFA World Cups, proposed, in March 2010, the Resolution entitled "A world of sports free from racism, racial discrimination, xenophobia, and related intolerance" (A/HRC/RES/13/27). Aware of the challenge posed to peaceful and democratic coexistence by political platforms with racist and xenophobic overtones, Brazil reintroduced in 2011 a resolution in the HRC reaffirming the "Incompatibility between democracy and racism" (A/HRC/RES/18/15).

Brazil also strove to advance the promotion of children's rights through fostering the presentation of a resolution on adopting the "Guidelines for the Alternative Care of Children" (A/HRC/RES/9/13 and A/HRC/RES/11/7), an essential measure to protect children deprived of proper parental care. Aware of the mobilizing potential of the Universal Declaration of Human Rights, Brazil secured, in September 2007, the approval of a resolution on the "Elaboration of human rights voluntary goals to be launched on the occasion of the celebration of the sixtieth anniversary of the Universal Declaration of Human Rights" (A/HRC/RES/6/26). The effort provided the bases for approval, the

following year, of the resolution “Human rights voluntary goals” (A/HRC/RES/9/12), which establishes a set of ten commitments capable of positively impacting the ability of countries to promote and protect the rights provided for in the Universal Declaration.

In terms of voting behavior regarding country situations, Brazil’s performance at the HRC has tended to accompany the consensus at the Council. When resolutions have been voted, the majority of Brazilian votes have been in favor of addressing violation of human rights including Sudan, North Korea, Belarus and Iran (see Table 12). Yet, in 2009, Brazil abstained on whether to continue human rights monitoring of North Korea where UN monitors were looking into reports of executions and detention camps. Brazil abstained along with South Africa, Angola, Azerbaijan, Bangladesh, Bolivia, Qatar, Philippines, Gabon, India, Malaysia, Pakistan, Nicaragua, and Senegal.<sup>45</sup> By comparison, Argentina, Chile, and Uruguay joined most European countries in supporting continuation of the UN monitoring mission. Brazil also abstained on an amendment to a resolution regarding Congo.

When dealing with Special Sessions at the Human Rights Council<sup>46</sup>, the country has voted in favor of the majority of resolutions regarding urgent human rights concerns (2006-2011). This covers the following situations: Palestine occupied territories, Darfur, Myanmar, DRC, Ivory Coast, Libya and Syria. However, in 2009 Brazil abstained in a resolution aimed at stopping the council from monitoring human rights in Sri Lanka, where the UN High commissioner for Human Rights had denounced widespread war

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<sup>45</sup> Voted against the resolution: China, Cuba, Egypt, Indonesia, Russia, and Nigeria.

<sup>46</sup> Between 2006 and December 2011, the HRC held eighteen special sessions and six of them related to the Arab-Israeli conflict.

crimes. By comparison, Argentina, Chile, and Mexico voted for the continuation of the inquiry (Asano, Nader, & Vilhena, 2009).

### **UN General Assembly (UNGA)**

The case of Iran is probably the most commented at international circles when comes to Brazil's votes at the UNGA. Since 2001, with the exception of 2003, Brazil has abstained on all resolutions addressing Iran's human rights situation at the UN General Assembly in New York (Asano, Nader, & Vilhena, 2009). The voting of the UN in 2008 (document A/63/430/Add.3) is a good example of the general pattern of voting behavior of UN country members when comes to condemning human rights abuses in Iran. The majority of Latin American countries votes in favor of the resolution including :

Argentina, Chile, Costa Rica, El Salvador, Mexico, Netherlands, New Panama, Peru,

Among the countries voting against were India, China, Russia, and South Africa.<sup>47</sup>

President Lula da Silva expressed his support of the Iranian regime in other instances. For instance, Lula welcomed Iranian President Ahmadinejad to Brazil only a few months after the allegedly fraudulent June 2009 elections in Iran, and he refused to condemn Iran's nuclear program or support a move toward UN sanctions (Brands, 2010). Between 2007-2011, Brazil abstained on a number of other resolutions condemning human rights violations in country specific situations at the UNGA. As table 13 illustrates, apart from Iran, the abstentions included North Korea and Myanmar.

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<sup>47</sup> Some the countries against the resolution were: Afghanistan, Algeria, Azerbaijan, Bahrain, Bangladesh, Belarus, China, Cuba, Democratic People's Republic of Korea, Ecuador, Egypt, Eritrea, India, Indonesia, Myanmar, Nicaragua, Pakistan, Qatar, Russian Federation, Saudi Arabia, Senegal, Serbia, Somalia, South Africa, Sri Lanka, Sudan, Syria, Tajikistan, Turkmenistan, Venezuela, Zimbabwe.



Table 12

*Brazilian Abstentions to Country Human Rights Resolutions (UN General Assembly)*

Years	Country Human Rights Situation- Abstentions
2008-2009	Iran North Korea
2009-2010	Iran North Korea Myanmar
2010-2011	Iran Myanmar

**Source:** Based on Conectas yearbook (2008-2009, 2009-2010, 2010-2011), at <http://www.conectas.org/en>.

Brazil’s human rights diplomacy—especially since President Lula took office in 2003—has been criticized by media, international and domestic NGOS monitoring the country’s foreign policy at the UN human rights system. Already in 2004 Human Rights Watch wrote to President Lula indicating that they “were disappointed by Brazil’s failure to condemn certain abusive governments at the U.N. Commission on Human Rights, and by your unwillingness to speak about abuses in countries that you visited, such as Egypt, Libya, Syria, and Cuba” (HRW, 2004). These organizations strategically used President Lula da Silva visit to the Council in June 2009 to explicitly condemn Brazil’s international policies on the subject. In a press release, titled “Brazil: Support Victims, not Abusers”, Julie de Rivero, Geneva Advocacy Director at Human Rights Watch, stated that:

Brazil's support for abusive governments is undermining the Human Rights Council's performance. Rather than speaking up for victims, Brazil often argues that governments need to be given a chance and that the sovereignty of nations is more important than human rights. (HRW, 2009)

She concluded saying that "Brazil seems more concerned about not offending abusers than it is about implementing the council's mandate to address human rights violations."

Most notably, local NGOS such as Conectas and the Brazilian Human Rights and Foreign Policy Committee have criticized the country's international human rights stands at the UNHRC. Since 2007, the Brazilian NGO Conectas issues a yearbook that monitors Brazil's initiatives and voting behavior at the UN human rights system. In 2009, Conectas researchers published at "Politica Externa"—one of Brazil's most influential international politics journal—an article reviewing Brazil's human rights diplomacy. In the article they state the following:

Brazil has been performing an increasingly relevant role in the international scene, including in forums that deal with human rights, such as UN Human Rights Council. Nevertheless, despite having become a strategic actor within the Council, Brazil has taken questionable positions in cases of rights violations in specific countries such as North Korea and Sri Lanka. Its stances in these cases distance themselves both from the international tradition in this field and the constitutional principles that rule our international relationships. In these cases, by resenting harsher resolutions by the Council against human rights violations, Brazil seems to act in a fashion that is ambiguous selective and non consistent and therefore does not contribute to the Council's success. (Asano & Nader & Vilhena 2009: 77)

When asked about the growing criticism of Brazil's foreign policy on human rights, Lula's Presidential advisor, Marco Aurelio Garcia, was quoted by Estado de Sao Paulo in June 2009 as saying: "Brazil doesn't have to be handing out certificates of good conduct or bad conduct around the world". And he added, "We think it is much more important to take positive actions that can move a country to improve its internal situation than actions of a restrictive nature" (Oppenheimer, 2009). In an article explaining Brazil's foreign policy, Lula's Ministry of Foreign Affairs, Celso Amorim, further asserts their position on this subject:

As I had the chance to observe during the 65<sup>th</sup> UN General Assembly, more often than not the exercise of human rights is more effectively ensured by dialogue and cooperation than by arrogant attitudes derived from self-declared moral superiority. A harsh condemnation of this or that country in Geneva or New York, based on self-ascribed position of higher moral ground does little to ameliorate the situation of those perishing in the field. (Amorim, 2010: 238)

### **Peace Promotion and Humanitarian Protection**

Brazil's participation in peacekeeping can be clearly divided into two stages: before and after the MINUSTAH operation in Haiti. Prior to MINUSTAH, Brazil adopted a strict policy of participation only in Chapter VI observation and monitoring missions (often not participating in more robust follow-on missions) in the Western Hemisphere and Portuguese-speaking nations. Overall, Brazil participated in 23 peacekeeping operations from 1957 to 1999, as well as several Organization of American States (OAS) missions and operations under the auspices of the UN Department of Political Affairs (DPA). Throughout the 1990s, Brazil maintained a peacekeeping doctrine that was limited in scope and conditioned only to the pacific settlement of disputes (Kenkel, 2013).

In 2004, Brazil took on its most important and sizeable peacekeeping commitment to date: providing MINUSTAH's largest contingent (up to 2,200 troops) as well as an unbroken succession of generals serving as its Force Commander. Today Brazil is the largest contributor of peacekeepers in the Americas (Kenkel, 2013). Since Haiti, Brazilian troops have participated in the full range of activities under MINUSTAH's Chapter VII mandate.<sup>48</sup> This is an important change in Brazil's peacekeeping doctrine

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<sup>48</sup> Yet, Brazilian policymakers continue to be very skeptical of the possibility of use of force as stated on UN Charter under Chapter VII.

considering that local decision-makers traditionally refused to send troops to UN peace enforcement operations other than those conducted under Chapter VI of the United Nations Charter, which require the consent of the ruling authorities in the country concerned. In fact, with the exception of Rwanda, Brazil had always abstained from Security Council Chapter VII decisions about interventions. For example, when the debate on humanitarian crisis in Darfur took place and Brazil was an elected member of the council, the government chose to adhere to a non-interventionist posture and abstained from the instigation of a trial for the men listed by the International Commission of Inquiry on Darfur (Hertz, 2014).

The decision to go to Haiti was unprecedented and Brazilian leaders were cautious in explaining the reasons for its involvement. As Brazilian scholar, Matias Spektor, explains: “Lula was careful not to couch this major transformation in terms of a new doctrine. Instead, his discourse emphasized continuity with Brazil’s traditional attachment to national sovereignty” (Spektor, 2012). Lula explained the country’s presence in Haiti due to a “growing approximation and consolidation of Brazil’s relations with its region” while insisting that it is “require that the situations of instability in these countries deserve a more attentive follow-up on the part of the Brazilian government, which is oriented by the principle of non-intervention, but also by an attitude of ‘non-indifference’” (Lula da Silva quoted by Spektor).

Lula’s emphasis on “non-indifference” evidence and increasing acknowledgment within Brazil’s political elites that human rights abuses cannot be discarded as non-consequential for international affairs. Starting in late 1990s and especially since the UN mission in Haiti, Brazilian diplomats ameliorated their anti-interventionist rhetoric and

started to contribute more consistently to UN peacekeeping missions. Yet, they remained very much skeptic to the idea of humanitarian intervention. Spektor (2012) explains,

For Brazilian leaders the notion that the international community had an obligation to act in the face of mass atrocities in places like Rwanda, Somalia and Kosovo was deeply problematic. They feared that within this emerging consensus major powers would find a permissive environment to impose their will on far weaker countries.

Indeed, Brazil's position towards the notion of Responsibility to Protect introduced in the UN Summit in 2005 has been ambiguous. "Officially the government welcomed the initiative, but in practice it denounced R2P as a ploy of the strong to secure the legal right to intervene at will across the developing world. Under Lula, Foreign Minister Celso Amorim had spoken of R2P as "*droit d'ingérence* [. . .] in new clothes." (Spektor, 2012). In a lecture given at the London School of Economics in 2009, Amorim voiced Brazil's position on the use of military force for humanitarian purposes even more clearly: "We reject the view of an international order which favors the use of force and regards multilateralism as just one among many options on the menu, to be selected when it suits the objectives of the powerful" (Amorim in Brands, 2010: 19).

It is not until the crisis in Libya in early 2011 that Brazil was compelled as non-permanent member of the UNSC to address a Chapter VII resolution calling for a coercive response to a humanitarian emergency. Brazil voted in favor of imposing sanctions on Libya (Resolution 1970) but joined China, India, Russia and Germany in abstaining from the vote authorizing "all necessary measures" against Libya (Resolution 1973). However, after NATO's intervention in Libya, Brazil's criticism to the military action hardened with Itamaraty issuing statements condemning the loss of civilian lives and calling for a ceasefire.

Brazilian concerns regarding the potential abuse of R2P by western powers and what was considered the misuse of the principle during the NATO intervention in Libya crystallized in a new proposal “Responsibility while protecting” (RwP) that was presented by Brazil’s UN representative in late 2011. This proposal includes a set of criteria (including last resort, proportionality, and balance of consequences) to be taken into account before the Security Council mandates any use of military force, and a review mechanism to ensure that such mandates’ implementation is closely monitored. It also emphasizes that prevention is the “best policy” and that the use of force in particular must be monitored and assessed.<sup>49</sup> Brazil’s position in this proposal highlighted prevention and monitoring but remains very cautious about the prospects of the use of force for humanitarian purposes.

### **Financial Assistance**

Financial contribution to important UN or regional bodies provides an additional indicator of the degree of nation’s support for international human rights. Since 2006 the contribution of Brazil to the Office of the High Commissioner of Human Rights (OHCHR) has been very limited. According to the annual OHCHR reports, only in 2010 and after not contributing for several years, Brazil gave US \$1 million. In 2011 Brazil contributed only US \$ 5,665, which leaves them according to OHCHR’s donor ranking per capita in place 69 out of 71 countries. In contrast, India contributes more than US\$50,000 annually and Turkey around US\$100,000 (OHCHR, 2011).

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<sup>49</sup> This dissertation covers up to 2010 (Lulas’s Government). However, Brazil’s reaction to the crisis in Libya and its RwP proposal is critical to understand the country’s most current position when comes to respond massive human rights abuses. Yet, the discussion of RwP and its impact on Brazil’s foreign policy and international politics more broadly is still ongoing and its impact should be assessed in future research.

The United Nations Democratic FUND (UNDEF) that was created in 2005 is a UN institution providing grants to civil society groups for democracy promotion. It has received important contributions from countries such as India and United States as well less sizable but not insignificant contributions from Latin American countries including Mexico, Chile, and Peru. Brazil, by contrast, has never contributed funds for UNDEF. Brazil's financial assistance to the Inter-American Commission for Human Rights has been very limited in comparison with its regional peers, with no contributions in 2007, 2010, 2011 and 2012 (IACHR, 2012).

Humanitarian assistance is one area in which the Brazilian government decided to participate more actively since Lula's administration and the government defines<sup>50</sup> it expressly as actions directly targeting the promotion and protection of international human rights.<sup>51</sup> The humanitarian assistance provided by Brazil during the Lula administration consisted of donations in kind (food, medicine and general items), sending in Brazilian professionals to help, cash donations and participation in multilateral dialogues on humanitarian assistance. In 2010, the international humanitarian assistance budget was US\$21million (Pimenta de Faria & Goulart Paradis 2013).

The initiative that granted Brazil a worldwide reputation as a provider of technical assistance has been the internationalization of its national strategy to combat hunger

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<sup>50</sup> The Brazilian Ministry of Foreign Affairs (MRE) defines international humanitarian assistance: "Any action that contributes, in an immediate and effective way, to prevent, protect from, prepare for, reduce or alleviate suffering and to provide assistance to other countries or regions that are – temporarily or otherwise – in situations of emergency, public calamity, imminent or serious threat to life, to health, to the protection of human rights or the humanitarian rights of its population" (MRE at Pimenta de Faria & Goulart Paradis 2013).

<sup>51</sup> Technical cooperation is a second area but it has not been defined as compromising human rights initiatives and therefore it has not been included in this section.

“Zero Hunger”. President Lula invested important diplomatic efforts on the “Action against Hunger and Poverty” that was launched by Brazil at the United Nations in 2004 with the objective of identifying “innovative financing mechanisms” capable of scaling up resources for financing development in the poorest countries. Since the launch of this initiative, Brazil’s policies to combat hunger and poverty have become an international reference point and the focus of important international partnerships. During the last decade, the Ministry of Social Development and Fight Against Hunger (MSD) alone has had visits by delegations from 63 countries, 25 of them African, interested in learning more about the “Bolsa Família” Program. The demand for Brazil’s social technology has led the United Nations to open its only Center for Excellence against Hunger of the World Food Program (WFP) in Brazil (Instituto Lula, 2014)

### **Conclusions**

Brazil’s diplomatic performance on human rights promotion. The country has indeed moved from a defensive position at the beginning of the transition to democracy in the late 1980s towards embracing human rights promotion and finally to accepting international scrutiny in the mid-1990s. Brazil is today signature of all major human rights treaties in sharp contrast to the United States, China, or India. The country was also an active participant in the process of reform creating the new UN Human Rights Council and has been at the forefront of important international initiatives at the United Nations on the right to health, development and non-discrimination.

On the downside, Brazil took more than a decade (after treaties were ratified) to recognize the jurisdiction of its associated bodies. The country shows ambivalent support to resolutions addressing human rights abuses in foreign countries and presents and



important record of abstention votes at the UN system in the past two decades. This was particularly the case at UN Human Rights Commission but the country still abstained in important resolutions at the newly created UN Human Rights Council and continued to do so at the UN General Assembly. Discussions related the use of force for human protection and the principle of Responsibility to Protect remain highly contested among Brazilian elites and Itamaraty. The financial assistance for human rights has been limited.

## CHAPTER 5: UNDERSTANDING BRAZIL'S HUMAN RIGHTS FOREIGN POLICY

### **Contextualizing Brazil's Foreign Policy**

Despite being a continental sized country and having borders with almost every country in South America, Brazil since the first decade of the last century has not dealt with external security threats nor it is dependent on any militarily stronger nation. Indeed, the configuration of Brazil's national space and territorial demarcation followed a process led by the Brazilian diplomat Baron Rio Branco characterized mainly by international negotiations and arbitrations, rather than interstate conflict (Lafer, 2001) The early and peaceful establishment of borders had major consequences for the formation of the nation, its diplomatic practice and the future pattern of Brazilian foreign policy. It impacted at least in three ways. First, without military threats the country developed its international policies relatively independent of external forces. This sense of independence is captured more clearly on Brazil's traditional foreign policy quest for "autonomy", that is, "the condition allowing states to formulate and implement foreign policies independently of constrains imposed by powerful states"<sup>52</sup> (Vigenani and Cepuluni 2009:6). Second, economic interests rather than security became central in shaping its international policies and, as a consequence, Brazil's foreign policy has always had a strongly developmentalist component. Foreign policy is perceived as a

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<sup>52</sup> Note that autonomy is understood as a continuum whose extremities are alignment and full autonomy. Between these extreme there is a full gradation of foreign policies.

critical tool for national development. Third, the stellar performance of Rio Branco<sup>53</sup> as a conflict mediator gave Brazilian diplomacy a special status within the state apparatus. From the moment of its inception, the Ministry of Foreign Affairs (Itamaraty) enjoyed a great deal of legitimacy among Brazilian elites and important levels of autonomy vis-à-vis other state institutions (Lima 2000 and 2005; Lima and Hirst 2006).

The centrality and the persistence to Brazil's foreign policy of the factors mentioned above generated an uncommon degree of stability to the international policies of this colossus of the South. Maria Regina Soares de Lima and Monica Hirst (2006), for example, highlight that in the past century Brazilian foreign policy had only two major policy shifts: the first in the 1930s, with the crisis of the agro-exporting model and its replacement by an import substitution model (ISI); and the second in the 1990s, with the exhaustion of the "protected industrialization" regime and its replacement by a model of competitive integration into the global economy. Arguably, since early 2000s President Lula da Silva initiated a new foreign policy shift intended to develop a more assertive foreign policy to enhance Brazil's role in the world.

The first shift was driven by the rapid industrialization of Brazil in the first half of the 20<sup>th</sup> century. The country became one of the most successful examples of the ISI model. The major characteristic of this development model were a central role for the state in the provision of incentives and in production itself; discrimination against imports; and large-scale participation by the state in foreign direct investments on a wide range of industrial sectors (Lima and Hirst 2006: 23).

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<sup>53</sup> Rio Branco was Minister of Foreign Relations from 1902-1912.

Foreign Policy was a key part of the ISI model and Itamaraty was instrumental “to the model’s domestic consolidation and international recognition”. Furthermore, “a close and virtuous link was seen to be established between the goal of ISI and the objective of developing an autonomous foreign policy” (Lima and Hirst 2006: 24). Vigevani and Cepaluni describe the foreign policy of the time<sup>54</sup> as having a series of characteristics including: a policy of contesting the norms and principles of important international institutions; the belief in autarchic development, guided by the expansion of the domestic market and by economic protectionism, and resistance to international regimes interpreting as freezing world power, in favor of the status quo (Vigenani and Cepuluni 2009:7). Lima and Hirst (2006) add Brazil’s international role as a leader for differential treatment for development countries in the trade regime and the high value that the policymakers assigned to the expansion of economic cooperation with southern countries.

The next policy foreign policy shift took place in the 1990s as a “result of both severe economic conditions and the systemic constraints produced by the fiscal crisis of the state” (Lima and Hirst 2006: 24). Brazil was experiencing a deep economic crisis originated in the exhaustion of a relatively autarchic economic model founded in the 1930s based on import substitution. This process took place in the context of the transition to democracy in the mid-1980s that put to an end over two decades of military regimes that first took power as a result of the 1964 military coup. Jose Sarney assumed the Presidency in the midst of the collapse of the ISI model, an enormous foreign debt, rampant inflation, and the pressures of an incomplete transition. At the international

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<sup>54</sup> These authors characterize Brazilian foreign policy during this period as “autonomy through distance.”

level, the world was witnessing the meltdown of Soviet power that led to the end of the Cold War and the emergence of new world order.

An important consequence of these changes was the developing of a new foreign policy concept “autonomy through participation”, an idea that was incipient during Sarney government, gained more prominence during Collor de Mello, and was fully implementation during Fernando Henrique Cardoso’s Presidential term. In his brief period as Minister of Foreign Relations (1992-1993), Cardoso set the parameters of what he called a new foreign policy:

Why a new foreign policy? Firstly, because Brazil has changed. In the political arena, we have made the transition from authoritarianism to democracy. In the economic arena, after a period of accelerated development, we entered a period of crisis that could lead to stagnation of growth. On the ideological side we have gone beyond authoritarian nationalism and autochthonous development to seek a competitive insertion in the world. Secondly, because the world has changed. In the political arena the end of the Cold War redrew the power structure. In the economic arena, globalization looks like becoming the dominant trend. In the ideological arena, democracy and the market economy are the general rules. (Cardoso in Vigenani and Cepuluni 2009:47)

Cardoso puts it even more explicitly during his Presidency, “autonomy through distance pursued by the military dictatorships must be replaced by one of autonomy through participation, within a changing international reality” (FHC at Brands, Hal 2012:8).According to Vigenani and Cepuluni (2009) the idea of “autonomy through participation” that was set forth during this period translates to a set of foreign policy priorities that include:

the adherence to international regime, including those of liberal slant without losing the capacity to manage foreign policy. In this case the objective would be to influence the very formulation of the objectives and rules governing the international system. It is felt that national objectives would be more effectively achieved along these paths. (Lima and Hirst 2006: 24)

In sum, these new foreign policy priorities were crafted with the objective of retaining “the desire for autonomy” but at the same time, “sought to remove the legacy of authoritarianism and to respond to the international power of global liberalism” (Lima and Hirst 2006: 24).

In the end of Cardoso’s term the pendulum leaned once again toward emphasizing the autonomous aspects of its foreign policy, a priority that was deepened during Lula’s government. The main reasons behind this emphasis were an increasing concern about the international consequences of increasing U.S. unilateralism during the first term of George W. Bush’s Presidency and, most importantly, Brazil’s stunning economic success at the beginning of the new century. Fueled by a commodity boom and a growing domestic market, economic growth picked up, averaging 4.5% between 2004 and 2010 with relatively low inflation. The social implication of this new economic growth also became more evident by the middle of the decade when observers began to notice that Brazil was enjoying falling poverty rates and improving measures of income inequality (Montero, Alfred 2014: 2-3). Brazil was on the rise and President Lula was convinced that progress at home required more ambitious policies abroad. In his words, “This country has greatness... this country has everything to be the equal of any other country in the world. And we will not give up on this goal” (Lula at Hurrell, 2010:1).

Although Lula’s government adopted macro-economic policies at home that were similar to his predecessor, during this period Brazilian elites were aiming for a more ambitious goal “a certain reconfiguration of the world’s commercial and diplomatic geography”—that is, according to Celso Amorim, to hasten the transition to a multipolar order in which international norms and institutions no longer favor the developed world

at Brazil's expense (Amorim at Brands, 2012:8). The speech by President Lula to diplomats in 2003 captures the tenor of his foreign policy:

We no longer accept participation in international politics as if we were Latin American wretches; a Third World country of no count; a worthless country with homeless children; a minor country whose people only know how to play soccer and dance the samba... There is no interlocutor anywhere in the world who respects another who bows his head and acts as an inferior. (Lula da Silva 2003)

These foreign policy goals translated into an active diplomacy that included the opening of 33 new embassies, 5 new permanent missions to international organizations (including the IAEA and the Human Rights Council) and 19 new consulates (Hurrell 2010:1).

Itamaraty has played an important role promoting these new policies. Despite increasing pluralism of Brazil's foreign policy and the rising importance of the Presidency in international affairs during Cardoso and Lula (Pinheiro, 2009; Faria, 2012; Cason & Power, 2009), the Ministry of Foreign Relations remained the most important institution in the designing and implementation of the country's foreign policy, especially when comes to political decisions involving traditionally respected notions of sovereignty and non-intervention. The appointment of Celso Amorim<sup>55</sup>, a career diplomat rather than an eminent figure from outside the ranks of professional diplomacy as the head of the Ministry of Foreign Affairs during Itamar Franco's and in both of Lula's terms further strengthened the power of the Ministry.

In terms of concrete foreign policy strategy, Brazil's international insertion during Lula has involved a strong focus on South America as key region for projecting Brazil's global ambitions (Malamud & Andres, 2011); a heavy focus on building economic and

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<sup>55</sup> Celso Amorim was Minister of Foreign Affairs from 1993-1995 and then from 2003 to January 2011. Amorim is recognized as the artifice of Lula's foreign policy.

political ties with other emerging countries especially China, India and South Africa; and an increasing interest in partnerships with other regions such as Africa and the Middle East in search of areas to cooperate; and while Lula has maintained a good relationship with Washington this foreign policy strategy has inevitably resulted in “a relative distancing from the United States and the decline of traditional partners in Europe” (Hurrell, 2010:1). When comes to international institutions, Brazil has always relied on multilateralism as a source of power and during Lula’s term Brazilian diplomacy pushed much harder than previous administrations for a UN Security Council that better reflects the current distribution of world power, including a permanent seat for Brazil.

Overall, Lula’s foreign policy has been characterized by a search for “autonomy through diversification” (Vigenani & Cepuluni 2009) and the core of its strategy was based on a renewed emphasis on development goals and the centrality of South-South cooperation (Dauvergne & Farias, 2012). Brazil’s ultimate goal is the reconfiguration of a new global order in which developing countries are at the center of the stage. As Celso Amorim (2010) puts it:

The rise of developing countries is a structural transformation that is knocking down another wall: the North-South wall, albeit an invisible one. It is falling apart much more slowly than the Berlin Wall, but falling it is. In this more multipolar, more complex world in which developing countries are no longer passive bystanders, Brazil is willing to play a greater role.

In sum, during the first decade of the 21<sup>st</sup> century and following a pattern that can be traced back to Brazil’s state formation, the major determinants of Brazil’s foreign policy have been given by the pursuit of international autonomy and the primacy of domestic development. Itamaraty has been a key actor reinforcing the legitimacy of these ideas and has exerted great influence on the worldview of Brazilian decision-makers. What is



remarkable in the Brazilian case is that these foreign policy priorities have remained in place despite important domestic changes such as the installation of the military regime in 1964, the restoration of democracy in the late 1980s, and the liberation of the economy. After two successive and stable democratic administrations, Fernando Henrique Cardoso (1995- 2002) and Lula Da Silva (2002-2010), autonomy and development have remained, despite different degrees of emphasis, at the core of Brazil's international strategies.

The prevalence of these two principles (autonomy and development) and the traditional influence of the Foreign Ministry had an important impact on the ways in which human rights ideas are perceived and potentially incorporated into the foreign policy decision-process in Brazil. The next section analyses these issues further considering the international and domestic determinants of international human rights promotion.

### **Human Rights Promotion: International Influence and Domestic Determinants**

The literature on human rights and international politics offers some insights on how human rights principles are included as part of a nation's foreign policy. One perspective highlights the influence of international factors and especially the role of ideas and norms as standards for the appropriate behavior of states. This view predicts that countries will adopt new ideas such as human rights through a process of international socialization that is driven by a need to enhance international legitimacy and credibility. It highlights the role of transnational advocacy networks as key actors enhancing the transmission of international norms (Finnmore & Sikkink 1998; Barnett & Finnemore 1997; Clark, Ian 2007; Keck & Sikkink 1998). Other explanations emphasize

how domestic determinants are critical for the acceptance and inclusion of human rights into policy. For liberals, the inclusion of these principles is motivated by domestic calculations in times of democratic transition (Moravcsik, A. 2000) while for constructivist the process is driven by national identities especially democratic ones, local ideas and institutions (Risse-Kappen 1996; Brysk 2007; Acharya, 2004; Checkel 1998, Sikkink 2004).

The following subsections test these theories against the Brazilian case and, in light of their apparent explanatory power or lack thereof, offer some explanations about this country's human rights diplomacy starting with the transition to democracy up to the end of Lula's second term in 2010. Brazil's late adoption of international human rights treaties and its longstanding reluctance to become a more active human rights promoter is a good case to test these ideas. The literature on human rights has tended to look exclusively at the successful cases. That is, countries that are part of the selected group of the so-called "Global Good Samaritans" (Brysk 2007). Brazil is part of a group of countries accepting international human rights that at the same time has the capacities to act more strongly as a human rights promoter, yet the country remains a low key actor in this field.

It is important to reiterate that the point of this chapter is not to minimize the changes in Brazil's response to the international human rights movement since the transition to a democratic government. The previous chapter described Brazil's path towards accepting human rights as part of its diplomacy along with the country's increasing participation particularly in certain areas such as international development. It is rather to show the relative limits of those changes and the forces restraining Brazil

from becoming a leading promoter of a more effective international human rights regime. As I noted above, Brazil has remained a country reluctant to participate in the shaming of gross human rights delinquents much less to support coercive measures against even very grave abusers of rights. In short I am proposing answers to the question: Why does Brazil remains reluctant to become an international human rights promoter?

### **International Influences**

Brazilian diplomats and foreign policy scholars have traditionally highlighted Brazil's capacity to shape its international priorities relatively independently of external forces. This section argues that international influences since mid-1990s prompted Brazil to increase its international credibility through the promotion of international human rights. However, previously during the transition process and later in 2000s international influences were not a determinant driver of Brazil's approach to international human rights.

The low impact of international pressures promoting accountability for past human rights abuses and the relatively slow incorporation of these principles into foreign policy were particularly evident during the first decade after the transition to democracy that started in 1985. During the military regime and unlike Chile or Argentina, Brazil was not subject to formal condemnation at the UN Human Rights Commission; only private sessions were conducted between 1974 and 1976 to discuss the case. As human rights violations increased in other South American countries, the situation in Brazil was also seen as less urgent, and the international pressure upon the Brazilian government, such as it was, decreased. The transitional government of Sarney, as a consequence, started in a much better shape compared to other Latin American countries undergoing similar

circumstances: no formal international condemnation against Brazil was issued by and international institutions and external criticism due to human rights violations was relatively low. Brazilian elites perceived no apparent need to critically reformulate the country's foreign policy for transitional times since, unlike countries like Argentina, Chile and Uruguay, it had never been classified as a kind of international felon. Hence its diplomats did not feel pressure to demonstrate national rehabilitation after a long period of notorious criminality.

At the same time, while the Brazilian military engaged in widespread abuse-- institutionalizing torture and impunity, as well as violations of due process by special courts set up to try suspected insurgents, the number of victims was significantly less than in a substantial number of other Latin American dictatorships. The total number killed or disappeared for political reasons was much lower than in Argentina or Chile, for example, particularly in light of the size of Brazil. Argentina's dirty war—in a period of seven years—killed at least twenty and possibly sixty times as many as in Brazil. Per capita, the Argentina security forces killed between fifty and two hundred times as many as their counterparts in Brazil. In Chile, security forces killed six times as many in absolute terms and sixty times as many in per capita terms (Carvalho, & Delgado, 2011: 35). The relatively low number of victims partly explains the lack of engagement of transnational NGOs effectively pressuring the successive democratic governments to be more active in the search for transitional justice or in the monitoring Brazil's international stands regarding democracy and human rights.

Brazil's civil society organizations were at the same time much less internationally connected than some of their counterparts in other national contexts.

Further,

with the exception of the business and economic elite (which includes more inwards looking ISI beneficiaries as well as business interests linked with multinational and exporting interests, which are more outward looking) and the unions (repressed under military rule and linked to a sui generis Workers Party with no international affiliations), civil society organizations [in Brazil] were few and far between. (Barahona de Brito, A.: 18)

This relative isolation of Brazil's civil society groups was even more noticeable when compared to other human rights organizations throughout the region. In contrast with Chile, where human rights organizations emerged simultaneously with repression, in Brazil repression began in 1964 and the first organizations only appeared in 1972 (Clearly, E. 1997). During the transition process this situation continued. A more recent study assessing the low impact of transitional justice in Brazil indicates that while networks between and among Spanish-speaking Latin American rights and solidarity groups have been strong for decades, it is only in the past decade with the advance of modern communications that Brazilian groups have engaged more fully (Carvallo & Delgado 2011: 36).

Brazil's comparative low involvement in the Inter-American system for the defense of human rights especially at the beginning of the 1990s is also a reflection of the lack of human rights advocacy groups. As an example, as recently as 1994, while activists were filing and litigating scores of cases against almost every other state in Latin America, only two cases were pending against Brazil (Carvallo, 2002).

In sum, the exchange of experiences and support among domestic, regional and international human rights advocacy networks was remarkably low during the struggle for democratization in Brazil and continued to be so at least a decade afterwards. Furthermore, the lack of ties among Brazilian opposition leaders and international advocacy groups during the dictatorship was also weak compared to other countries in Latin America.<sup>56</sup> Unlike the case of Chile in which part of the political leaders entering the new democratic administration (including the Ministry of Foreign Affairs) during the transition had been either part of these human rights transnational networks or had a substantive connection with these groups, Brazilian elites were not connected to these networks and the doors of the bureaucratic apparatus were largely closed to these groups.

The low impact of international influences on Brazil's foreign policy during the transition and the fragility of transnational advocacy networks in the country did not prevent completely further changes as a result of a fluctuating global scenario. The end of the Cold War and the effects of US economic, political and military prominence prompted Brazilian policy-makers to reformulate their international strategies and to review Brazil's role in the world. President's Collor de Mello's (1991-1992) quest for the "modernization" and "creative adaptation" of Brazil's international policies in accordance with new international rules and practices were further reinforced by the subsequent administration of President Cardoso. The aforementioned strategy of

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<sup>56</sup> This difference is very noticeable when comparing the ties of Chile's traditional political parties such as the Christian Democrats and Socialist with its international counterparts as opposed to Brazil's more self-referential political parties.

“autonomy through diversification” was Cardoso’s attempt to accommodate Brazil’s national interests to US power and to liberal globalization.

Greater emphasis was given during the Cardoso years to the idea that Brazil needed to re-established its credentials as a modern liberal democracy with an effective state and a coherent foreign economic policy. In this view, “Brazil’s status was very much seen as flowing from successful economic development and the successful navigation of the transformed world of liberal globalization” (Hurrell, 2010:6). Cardoso even stressed the correspondence between universally prevailing values and national identity: “The Brazil that enters the twenty-first century is a country whose primary objectives for international transformation and development are in harmony with values universally disseminated on the international level” (Cardoso in Vigenani and Cepuluni 2009:57). In consequence the government moved towards increasing the acceptance of international norms and to actively adhere to international regimes in trade, security, environment, human rights and democracy. Human rights was a key area in which the government could easily signal its liberal credentials and Cardoso himself pushed for an international policy more in tune with these ideas. As the previous chapter illustrates, many of the most important reforms accepting and institutionalizing human rights as part of Brazil’s foreign policy were crafted during this period.

By Cardoso’s second term in the end of the 1990s, the policy of “autonomy through participation” had come to face increasingly serious challenges (Hurrell, 2010). In addition to the country’s continued economic vulnerability to global economic forces and its difficulty in adapting to them, Brazilian decision-makers had also to respond to increasing unilateral policies from the new administration of George W. Bush, a situation

that was hugely aggravated in the wake of the 9/11 attacks in Washington and New York. When Lula came into power in 2003 the government sought to differentiate its own “assertive” foreign policy from that of its predecessor that was seen as “insufficiently resolute in the defense of Brazilian interests and too closely tied with the liberalizing agenda of the 1990s” (Hurrell, A 2010:8). As Par Engstrom (2010) puts it:

The foreign policy of the Cardoso administration drew more actively on the other side of Brazilian national identity emphasizing Brazil’s convergence with the liberal norms of the 1990s. Whilst under Lula the emphasis has been on economic and political sovereignty and on seeking alliances within the Third World against the West.

Lula’s renewed emphasis on an international strategy based on the prominence of the principles of autonomy and development had important consequences for Brazil’s human rights foreign policy. To be sure, Brazilian diplomats continued to stress the role of international institutions and the international human rights regime and its support for global liberal values. In fact, Brazil has been selected twice as a member of the Human Rights Council since 2006 and led a series of initiatives in this capacity. But international changes since 2000s and the rising status of Brazil and other emerging powers produced a renewal of what might be called “human rights skepticism” that tinted the rhetoric and practice of Brazilian international policies during Lula’s term. Three factors illustrate this tendency.

First, U.S. dismissiveness of multilateral institutions combined with Bush’s discourse on the fight against terrorism and pre-emptive war augmented Brazil’s perception that human rights are selectively used by great powers when their national interest are stake. The invasion of Iraq in 2003 by a US-led coalition, acting without United Nations authorization, and faintly invoking human rights as a supplementary



justification, further damaged the appeal of humanitarian ideas among governing elites in the global south and Brazil in particular (Farer & Fuentes 2014). As a Brazilian diplomat has said, “there is a strong belief and also a historical international practice—Iraq is a good example— that shows that great powers intervene on selective basis and not with the primary objective of advancing universal human rights but their own strategic interests” (Anonymous, personal communication, September 2013). The described international environment gave Brazilian diplomats an extra justification to abstain more than a majority of Latin countries at the UN when faced with resolutions condemning human rights abuses in named foreign countries.

Reinforcing Brazil’s traditionally reluctance to criticize the human rights record of other countries was Lula’s determination that Brazil play a leading role in the developing world and increase cooperation with other emerging powers. Enforcing international human rights had a lower priority. This is easy to illustrate. For example, when examining Brazil’s voting behavior at the UN Human Rights Council on the resolutions about Sri Lanka and North Korea in 2009, Brazil sided with countries such as China, India, Russia, and South Africa that either reject or abstain from condemning these countries. Brazil’s followed a similar pattern of behavior at the United Nations General Assembly, joining other emergent power refusal to condemn Iran, North Korea and Myanmar. Speaking of Brazil’s policies during the Lula Administration, a representative from an important NGO based in Washington interviewed for this dissertation underscored that “Brazil regards human rights as an obstacle to accomplish its political and strategic goals”. Moreover,

The rising Brazil designed a deliberate strategy to be recognized as the leader of the developing world, implementing a South-South agenda with a decisive anti-colonial and anti-imperial discourse. Clearly this strategy took precedence over human rights considerations. (Anonymous, personal communication, September 2013)

Third, in tune with the objective of consolidating South-South relations, Lula's administration decided to pursue an international policy of "solidarity". This strategy was put into practice by increasing the international aid granted by Brazil, by transferring resources and technology and by the emphasis placed on conveying to partner countries some of the domestic social policies and programs developed successfully by the Brazilian government (Pimenta de Faria & Goulart Paradis 2013). This agenda very much emphasized economic and social rights that are critical for universal human rights and in this sense Brazil has enhanced its status as a "Global development power" (Dauvergne & Farias 2012). Yet, this strategy has downplayed the use of the human rights language choosing to highlight solidarity and cooperation instead.

### **Domestic Determinants**

Domestic factors played an even greater role in constraining the possibilities of Brazil for adopting full-fledged human rights diplomacy. This subsection analyzes three factors that are critical to explain Brazil's international behavior in the area of human rights: a) Transition to Democracy and the "Lock in" effect; b) The Ministry of Foreign Affairs (Itamaraty) and political leadership; c) Civil Society.

**Transition to democracy and the "lock in" effect.** It is possible to say that Brazil's transition to democracy started in 1973 with Military President Ernesto Geisel's decision to initiate a "slow, gradual, and careful" liberation of the regime and ended in 1989 with the first direct presidential elections in three decades. The length of the

transition is one of the most notable features of the Brazilian case considering that it took almost sixteen years, almost twice as long as the Portuguese transition. The length of the transition is even more dramatic when we consider that the Brazilian authoritarian regime only began on March 1964 (Linz & Stepan 1996). As indicated by Linz and Stepan,

Both the extraordinary length of the Brazilian transition and the fact that the military ‘opening’ was six years longer than the military ‘closure’ seem to us directly related to the fact that the authoritarian regime, although never fully institutionalized, was hierarchically led by a military organization that had sufficient power to control the pace of the transition and strike a high price for extrication. (p. 68)

Another feature of the Brazilian transition is key to mention: the military attempts to maintain control over the process. The result was a set of constraining conditions securing important degree of military power in the following administrations. For example, throughout the entire government of the first civilian President, Jose Sarney, there were six military ministers in the cabinet. The military also had important leverage on the writing of the new Brazilian Constitution that came into being in 1988: “the military, via a skillful combination of threats and lobbying, succeeded in eliminating, softening, or subverting most of the proposed constitutional clauses that would have curtailed military autonomy” (Linz & Stepan 1996: 169).

A third element that is important to highlight relates to the unwillingness of key democratic political forces to precipitate a decisive rupture with the authoritarian regime (Keck, M. 1992) and the fact that the legacy of the military was perceived by Brazilian elites in a more favorable or at least ambivalent manner compared to other Latin American countries. Not only the number of human rights victims of human rights was significantly smaller compared to its regional counterparts, the strength of the military

was based on the significant economic growth that the country experienced especially from 1968 to 1973. Moreover, the gradual transition in Brazil contrasts with the collapse of the military regime in Argentina, where the armed forces were discredited by their military defeat in the 1982 Malvinas War (Hagopian, 1993: 468). Like most other military regimes in Latin America, the Argentinean regime imploded amid financial disaster, whereas Brazil's regime achieved significant levels of economic growth during the so-called economic miracle (Hagopian, 1993: 468).

Liberals perspectives explaining why states accept international human rights treaties, would predict Brazil's adherence during the transition process. Yet, if anything, the Brazilian case highlights the lack of evidence indicating any inclination or willingness of the political elites to accept international human rights commitments either as a formula to lessen the political uncertainties of the new transitional government or as a strategy to consolidate domestic goals. Even though it was Sarney's decision to ratify major international human rights Conventions, it took more than a decade for Brazil to recognize the jurisdiction of the oversight bodies associated with these treaties. Brazil recognized the jurisdiction of the Inter-American Court of Human Rights only in 1998, ten years after President Sarney assumed office. Brazil's case illustrates that not all governments transitioning to democracy are likely to adhere to international human rights treaties or to enhance their participation with international human rights institutions. Not at least as an immediate result of domestic calculations due to the uncertain circumstances of the political process. The type and the particular characteristics of the process largely shape the responses of the new civilian leaders.

As explained before, Brazil's transition was gradual, the levels of uncertainty were lower than other similar cases due to its negotiated character, the legacy of the military evoked ambivalence, and there were markedly fewer pressures to address the legacy of human rights abuses. Under these circumstances, Brazilian governing elites did not perceive any immediate gain by adopting international human rights treaties that could lead to international scrutiny of domestic matters. Brazil's case contrast most notably with Argentina, a country that adhered to international human rights regimes at the outset of its transition process. But unlike Brazil, Argentina's elites were facing greater level of pressures to inflict domestic changes due its transition by rupture after the Malvinas war, the complete discrediting of the armed forces and the decisive society push for moving forward with transitional justice.

**Ministry of Foreign Affairs (Itamaraty) and political leadership.** Appreciating the institutional and ideological authority of The Ministry of Foreign Affairs, Itamaraty, is essential for a full understanding of foreign policy decision-making in Brazil. Scholars have been almost unanimous in their assessment that Itamaraty has historically centralized this process (Cheibub, 1985; Faria, 2012; Pinheiro, 2009). Cason and Power (2009) highlights three elements to explain Itamaraty's preponderance in the foreign policy decision-making process. First, the ministry is admired both inside and outside Brazil for the high level of professionalization of its diplomats. Second, although embedded within a fragmented and penetrable state apparatus, Itamaraty maintained an impressive degree of bureaucratic autonomy and isolation. It benefits from the formal and informal boundaries separating it from other ministries and agencies. Third, until recently its policy responsibilities were monopolistic. Although there were minor variations across

time, it is fair to say that in postwar Brazil Itamaraty had virtually complete control over the design and execution of foreign policy, including trade policy. Finally, other authors have pointed out to the strong “esprit de corps” of the Ministry, which has been reinforced by an elitist diplomatic service along with a strong political culture that “forge among professional diplomats a sense of monopoly over what is understood as the national interest, which involves foreign policy formulation and implementation” (Burges: 2013; Pimienta & Belem & Casaroes 2013:468).

Itamaraty was able to maintain its centrality along with important levels of bureaucratic autonomy throughout the process of democratic transition. This situation was maintained— not without modifications due to the increasing pluralism of actors involved and the importance of Presidential diplomacy—during the administration of Cardoso and Lula. The maintenance of the main tenants of foreign policy despite regime change is peculiar of the case of Brazil and it goes against foreign policy theories predicting changing policy behavior according to type of political regimes. A recent article by Pimienta & Belem & Casaroes (2013) explaining the persistence of Itamaraty in Brazil’s foreign policy decision-making after the transition to democracy provides at least two reasons explaining this phenomenon. The first, and most obvious, concerns the lack of competition: the ministry maintained its central position as it found no external actors to systemically counterbalance its weight. Second, there is a set of institutional characteristics and historical developments of the Brazilian state, especially evident in the last couple of decades, which favours the centralisation of the process of foreign policy-making. They are: (a) the country’s constitutional framework, which grants greater autonomy to the Executive in this matter, leaving the Legislative to a marginal position;

(b) the fact that the Brazilian Congress permanently delegates to the Executive responsibility in matters relating to foreign policy; (c) the ‘imperial’ character of Brazilian presidentialism; (d) the fact that the development model of import substitution has generated introversion and isolation of political and economic processes, thus allowing for a controlled opening to international trade (e) the largely adaptive and flexible character of Brazil’s diplomatic service; and, last but not least, (f) the substantial and early professionalization of Brazilian diplomats, associated with the prestige enjoyed by Itamaraty, both domestically and internationally.

To be sure, during Cardoso and Lula ‘s governments there were foreign policy areas particularly in the economic and trade sector in which Itamaraty partly lost its decision making power over Presidential diplomacy (Cason & Power, 2009). Yet, on political issues related to human rights and humanitarian intervention, the Ministry was able to continue its traditional policies of maintaining a “tight Westphalian focus on sovereignty and autonomy” without any significant force willing to counterbalance its power (Burgess 2013). National autonomy and the defense of economic and political sovereignty that follows from it, is considered by Brazilian diplomats a key national interest and remained almost exclusively in the hands of the Ministry of Foreign Affairs.

The tight defense of sovereignty and non-intervention comes from set of foreign policy ideas and worldviews that have been historically transmitted and implemented in different policy decisions by several generations of diplomats serving at Itamaraty. Celso Lafer, former Minister of Foreign Affairs and prominent intellectual states that Brazil’s international identity and its foreign policy orientation has historical roots dating from the beginning of the 20<sup>th</sup> century:

From the 1930s on, these reflections clearly oriented Brazilian foreign policy and diplomatic action by means of two principal guiding lines. One was to obtain and cultivate space for the exercise of autonomy—that is, in the words of then-minister of external relations Horacio Lafer in 1959, the zeal ‘to preserve the freedom to interpret the country's reality and to find Brazilian solutions to Brazilian problems.’ The second was to identify which external resources could be mobilized in different international situations in order to respond to the internal imperative represented by the challenge of development. (Lafer, Celso 2000)

These two principals were reinforced even further with the rise of dependency theory and the import substitution industrialization model embraced by Brazil with the systematic support of the Foreign Ministry during the 1960s to early 1980s. As Soares de Lima and Hertz indicate, “Itamaraty acquired a powerful ‘institutional memory’ in which many of the characteristics and values associated with ISI retained their influence and attractiveness even after the decline of the particular development model” (1994: 24).

Another principle that is historically rooted in Brazil’s diplomatic practice is the rejection to the use of force as a mechanism of conflict resolution. Rio Branco who drew the Brazilian map, first as representative and Brazilian counsel in international arbitrations, then, from 1902 to 1912, as minister of external relations, established Brazilian borders with little bloodshed during the ninetieth century. Celso Lafer, stresses the significance of this historical event for the construction of Brazil’s international identity:

Not only did Rio Branco bequeath to Brazil a peacefully obtained map of continental proportions, he was also the great institution-builder of Itamaraty, the Brazilian Ministry of External Relations. He inspired the style of diplomatic behavior that, in my view, characterizes Brazil. Such a style is one of constructive moderation and expresses itself, in the words of Gelson Fonseca Jr., as the capacity to ‘de-dramatize the foreign policy agenda, that is, to reduce conflicts, crises and difficulties to their diplomatic bedrock.’ Such constructive moderation is influenced by a Grotian assessment of international reality—that is, by a concentration on the value of diplomacy and law in international intercourse as



appropriate ways to deal with conflict, foster cooperation, and reduce the impetus of power politics. (Lafer 2000)

In sum, Brazil's continuous emphasis on the peaceful settlement of disputes, its reticence to accept the concept and practice of humanitarian intervention when it entails the use of force and the preference for conflict prevention and mediation have historical origins back to more than a century of diplomatic practice.

These set of ideas and principles guiding Brazil's diplomacy continue to predominate after the return of democracy. Despite important foreign policy innovations due the economic opening of Brazil, the consolidation of the democratic system, and two different coalitions of government since 1995, Itamaraty has retained its historically acquired desire for implementing an autonomous foreign policy based on the defense of economic and political sovereignty. The fact that the Foreign Ministry after the democratization period retained its political and bureaucratic capacity to centralize the decision-making process allowed these principles to persist. The impact of these ideas on Brazil's international policies can be traced directly to the human rights arena and easily recognized when examining the country's unalterable behavior in this area: a long stressed resistance to coercive measures as a response for humanitarian emergencies and opposition to the idea of humanitarian intervention; an enduring resistance to criticize human rights violations occurring in foreign nations; and a permanent denouncing of what has been viewed as politically driven selectivity in relation to certain countries human rights records and on countries that are chosen as target of humanitarian intervention.

The lack of new political leadership supporting human rights inside the Foreign Ministry also explains the prevalence of the former ideas. The bureaucratic insulation of Itamaraty and its high levels of autonomy vis-à-vis other state institutions combined with the prestige of its diplomatic corps, prevented any institutional reform of the Foreign Ministry once new democratic government and the following ones came to power. There were no key appointments from outside the Foreign Service and therefore there was no renewal of people prompting a surge of new foreign policy ideas. It is true that Fernando Henrique Cardoso explicitly identify itself as a human rights person and as such he played an important leadership role as a Foreign Minister and after as President promoting human rights internationally and domestically among other measures through the creation of the National Human Rights Program and the Human Rights Department in Itamaraty. Furthermore, Cardoso himself decided to accept the jurisdiction of the Inter-American Court and was able to get it approved despite the internal resistance of the Foreign Ministry (P. Pinheiro, personal communication, August 2013). Yet, political leadership on human rights in the area of foreign policy has been limited since the democratization process and the Ministry remained relatively unaffected on this issue.

Considering the dimensions of the country, very few Brazilians have occupied important human rights positions internationally. This situation is clearly a reflection of the lack of engagement between Brazil's diplomats and the international human rights institutions. At a regional level, only three Brazilians have been elected to the Inter-American Commission for Human Rights: Carlos A. Dunshee de Abranches, 1964-1983; Gilda Maciel Correa Russomano, 1984-1991; and Paulo Sergio Pinheiro, 2004-2011. Cançado Trindade is *the* only Brazilian who has served as Judge on the Inter-American

Court. Internationally, the situation is no different. One of the most prominent figures in the global human rights machinery, Sergio Vieira de Mello, received practically no official or diplomatic support from his country of birth (Power, 2008) and

the absence of any voluntary Brazilian financial support of the UN office that Vieira de Mello was heading at the Office of the High Commissioner for Human Rights, is all the more glaring in light of modest, yet diplomatically significant, funding given by countries such as Mexico, Argentina and Chile. (Ergstrom 2010: 14)

**Civil society.** Brazilian civil society is seen today as vibrant, dense, active and able to mobilize against issues of importance. The transition to democracy brought a wide scope of political activism to the fore. Urban social, women's and landless peasant movements joined Afro-Brazilians, workers', environmental, and consumer movements. Overall, even though the focus of these movements was particular to their issue agenda, these groups have significantly contributed to expand citizenship through social mobilization around the "rights to have rights" (Montero 2014:95). Unfortunately, the strength and activism of Brazil's civil society around foreign policy is much weaker than other issue-areas at least up to the beginning of the 2000s. Since civil society organizations are important drivers of ideas into domestic institutions (Sikkink 1993; Keck & Sikkink 1998), the lack of organizations monitoring foreign policy creates further constraints on more actively including human rights in Brazil's international policies.

The centrality and insulation of the Foreign Ministry and the perception of the majority of the Brazilian society that foreign policy is a question of "high politics" and not a public affair, played against the formation of a vibrant civil society on this subject. In an interview with Paulo Sergio Pinheiro, he recalls how the Ministry of Foreign

Relations during the transition to democracy was not receptive to the idea of exchanging information with NGOS particularly about human rights concerns. “Foreign policy was always a monopoly of Itamaraty and the federal government. An opening to other sectors of the Brazilian society was unprecedented and very much rejected especially by the ‘soveranistas’ sector within the Ministry,” emphasizes Pinheiro.

Yet, the 1990s brought some incipient changes. The incorporation and participation of local NGOs to forums and international events started in this decade. Civil society participation in the context of international conferences such as the Vienna Convention in 1993 and the increasing inclusion of some of these groups in ad-hoc consultation process with the Ministry on matters of interest are among the examples. At the same time and almost ten years after the transition to democracy, there has been increased interaction between local NGOs and transnational networks as evidenced in the creation of Justiça Global in 1999 by human rights professionals who previously worked at Human Rights Watch and CEJIL (Engstrom 2010). Yet, despite the importance of these developments, these changes have been insufficient to counterbalance societal perceptions on the subject.

In 2001, as Cardoso government was coming to an end, local researchers surveyed 149 members of Brazil's “foreign policy community.” These included officials from the executive branch (the presidency, the key ministries, the diplomatic corps, the armed forces, and the Central Bank), the National Congress (deputies and senators involved in foreign relations and defense policy), business leaders, representatives of trade unions and NGOs, journalists, and many key academic specialists in international relations. When queried about how much attention the MRE gives to various actors from

political and civil society, the foreign policy community essentially endorsed the idea of an autonomous Itamaraty (Cason & Power 2009:120).

It was only in the mid-2000s that significant changes took place regarding a more active and continuous civil society involvement on Brazil's international affairs. The initiation of activities of the local NGO CONECTAS in 2001 and its acquired UN-ECOSOC status as observer in 2006 with the objective of strengthening human rights defenders in the global south and monitoring and influencing Brazil's human rights foreign policy is unprecedented in Brazilian politics. Some years later, the Brazilian Committee on Human Rights and Foreign Policy—a network of civil society organizations and state institutions—was also created with a similar aim of stimulating citizen participation and strengthen democratic control of Brazilian foreign policy as it relates to human rights. These organizations have sought to influence Brazil's international policies on human rights.

CONECTAS, for example, since 2007 issues a annual report monitoring Brazil's positions regarding human rights matters at the UN system and denounces situations in which the country does not vote according to universal human rights standards such as the resolutions on Sri Lanka and North Korea in 2006. It has also been active lobbying the congressional committee on human rights and foreign policy and soliciting detailed information regarding foreign policy decisions of the Ministry of Foreign Affairs. CONECTAS has also been active networking with global human rights organizations especially from developing countries and in international debates at the UN Human Rights Council. Finally, CONECTAS has been able to fundraise important amount of

money from international donors to run their activities (L. Nader, personal communication, August 2013).

The increasing activism of local NGOs with the aim of monitoring and influencing Brazil's foreign policy decisions is too recent to permit a confident evaluation of its impact. The rise of these local NGOs coincides with the ascension of Lula to the Presidency and so far there is no concrete example of important policy changes on international human rights responding to civil society pressures. However, these organizations are asserting their presence by using advocacy strategies of agenda setting, "name and shaming", and networking with international organizations in order to influence governmental decisions. These organizations might play an increasingly influential role in the future. However, for the majority of the time period covered in this study (1985-2010), civil society organizations were still marginal in foreign policy decisions and were unable to gain legitimacy among the most relevant foreign policy actors in Brazil.

### **Conclusions**

This chapter attempts to understand why Brazil remains reluctant to become an international human rights promoter and looks at international and domestic factors as explanatory variables. It argues that on the impact of international influences on the adoption of international human rights this case illustrates how some countries are less permeable to external forces than others and how a foreign policy guided by the principles of autonomy and national development could be less receptive to the idea of international human rights. It is true that the need to obtain international credibility and legitimacy drove Brazil's diplomacy to the adherence of international human rights and

to participate more actively on international human rights institutions during the 1990s. Yet, international conditions were not a powerful force to change traditional conceptions overstating the importance of sovereignty in international affairs and longstanding perceptions regarding the role of Brazil in the world.

At the domestic level, it shows that democratic transitions not always generate local incentives for accepting international human rights norms. Most importantly, it highlights how history, institutional and bureaucratic practices, and the predominant ideology of decision-makers and political elites affect the ways in which international norms are perceived locally. Brazilian foreign policy has traditionally been dominated by a powerful Foreign Ministry that has been somewhat suspicious of international human rights and that had tended to disregard humanitarian interventions as a cover for great power involvement in the domestic affairs of other states. The lack of powerful transnational advocacy networks working on monitoring and influencing foreign policy decisions further constrained the prospects of a more active inclusion of human rights into Brazil's international policies.

Alternative explanations to the ones presented here come from two major perspectives. Realism will underscore that Brazil's reluctance to become a human rights promoter is driven by its size, the economic strength of the country, and its growing international stature as a rising state. Brazil's foreign policy, however, does not respond to the major tenants of power politics. The country has limited military capabilities and its international policies have historically been driven by international law, multilateralism and participation in international institutions. Furthermore, a realist perspective would predict that Brazil's rising status since 2003 would increase the

nation's reluctance toward international human rights. Yet despite some changes in the country's foreign policy under Lula, this study shows that the country has been a slow and reluctant human rights promoter before Lula's government and arguably since the transition to democracy in 1985.

Another alternative explanation comes from liberalism and its assumption that economic opening prompts the search of liberal values internationally such as democracy promotion and human rights protection. This approach foresees that countries that decide to open their economies will almost automatically become part of a global liberal order of sorts. What this perspectives fail to capture is that countries like Brazil did develop important reforms to fully integrate itself to a market economy. Yet, these economic measures did not signify a complete alignment with liberal values internationally. To be sure, Brazil is clearly a Western society. However, as Andrew Hurrell puts it: "that identity [western] has only rarely been particularly significant in shaping either foreign policy ideas or foreign policy behavior" (Hurrell 2010). This chapter also demonstrates that a similar liberal argument stating that countries in transition to democracy are likely to adopt international human rights is also subject to criticism. Brazil's case highlights that not all governments transitioning to democracy will adhere to international human rights treaties or decide to enhance its participation with international human rights institutions. Not at least as an immediate result of domestic calculations due to the uncertain circumstances of the political process. Furthermore, the case of Brazil underscores that those countries adopting political and economic liberal reforms at home are not necessarily destined to be "liberal internationalist" adopting straightforward strategies of democracy and human rights promotion abroad. The latter can shed some



light on the incipient debate about emerging democratic powers such as India and South Africa and their conception of and international liberal order along with their potential role shaping the future of the international human rights regime.

## CHAPTER SIX: CONCLUSIONS

This research seeks to understand the ways and extent to which newly democratized states in Latin America support human rights beyond their borders. Using Chile and Brazil as case studies, it offers an explanation as to why Chile has been an active human rights promoter while Brazil has a more ambivalent policy towards international human rights.

The main findings point out that states that commit to international human rights are the result of the intersection of domestic and international influences. At the international level, the search for international legitimacy and the desire for recognition and credibility affected the adoption of international human rights in both cases but with different degrees of impact. However, international values and pressures by themselves, while necessary, are an insufficient condition for human rights initiatives perceived to have not insubstantial political, economic or strategic costs. New democracies will be more or less likely to actively include human rights in their international policies depending on the following four domestic conditions: political leadership legitimizing the inclusion of human rights into a state's policies, civil society groups connected to international human rights advocacy networks with a capacity to influencing the foreign policy decisions of their government, and the Foreign Ministry's attitudes towards international human rights and the degree of influence it exercises over the outcome of the foreign policy process.

The results of this research have important theoretical and policy implications to understand the means and circumstances in which states are likely to act to prevent or to terminate violations of human rights or to strengthen the normative and institutional framework for defending human rights. Important policy lessons can be extracted from the foreign policy experience of these two countries that can serve as guidelines for government officials, local and international norms entrepreneurs, NGOs, and scholars interested in the promotion of human rights internationally.

### **Theoretical Contributions**

This study challenges the assumptions of the main approaches in international relations theory explaining why states incorporate human rights into their international policies and offers an account that particularly complements constructivist research on the subject.

This research concurs with other studies indicating that realist theories have trouble accounting for the adoption and implementation of international human rights policies, except by dismissing them as insignificant (Sikkink 1993). There are few realist efforts to explain difference in human rights policies. The work of Egeland argues that “small and big nations are differently disposed to undertaking coherent-rights oriented foreign policies” (1988). According to this perspective, large states have multiple interests that preclude the pursuit of human rights objectives while at the same time these countries tend to base their policies on bilateral arrangements because they are more likely to have power to achieve their goals without multilateral support. Small states rarely have to choose between human rights and other foreign policy goals and their

foreign policy strategies are based on multilateral arrangements to increase their opportunities for influence.

On the surface, the case of Chile and Brazil support realists accounts. Yet, there are several factors indicating that the differences in human rights foreign policies of these two countries are driven by other non-realist factors. First, despite its giant size Brazil has historically pursued an intense multilateral agenda and has permanently strived for occupying an active role within international institutions. The size of a country does not prevent the use and even the prioritization of multilateral strategies. In fact, Brazil has ratified all the major international treaties on human rights. Second, from a realist perspective Brazil's emerging power since the beginning of the 21<sup>st</sup> century should be a powerful indicator that the country would be less inclined to participate in international human rights regimes. However, this study shows that Brazilian diplomacy was even more skeptic to include human rights at the beginning of the 1990s when the country was much more weaker economically and less influential internationally than it is today. Third, Chile is a small state pursuing human rights policies. But its size and its relatively low economic power do not explain the preponderant interest for human rights. Similar small countries in the region such as Ecuador or Peru have not assigned an important value to human rights into their foreign policy as Chilean diplomacy does. In sum, size and the relative power position of state cannot explain differences in human rights policies.

Liberal accounts predict that new democracies are likely to commit to international human rights as a way of protecting regimes that are unstable during the transition process (Moravcsik 2000). This study tested this hypothesis and found that

only for the case of Chile this assumption holds. Chilean elites rapidly moved to sign international human rights treaties and to participate in international human rights institutions as way of protecting an unstable democracy and for containing the power of the military during the transition. Liberal explanations, however, cannot explain why Chile's commitment to international human rights persisted once democratic consolidation took place. On the other hand, due to the character of Brazil's transition, the new authorities had no incentives to subscribe to international human rights treaties. Not at least as an immediate result of domestic calculations due to the uncertain circumstances of the political process.

Three general conclusions derive from these two cases when comes to the explanatory power of the liberal accounts. First, not all new democracies will instrumentally use international human rights to attain domestic goals. In some political transitions such as the case of Brazil, the political elites do not have sufficient incentives to pursue human rights policies or the perceived price of signing international treaties or accept international scrutiny is higher than the possible domestic gains. Second, in other cases such as in Chile, domestic incentives are crucial for triggering international human rights policies during the transitional period. However, the persistence of those policies after the transition depends the deep integration of human rights concerns as a standard of legitimized behavior domestically. Third, the case of Brazil underscores that countries undergoing democratic transitions are not necessarily destined to become "liberal internationalists" adopting straightforward strategies of democracy and human rights promotion abroad. The rise of new democracies does not necessarily imply the rise of new states supporting human rights standards worldwide.

Constructivist approaches investigate the role of ideas, norms, and identities as influences on state action. The national interest and foreign policies, they argue, are the product of the identities and values of a state. Therefore, it can be expected that democratic and right-protective states will seek to extend their domestic values abroad and recognize other states that do so (Risse-Kappen 1996; Brysk 2007). As for the domestic commitment to human rights in non-democratic states or in countries with low levels of human rights compliance, constructivist research has shown that states adopt human rights norms through a process of international socialization that is driven by the local regimes' need for enhancing their international legitimacy and credibility and the persistent work of transnational advocacy networks in persuading governments to include normative concerns into their agendas (Finnemore & Sikkink 1998; Keck & Sikkink 1998; Risse, Ropp, & Sikkink, 1999, 2013).

The diplomatic experience of Chile and Brazil illustrates some of the shortcomings of the constructivist research on the subject and offers some clues as to how better understand the inclusion of human rights or lack of thereof in the foreign policies of new democracies. The comparison of the human rights diplomacy of these two countries shows that political transitions from authoritarian regimes in which the state itself is the perpetrator of human rights abuses into a democratic system respectful of citizen's rights does not assure a state commitment to "protect strangers" internationally. The diplomatic trajectory of Chile and Brazil since their respective transitions to democracy is especially telling on this point. Despite the fact that both countries developed into democratic political systems respectful of human rights values, the foreign policy projection of those values differs significantly. Chile gives priority to the

promotion of human rights internationally while Brazil is still reluctant to become a more active participant within the international human rights regime. In other words, democratic and human rights values at home are not automatically translated into principled human rights foreign policies.

This study shows that the adoption of human rights into a state foreign policy is conditioned by international as well as by domestic factors. Constructivist's studies are right in pointing out the socializing effects of international norms and ideas into the behavior of states. In fact, this study shows that for Chile as well as for Brazil the search for international legitimacy and the desire for recognition and credibility is a necessary condition for new democracies to pursue human rights objectives. Yet, constructivists do not pay sufficient attention to the fact that in some cases the openness to international norms can vary and, as the case of Brazil demonstrates, a state can be less permeable to international influences due the predominance of local ideas that do not readily harmonize with international human rights values. The predominant idea of an autonomous foreign policy and the priority given to sovereignty and non-intervention among Brazil's foreign policy decision-makers underscores this fact.

Domestic factors are critical to understand the degree of a state commitment to international human rights. Constructivist work provides important insights about the role of norms and ideas at the international level but they have overlooked the process and mechanisms by which those values and ideas translate into the domestic settings and, in particular, into the foreign policy process. This study fills this gap and suggests that the inclusion of human rights into their international policies of new democracies is dependent on three conditions: political leadership legitimizing the inclusion of human

rights into a state's policies, civil society groups connected to international human rights advocacy networks with a capacity to influencing the foreign policy decisions of their government, and the Foreign Ministry's attitudes towards international human rights and the degree of influence it exercises over the outcome of the foreign policy process.

A brief summary of the analysis of the country cases help to illustrate how these variables work in practice. In the case of Chile, human rights diplomacy gained a prominent place because human rights values were mobilized, promoted, learned and legitimized by local actors (political elites and advocacy networks) and effectively channeled into the Ministry of Foreign affairs bureaucracy. Brazil's case, on the other hand, illustrates how the lack of exposure to human rights ideas of foreign policy decision-makers, the institutional and bureaucratic practices at the Foreign Ministry that did not easily fit with international human rights values, and an inward looking civil society can negatively affect the inclusion of human rights into foreign policy.

### **Policy Contributions**

There are several policy lessons that can be derived from the study of these two countries human rights foreign policies that are helpful for other governments, policy-makers, and civil society activists willing to invest time, resources and political capital on the promotion and protection of people beyond their boundaries. This conclusions focus on four areas.

### **Bureaucratic Barriers**

The main governmental agency implementing international human rights policies is the Ministry of Foreign Affairs. Yet, as the case of Brazil illustrates, bureaucracies can turn out to be fundamental barriers for introducing human rights into the foreign policy



process. The case of Chile illustrates a Ministry of Foreign affairs in which key positions are occupied by governmental officials that have signaled the importance of human rights as a main component of the country's national interest. However, Chilean diplomacy still needs a stronger foreign policy machinery that is further institutionalized and that relies less on individual commitments. Chile and Brazil created human rights units within the Ministry but in both cases this topic is far away from being effectively integrated into the work of the different institutional compartments of the respective Ministries. There is an important degree of insulation of the human rights unit versus the other departments especially with ones dealings with political affairs. At the same time, the diplomatic corps as in any other country work on a rotational basis (two or three years) which in many cases decreases the development of acquiring human rights knowledge (if the person is assigned to the specific unit or Geneva) and civil society relationships that are particularly important for effective human rights interventions (Brysk 2007).

The experience of countries such as Canada and Sweden when comes to “mainstreaming” human rights into the Ministry are particularly interesting. These countries not only brought a team of human rights experts to work into different units the Foreign Ministry but they also set up new thematic units and directly connected the country desks with related thematic units such as women, children, indigenous rights, etc. Some of these experiences could be brought into the Foreign Ministries of countries from the Global South.

Training is another fundamental aspect to break bureaucratic barriers against human rights. The Diplomatic Academies of Chile and Brazil for the past five years have included new courses on human rights and some of their students have written original

thesis on diverse human rights issues. Yet there is a need in both countries to create new courses for diplomats in the middle of their careers that are willing to update their knowledge. Human rights could be included as a compulsory part in such training programs. Finally, it is important to create mechanisms of periodic consults between Ministry officials and local NGOS particularly on human rights issues. The work developed in the context of the Universal Periodic Review (UPR) for the Human Rights Council has been very useful in both countries as a way of creating new channels for communications between governmental officials and NGOs and other national institutions.

### **NGO Leadership**

This study shows that civil society groups systematically monitoring their government's international policies are fundamental drivers for the effective inclusion of human rights into foreign policy. Here the recent experience of Brazil is particularly significant. Only in the last eight years, local Brazilian NGOS entered the foreign policy world. However, these organizations led by the work of CONECTAS are already showing important results. These includes an increasing visibility and public scrutiny on foreign policy on human rights, raising media coverage of the Brazilian foreign policy, improvements on the checks and balances in the foreign policy making process, and better coordination and higher presence of Latin American civil society in the UN. It is important to note that other transnational advocacy networks have contributed substantive resources and capacities to strengthen the work of Brazilian NGOs.

## **Diversity**

This study shows that there is a great diversity in the ways in which countries go about pursuing international human rights. Chile has focused on generating and supporting international initiatives especially at the UN Human Rights Council on civil and political rights with an emphasis on women's rights and peace promotion. Brazil, on the other hand, focuses on economic and social rights. In fact, the country has been at the forefront of important international initiatives at the United Nations on the right to health, development and non-discrimination. Specialization on certain human rights areas considering the particular strengths of the countries involved could be a good way to get more countries especially from the Global South more involved.

## **Coordinating Inter-institutional Policies**

Better coordinating and mainstreaming human rights inside the Ministry of Foreign Affairs is as fundamental as harmonizing inter-state institutions that play a role in the international human rights policy. The case of Chile and Brazil shows the need for better coordinating the policies of the Ministry of Foreign Affairs and the Ministry of Defense specifically on issues such as peacekeeping, humanitarian de-mining, disaster relief, among other matters. The presentation of the UPR also underscored the necessity to create better coordination with the Ministry of Justice and other relevant state institutions. Most notably, in Chile and Brazil, domestic foreign aid agencies with an important budget for humanitarian initiatives develop their work semi-autonomously without coordination or even monitoring from other state institutions.

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## APPENDIX: LIST OF INTERVIEWS

Asano, Camila. Researcher, CONECTAS-Brazil (August 2013)

Crisostomo, Juan Pablo. Former Chief of the Human Rights Unit, Chilean Ministry of Foreign Affairs (July 2013).

Escobar, Natalia. Chilean Diplomatic Academy, Ministry of Foreign Affairs (July 2013).

Fuentes, Claudio. Profesor, UDP-Chile (July 2013).

Garreton, Roberto. Former Chief of the Human Rights Unit, Chilean Ministry of Foreign Affairs (July 2013).

Godoy, Jaime. Human Rights Unit at the Chilean Ministry of Foreign Affairs (July 2013).

Herz, Monica. Professor at PUC-Rio (July 2013).

Lamazière, Georges. Brazilian Ambassador in Chile (July 2013).

Nader, Lucia. Director, CONECTAS-Brazil (August 2013).

Pelizon, Renata. Human Rights Commission, Rio de Janeiro (August 2013).

Pinheiro, Paulo Sergio. Head of the Brazilian Truth Commission (August 2013).

Portales, Felipe. Former Chief of the Human Rights Unit, Chilean Ministry of Foreign Affairs (July 2013).

Quezada, Hernan. Lawyer, Chilean Ministry of Foreign Affairs (July 2013).

Rojas, Francisco. Dean of the University for Peace-Costa Rica (August 2013).

Salinas, Hernan. Former Chief of the Human Rights Unit, Chilean Ministry of Foreign Affairs (July 2013).

Van Klaveren, Alberto. Chilean Ministry of Foreign Affairs (July 2013).

Vargas Carreño, Edmundo. Former Undersecretary of Foreign Affairs-Chile (July 2013).

Vilhena, Oscar. Getulio Vargas Foundation (FGV) (August 2013).