

INTERVENTION AND HUMAN RIGHTS: THE LATIN AMERICAN CONTEXT

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I. INTERVENTION AND ITS EXCEPTIONS: THE PAST

Until the past decade, for most Latin Americans the word intervention invoked the image of a powerful and pushy United States. Paradoxically, fear of the United States was a major force pushing Latin American governments into a military and political alliance with the United States after World War II. Left-wing critics of United States policy in Latin America tend to see the Organization of American States (OAS) and the Rio Treaty as an elaborate sham designed simply to conceal the imperious thrust of American power.¹ No doubt, it has served that purpose most notoriously in the cases of Guatemala, Cuba in 1954 and more equivocally in the Dominican intervention of 1965. Yet these instances of collaboration with imperial interventions hardly suffice to support the claim.

Latin participants in the seminal negotiations leading to adoption of the Charter and Treaty were open enthusiasts. Why would political leaders in countries so sensitive to the risks of American intervention have promoted institutions that would, according to the critics, serve merely to cloak or even thinly legitimate American threats to their political independence? The simple answer is that the institutions of the inter-American system were devised not to legitimate but rather to contain American power. Containment was their dominating purpose; the OAS Charter and the Rio Treaty were its imperfect expression.

The intent of the Latin founding fathers to circumscribe American power, a power they could not in any event exorcise, is apparent. Categorical and multiple prohibitions of intervention are contained in the OAS Charter, except in the case of measures

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1. See Charter of the Organization of American States, April 30, 1948, 2 U.S.T. 2394, T.I.A.S. No. 2361, 119 U.N.T.S. 3 [hereinafter cited as Charter of OAS].

adopted for the maintenance of peace and security. For example, Article 15 of the OAS Charter states that one member State cannot intervene for any reason whatever in the internal or external affairs of any other Member.² This prohibition applies not only to armed force, but also to any other form of interference or threat against the personality of a member State or its political, economic, or cultural elements. This prohibition is echoed in Article 16's stricture that "no State may use or encourage the use of coercive measures of an economic or political character, in order to force the sovereign will upon another State and obtain advantages of any kind."³ The prohibition is re-echoed in Article 17 which precludes recognition of "special advantages obtained either by force or by any other means of coercion."⁴ Of course, if these prohibitions were literally and seriously interpreted they would preclude diplomatic activity as it has been known for the last 2000 years.

The inhibition of American power being its regent aim—why then, was the OAS Charter acceptable to the United States? No doubt it was in part because of the financial, moral and political costs of a legally naked hegemony. In addition, American statesman saw no fundamental antagonism between the national interests of the United States and those of the dominant classes in Latin America. Fascism, which during the thirties had flourished in some Latin states, had lost its allure—if not for its delinquencies, certainly for its defeats. Communism was not any more popular in Latin capitals than it was in Washington, D.C.

The promise of converging political interests was essentially fulfilled. Whenever East-West issues surfaced at the United Nations or other global forums, the bulk of the Latin states generally followed the United States' lead. When Cuba broke ranks, the necessary two-thirds majority of the OAS supported United States' efforts to isolate the apostate. Within the OAS, few governments questioned the compatibility of the Bay of Pigs with the nonintervention principles of the Charter.

As the issue of the guerrilla-led revolution in the Third World became salient in United States strategic calculations, the Latin governments proved enthusiastic collaborators in Washington's effort to coordinate the global program of counter-insurgency. By formal resolution, the OAS anathematized Marxists and implicitly

2. Charter of OAS, *supra* note 1, art. 15.

3. Charter of OAS, *supra* note 1, art. 16.

4. Charter of OAS, *supra* note 1, art. 17.

authorized relaxation of nonintervention norms as a means of cauterizing the revolutionary threat.

Tension between the Carter Administration and certain Latin American States related in two ways to the earlier successful effort to destroy the revolutionary left in Latin America. On the United States side, there was a mood characterized by a sense of having strayed from the path of American idealism and a penitential desire to find the way back. Catalyzed for some by remorse over Indo-China, the mood was powerfully reinforced by reports of government sponsored brutality in countries which, throughout the 1960s, the United States had encouraged and assisted under the banner of counter-insurgency. The American public was suddenly uncomfortable with the worldly cynicism epitomized by a comment on Trujillo attributed to Franklin Delano Roosevelt: "He may be an SOB, but he's our SOB."

Right wing Latin governments greeted American criticism with anger heightened by a sense of betrayal. As one Uruguayan officer is said to have told a visiting American, "We are doing precisely what you encouraged and equipped us to do—destroying Marxists and their fellow travelers and developing a free economy. War against the Marxists requires exceptional means."

Comparative moderates in the more ruthless regimes justify the demolition of democratic institutions partially because of the obstructions they pose to the anti-communist crusade and partially because of incompatibility with the pursuit of rapid development. Politicians, they argue, cater demagogically to the masses who lack the discipline and restraint required if the country is to be made safe for development. On the other hand, for hard-line military and civilian groups in the most violently conservative States, the antidemocratic animus is neither tactical nor temporary. Rather, it is firmly rooted in a contempt for pluralist society comparable in intensity to the feelings of hardened Stalinists. The fact that officer corps in which corporate or fascist views circulate are dotted with men who have studied in United States military establishments has contributed to the moral unrest of some Americans.

As the United States, through the Carter years, became more selective in, or at least more restrained about its support of non-communist regimes, governments and movements of the far right began a program of mutual assistance. A new kind of intervention was thereby inaugurated, an intervention in which the United States was wholly uninvolved and indeed to which the United

States was in some cases opposed. For example, when younger officers ousted the Romero government⁵ in El Salvador three years ago and embarked on what then appeared to be a promising set of reforms, paramilitary groups in league with the government of Guatemala threatened to intervene in El Salvador to restore order.

II. THE CHANGING STAKES OF INTERVENTION

What forces lie behind the changing reality of intervention in the hemisphere? There is hardly time for a deep analysis, but three factors should be emphasized: (1) the relative increase in the power and sophistication of other hemispheric actors; (2) the split with the United States foreign policy community about what our purposes and means ought to be; and, above all, (3) the polarization of Latin societies in ways reminiscent of the 1930s in Europe when French fascists were frequently quoted as saying: "Rather Hitler than the Jewish socialist, Leon Blum."

Conversely, supporters of human rights in Latin America say, "Better Uncle Sam playing an active interventionary role in our societies than the triumph of the anti-democratic right." In a country like Nicaragua, the center would like to see the United States exert influence which in the past would have been called interventionary, using both carrots and sticks to push that government toward fulfillment of its pledge to establish and maintain a pluralistic society.

A Gallup poll taken in nine Latin American countries in the past year to determine what the more articulate part of the population wanted from the United States discovered that in three of these countries, the number one preference exceeding even economic assistance was United States support for human rights.⁶ In three other countries, this was the second choice.

The extent to which the issue of human rights has crosscut traditional sensitivity about State sovereignty is illustrated by recent experience of the Inter-American Commission on Human

5. General Carlos Humberto Romero came into power after the 1977 election in El Salvador. General Romero, representing the far right, was ousted by a bloodless coup in October of 1979, and replaced by a "revolutionary junta." See *EL SALVADOR: CENTRAL AMERICA IN THE NEW COLD WAR 59-66* (M. Gettleman, P. Laceyfield, L. Menashe, D. Mermelstein & R. Radosh eds. 1981).

6. For a survey exploring the international mood in twenty-seven countries (field work conducted in Nov. 1981), see *GALLUP REP.*, Jan. 1982, at 3-6.

Rights.⁷ Traditionally any effort to develop the right of political participation would have encountered exquisite sensitivity. This right is enumerated in Article 20 of the American Declaration of the Rights and Duties of Man,⁸ and Article 23 of the American Convention on Human Rights.⁹ To quote from the American Declaration, "Every person having legal capacity is entitled to participate in the government of his country, directly or through his representatives and to take part in popular elections, which shall be by secret ballot and shall be honest, periodic and free."¹⁰

The Commission in its 1980-1981 annual report concluded that while States retain a very broad range of discretion concerning the distribution of power among various levels and branches of government and the means through which power can be legitimately acquired, nevertheless, this right does set limits. It guarantees every faction or interest—ethnic interests, regional interests and class interests to name three—the opportunity to organize itself and to compete fairly for political power. Such an interpretation is a corollary of the truism that no class, including the military, has a monopoly on truth or virtue. The 1980 General Assembly of the Organization of American States recommended to those member States who had not done so to re-establish or to perfect the democratic system of government in which the exercise of power derives from the legitimate free expression of popular will.

III. CONCLUSION

The demand for human rights has reduced opposition to external appraisal of a country's political system. This represents a radical change in ideas about intervention. The people of Latin America do not want their rights delivered on the backs of United States Marines; but the great majority who are committed to building open and just societies would applaud the active use of diplomatic instruments to assist them in the defense and promotion of human rights against homegrown enemies.

7. For origin, structure, and competence of the Commission, see generally 1978 INTER-AM. COMMISSION ON HUM. RTS. ANN. REP. § 1.

8. American Declaration of the Rights and Duties of Man, *reprinted in* 1 HUM. RTS.: THE INTER-AM. SYS. (Oceana) pt. I, ch. IV at i,4 (April, 1982) [hereinafter cited as American Declaration].

9. American Convention on Human Rights, *reprinted in* 1 HUM. RTS.: THE INTER-AM. SYS. (Oceana) pt. I, ch. II at i, 10.

10. American Declaration, *supra* note 8, at 4.