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DEPARTMENT OF STATE

Washington, D.C. 20520

October 20, 1976

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CONFIDENTIAL ATTACHMENTS~~

MEMORANDUM FOR MR. BRENT SCOWCROFT
THE WHITE HOUSE

Subject: Human Rights Statements on Argentina, Haiti
and Peru

Attached are statements on human rights conditions
in Argentina, Haiti and Peru, which were requested by
Dr. Morgan under the provisions of Section 502 B (c) (1)
of the Foreign Assistance Act.

They must be received by the Congress on Thursday,
October 21, 1976 - thirty days after the request was
received - or aid deliveries to the countries must be
terminated until such time as the statements are
received.

The statements have been approved by the Deputy
Secretary. A copy of the Department's transmittal
letter explaining the format and content of the state-
ments is also attached.

Expeditious review of this material would be
appreciated to meet the deadline.

Mr. Arthur Borg
Mr. Arthur Borg
Executive Secretary

Attachments:

Letter to Chairman Morgan with Department of State, A/GIS/IPS/SRP
statement on human rights in Change to
Argentina, Haiti, and Peru

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With concurrence of: _____

D/HA/HR:MJSpear:mtm

Clearance: D/HA Mr. Wilson, Jr. *[Signature]*

P:Mr. Habib *[Signature]*

D:Mr. Robinson *[Signature]*

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Department of State, A/GIS/IPS/SRP

ARGENTINA

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A. Human Rights Information

1. Political Situation

Argentina is a federal republic headed by President Jorge Rafael Videla, who came to power on March 24, 1976, after a coup overthrew the administration of President Isabel de Peron.

The March 1976 coup was precipitated by serious political and economic instability which fed upon each other. In March, the Consumer Price Index was increasing at a 566% annual rate (on an accelerating curve). There was deepening recession, and an external payments crisis threatened default on foreign debts. Violence was rampant. In the three years of the Peronist administration (1973-76), over 2,000 Argentines died as a result of left and right-wing terrorism. Since March, political violence has claimed at least 1,000 lives.

The current cycle of violence in Argentina began in the late sixties with the formation of the People's Revolutionary Army (ERP) and the Montoneros, both terrorist organizations dedicated to violent revolution and working closely with guerrilla groups in Uruguay, Chile and Bolivia. When guerrilla organizations were defeated or ousted in these three countries, many of their members fled to Argentina, beginning in the early 1970's with the defeat of the Tupamaros in Uruguay. Significant rightist counter-terror commenced under the Peron regime and with the sponsorship of his confidant Lopez Rega.

2. Legal Situation

The Argentine Constitution of 1853 is in effect. In practice, however, the decrees and laws promulgated by the military government take precedence in case of conflict. This principle has been consistently upheld by the Argentine Supreme Court.

The Argentine Constitution is closely patterned after the United States Constitution and provides most of the same legal guarantees. The major exception is a "State of Siege" provision contained in Articles 23, 67 and 86 of the Constitution. These articles provide for the suspension of habeas corpus temporarily, the detention of suspects indefinitely and the moving of accused persons from place to place within the country

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without their consent.

The State of Siege was invoked by the Peronist Government and has been in effect since November 6, 1974.

B. Observance of Internationally-Recognized Human Rights

1. Integrity of the Person

Article 3 of the Universal Declaration of Human Rights: The rights of life, liberty and security of person are violated regularly by terrorists at both ends of the political spectrum. Both the current and predecessor administrations have reportedly acquiesced in violations attributable to persons associated with the government; the legal security forces have reportedly killed detainees suspected of terrorism. Right-wing terrorism or counter-terrorism has been carried out by vigilante squads operating with apparent impunity. Active duty and retired military and police personnel are reportedly members of such squads. Their victims have included a wide variety of individuals, suspected terrorists, other leftists, priests and foreign political exiles. There are no reliable statistics on the number of victims of these groups, but a reasonable estimate would be in the hundreds. The most notorious episode took place on August 30, when 30 leftist prisoners were allegedly "executed" in Pilar, in part as retaliation for the murder of a retired general, and in part apparently as a warning to leftist extremists. (The Amnesty International Report 1975-76 attributes 2,000 political assassinations since 1973 to the AAA, Argentine Anti-Communist Alliance, a vigilante organization initially associated with the Peron Government.) It should be noted that reported visible instances of rightist violence have declined in recent weeks, but it is too early to draw any conclusions at this time.

Leftist terrorism, though weakened, continues and has been responsible for hundreds of political assassinations and kidnappings. Many policemen, military personnel and businessmen have been murdered at random. Argentine executives of American business firms have been frequent victims in 1976. American and foreign executives in considerable numbers have left Argentina to escape kidnapping and/or murder. In 1975, the American Consular Agent in Cordoba, John Patrick Egan, was murdered by the Montoneros, while a USIA officer, Alfred Laun, was kidnapped and narrowly

Article 5: While torture, cruel, inhuman and degrading treatment or punishment have not been a general practice in Argentina, such methods are reportedly used by the security forces to extract information from some prisoners, particularly suspected or proven terrorists. After initial questioning, prisoners of this type apparently receive more or less normal treatment. Olga Talamante, an American released shortly before the March coup, has stated that she was tortured; the same charge was made by American Gwenda Mae Loken Lopez, who was held from April to September 1976. (Father James Weeks, who was imprisoned in Argentina, from August 3-17, testified about the mistreatment of prisoners in Argentina on September 28, before the Subcommittee on International Organizations of the Committee on International Relations of the House of Representatives. Father Weeks said "most... atrocities are carried out by right-wing extremist groups made up of police and para-military personnel." Amnesty International's 1976, Testimonies on Persons. Torture and Detention in Argentina, describes several cases of reported torture.)

Article 8: Legal redress for governmental abuse of basic rights is normally available in Argentina but may well be denied in cases involving charges of subversion.

Article 9: The security forces have detained numerous persons for investigation and questioning under the provisions of the State of Siege or other laws, e.g., arms controls laws. Some are held indefinitely, others are freed after a short time, and still others are passed on to the regular courts or to military courts as prescribed by law. An accurate estimate of persons detained under the State of Siege is impossible to calculate. At the time of the March coup, the Amnesty International Report 1975-76 estimated that over 4,000 people were under detention without trial for unlimited periods. The figure is currently lower in all probability. In October 1976, during a visit to the United States, the Argentine Foreign Minister told the press there were 1,000 prisoners as of that date. He reportedly said that 300 persons had been released a few days earlier. We have no independent information to corroborate any of the above statistics.

Article 10: The right to a fair hearing. In Argentina, preliminary investigations are conducted by judges. The right of a fair hearing is not honored in cases arising under the State of Siege.

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and with most members of the Cabinet, including the Minister of the Economy and the Minister of Interior. In addition, Embassy officers and visiting American officials discuss human rights regularly in conversations with their Argentine counterparts. Officials at the Department of Defense, including the Director of the Inter-American Region, have discussed the subject with resident and visiting Argentine military officers. Our military attaches in Buenos Aires also consistently raise the problem of human rights with their Argentine counterparts in an effort to make them aware of U.S. views. In these discussions, the following topics have been raised repeatedly by American officers.

- Access to and the treatment of American prisoners held on political charges.
- Deep concern over reports of officially-tolerated mass murders, and the indiscriminate killings of political refugees and priests.
- The urgent need to control vigilante groups and punish terrorism of both the left and the right.
- The safety of political refugees.
- Anti-Semitism.
- The need to bring to trial or release alleged subversives.
- The need to publish the names of prisoners.

The Government of Argentina has stated that the current situation is temporary and that normal conditions will be restored within a short time.

At the behest of Congress and American citizens, we have also inquired about Argentine and other non-American nationals held in detention. While most of our diplomacy has been private, the Ambassador did raise the subject of human rights in an interview published in July by Argentina's leading business publication, "Mercado". The Ambassador noted that human rights violations had disturbed U.S. relations with other countries and expressed the hope that this would not happen with Argentina, noting President Videla's promise to respect human rights.

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The United States Information Service reprinted in pamphlet form and distributed to key Argentines and to the media Secretary Kissinger's speech in Santiago last June. USIS also provided all media with copies of then Assistant Secretary Rogers' speech on "Human Rights and U.S. Policies in Latin America". "La Opinion", one of the most important Argentine newspapers, published the complete text of the Rogers' article. Our Embassy also sent the text of both the Secretary's speech and the Rogers' article to the Foreign Ministry and to the Office of the Presidency. In addition, USIS officers have given numerous briefings to Argentine journalists in an effort to explain the U.S. position on human rights.

2. Disassociation of U.S. Security Assistance from Violations of Human Rights

In September, our Embassy in Buenos Aires outlined the human rights provisions of the International Security Assistance and Arms Export Control Act of 1976 to high-level Argentine officials, giving a copy of the law to the President and Foreign Ministry on September 12. The Commander of the U.S. Military Group at the same time raised the subject with the Minister of Defense and provided him with a copy of the same legislation.

Argentine leaders have stated that as a matter of policy they do not condone and are seeking to curb violations of human rights, but that in the present atmosphere of terrorism, they cannot yet control the situation.

D. U.S. Security Assistance Program

1. Justification for Continuation of Program

United States security assistance to Argentina for Fiscal Year 1977 consists of \$48.4 million in foreign military sales credits and less than \$700,000 in grant military training. These sums were justified to Congress and approved soon after the Videla Government came to power.

The United States does not extend aid to the Argentine police, except to control and interdict the flow of narcotics.

U.S. military credits are used almost exclusively for major investment items, such as ships and aircraft. They have little or no bearing on the counterterrorist capability of the armed forces.

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Security assistance demonstrates our desire to cooperate militarily with a country which has 1,000 miles of coast-line on the South Atlantic reaching to Cape Horn. Our assistance orients the Argentine military professionally toward the United States, exposing them to our technology and methods. In return, it offers the United States easier access to the Argentine military who have always influenced events in their country and are now the dominant sector. It also gives the Argentine military a certain vested interest in good relations with the United States. This helps promote and protect our various interests and helps ensure that we will get a hearing on matters of concern to the U.S.

Argentina, it should be noted, is already a middle power in terms of development. It has a high rate of industrialization and is one of the world's leading exporters of foodstuffs. In addition, it has substantial uranium deposits, well-trained physicists and ambitious plans for nuclear power development. U.S. direct investment in Argentina totals \$1.4 billion; U.S. exports were \$628 million in 1975; our imports were \$215 million; and we have a credit exposure of about \$2.7 billion, of which almost \$600 million is owed to the ExIm Bank and the balance to commercial banks.

2. National Interest Determination

In order to preserve a professional relationship with the Argentine Armed Forces and demonstrate our interest in constructive overall relations with Argentina, thereby promoting the U.S. policy objectives outlined above, the Department of State is of the opinion at this time that it is in the national interest of the United States to provide continued security assistance to Argentina. The Department is monitoring the situation closely.

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PERU

A. Human Rights Information

1. Political Situation

Peru has been ruled by military governments since October 3, 1968. For eight years, successive "Revolutionary Governments of the Armed Forces" have consciously sought to promote fundamental social and economic changes without violence -- and to some extent for the purposes of pre-empting it. Between 1969 and 1974, extensive agrarian, educational, business and press reforms were begun for the avowed purpose of creating a "social democracy with full popular participation". Although political parties were not proscribed, Parliament was closed, and individual critics were occasionally deported.

On August 29, 1975, General Juan Velasco, who had led the 1968 revolution but was increasingly charged with "erratic" behavior, was replaced in a bloodless coup by the then Prime Minister, General Francisco Morales Bermudez. The new President subsequently announced that the revolutionary process had entered a "second phase", and that "excesses" would be "rectified".

Although the general character of the regime has remained authoritarian, Morales Bermudez' style of governing has been more moderate than that of his predecessor. One of his first measures on assuming the presidency was to promise an amnesty for the politicians and journalists who had been jailed or exiled under Velasco. By early 1976 he had largely fulfilled that promise and had begun to develop policies designed to strengthen individual initiative and consolidate the reform programs.

An increasingly difficult economic situation created by the world recession and by the dislocations and uncertainties caused by previous internal reform policies led the Government of Peru to enact needed but unpopular economic austerity measures in June-July 1976. Following disturbances, the government decreed a national state of emergency and imposed a curfew in the capital. Some opposition activists have again been arrested or deported and several weekly magazines have been closed. However, the appointment of civilian ministers for the first time in eight years, and intensified government discussion of popular participation in the political process at lower administrative levels have led traditional political parties to hope for a renewed "opening toward democracy".

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2. Legal Situation

The basic Peruvian law is the Constitution of 1933, as amended, which guarantees universally recognized human rights. However, the military government considers the Revolutionary Statute of 1968 to supercede the Constitution wherever the two conflict. The Congress has been disbanded and elections suspended. Laws are enacted by decree, although some are submitted to an involved process of consultation and quasi-referendum before being promulgated.

The Constitution permits the suspension of its legal protections when the security of the state requires. The current state of emergency was enacted in July 1976 in accordance with the constitution. Since then, the number of arrests and detentions has increased and there have been unsubstantiated reports of missing persons. Those detained, however, are generally released following interrogation.

Although Peruvian courts are nominally independent of the executive, the government has occasionally overruled them on policy matters. Civilian courts have no jurisdiction in security cases.

B. Observance of Internationally Recognized Human Rights

1. Integrity of the Person:

Article 3 of the Universal Declaration of Human Rights: The rights of life, liberty and security of person are generally respected. The government does not execute political prisoners, nor does it condone flagrant denials of personal security.

Article 5: The Peruvian Government insists it does not condone torture and other inhuman and degrading treatment of detainees. However, law enforcement techniques and prison conditions in Peru conform to the Latin American pattern and have given rise to occasional reports of police brutality.

The 1974 "Report on Torture" of Amnesty International (AI) stated that "police brutality during interrogation of common and political prisoners has allegedly been common practice in Peru for many years". It noted,

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however, that "very few allegations had been received" and "there was no reason to believe that torture is carried out beyond the interrogation stage". In September 1974, following a series of denunciations of torture in the domestic Peruvian press, (then) President Velasco publicly condemned police torture and announced an investigation into its practice. No charges of torture have been made since President Morales Bermudez assumed power, in August 1975.

Article 8: Peruvian citizens can seek legal redress for government acts violating fundamental rights granted by the Constitution. However, because the court system is highly bureaucratized and often inefficient, and because some of those rights have been suspended by decree, they cannot be sure of obtaining a remedy in court.

Article 9: Persons suspected of hostile political or security activities are occasionally subjected to arbitrary arrest and detention without charges. During the Velasco regime, particularly its last years, an estimated 100-150 persons were expelled from Peru or chose voluntary exile. These included students, union activists and peasant leaders. President Morales Bermudez granted amnesty to many thus affected. Under the state of emergency, however, his government has resorted to similar measures to prevent a deterioration of the internal security situation in the face of economic difficulties and to forestall labor agitation. The GOP insists such measures are directed exclusively against those who advocate violent overthrow of the government. The AI "Annual Report" for 1975-76 cites 14 political prisoners as either under AI adoption or being investigated by AI toward adoption; no further details are given.

Article 10: Some persons arrested for suspected political and security violations have not had an open court hearing to determine rights and charges. Detention incommunicado is also resorted to. The "AI Annual Report" for 1975-76 refers to such detention suffered by a number of trade unionists and legal advisers to unions; they have since been released in an amnesty declared by President Morales Bermudez in April 1975.

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Article 11: The right to a fair trial is generally observed in Peru, within the traditional constraints of Latin American jurisprudence. In a small number of cases, political or security factors are given priority, and trial is by special courts martial.

2. Other Freedoms

The Peruvian Government does not condone racial discrimination of any kind, and that which is evident results from traditional attitudes of the society. The revolutionary government has taken active steps to improve access to legal resources and provide improved economic and educational opportunities to its large Indian population, which has been exploited since the Spanish conquest.

Peruvians are free to travel within the country, within the context of the restraints of the present state of emergency. No significant political limitations are placed on travel abroad.

In the process of attempting to achieve broader state and popular participation in Peru's economic processes, the military government has expropriated property. Compensation has been paid to US investors in these cases under the aegis of agreements negotiated with the good offices of the US Government. Personal property, as differentiated from income-producing property, is respected.

Freedom of expression is limited in Peru. National circulation newspapers were expropriated in 1974 and were to be assigned within a specified time period to various organized sectors of society (peasants, labor organizations, intellectuals, etc.) under a variety of government controls. However, government relinquishment of direct editorial control of newspapers has been postponed twice since 1974, and a new high-level commission has been appointed to study the situation of the press and make recommendations. Radio, television and wire service reportings are monitored by a national information office. The Morales Bermudez government permitted privately-owned weekly journals closed by Velasco to reopen. Following the July 1, 1976 disturbances, however, political periodicals of both right and left were closed.

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Although political parties continue to exist legally in Peru, they are permitted no direct role in shaping government policies. Under the present state of emergency, they do not enjoy the rights of public assembly. In normal times the parties hold outdoor assemblies only with express government permission.

C. U.S. Government Action in Human Rights Area

1. Promotion of Observance of Human Rights

We have not formally raised with the GOP any specific cases of imputed violation of human rights involving Peruvians. Both in Washington and Lima, however, we have emphasized to the GOP our basic commitment to human rights and called attention to recent human rights legislation affecting assistance to Peru.

Recent U.S. cultural exchange programs in Peru have made clear our concern for the full and proper observance of human rights. Under USG auspices, George Reedy, Dean of Marquette University's Journalism School, spoke clearly to the Peruvian press of the U.S. commitment to human rights, and feminist leader Joan Goodin of the U.S. Railworkers Union elucidated worldwide developments in women's rights. Labor leader exchanges have also demonstrated U.S. support for human rights and the development of free and independent institutions.

USG concern over human rights has been demonstrated as well in U.S. citizen protection cases. In July 1976, the Ambassador called upon the Foreign Minister to request that U.S. citizens caught up in the drug traffic receive speedier trials. In August our Charge d'Affaires also called upon the acting head of the National Council of Justice (overseer of the court system) to drive home the need for speedy trials. The Embassy is in regular contact with the GOP Attorney General on principles of human rights protection in regard to specific cases involving U.S. citizens.

Peru has cooperated in the international protection of human rights through the UN and the OAS. The Peruvian Immigration Office has cooperated closely with the U.S. Embassy and the UN Human Rights Commission to facilitate the immigration to the U.S. of Chilean refugees.

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2. Disassociation of US Security Assistance from Violations of Human Rights

No US aid is extended to the Peruvian police, except in the field of drug control and interdiction. Assistance to the Peruvian military has been modest and has not contributed directly to any capability to engage in repression.

B. US Security Assistance Program

1. Justification for Continuation of Program

The US security assistance program for Peru consists of:

- grants limited to foreign military training (at a cost of about \$900,000 a year);
- a maximum of \$20 million in FMS credit sales in FY 76 and 77; and
- clearance for commercial military procurement from the US (up to \$18 million maximum).

These programs are carefully monitored to avoid any USG contribution to regional tensions or to any direct or indirect violations of human rights.

The US interests served by security assistance lie primarily in the maintenance of constructive relations with Peru. The training component fosters greater understanding of the US and its policies among an important leadership group. Continuation of a modest military sales relationship assures military leaders that they can look to sources other than the communist countries; contributes to a reduction of the feeling of isolation Peru has had as a revolutionary regime in Latin America; and to that extent may help solidify the Peruvian drive to increase its military superiority over its neighbors.

Elimination of the US security assistance program in Peru would deprive the United States of an important instrument of communication and cooperation with a country that increasingly seeks both with us. It cannot be argued that US security assistance can insure the observance of human rights. But to the extent that the observance of these rights is enhanced by an atmosphere of confidence and cooperation, the elimination of US security assistance might contribute in the end to the exact opposite of our present concern -- the degradation of the respect for human rights in Peru, or, to their complete observance.

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2. National Interest Determination

On the basis of the purposes served by the security assistance program as described above, it is the Department of State's view that it is in the U.S. national interest that the security assistance program in Peru be continued along present lines.

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Mr. Tolson
 Mr. DeLoach
 Mr. Mohr
 Mr. Bishop
 Mr. Casper
 Mr. Callahan
 Mr. Conrad
 Mr. Felt
 Mr. Gale
 Mr. Rosen
 Mr. Sullivan
 Mr. Tavel
 Mr. Trotter
 Mr. Tele. Room
 Miss Holmes
 Miss Gandy

Congress of the United States
 Committee on International Relations
 House of Representatives
 Washington, D.C. 20515

September 15, 1976

OFFICE OF THE CHIEF OF STAFF

Honorable Henry A. Kissinger
 Secretary of State
 Department of State
 Washington, D.C. 20520

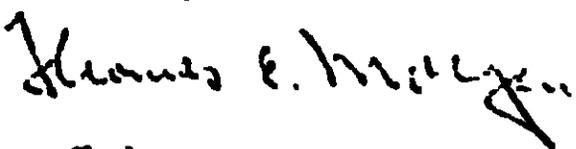
Dear Mr. Secretary:

Pursuant to the provisions of Section 502(2)(c)(i) of the Foreign Assistance Act of 1961, as amended, I respectfully request that reports be transmitted concerning the human rights situation in Argentina, Haiti and Peru.

Thank you for your cooperation in this matter.

With best wishes, I am

Sincerely yours,



Chairman

JEM:jbd

Department of State, AIGIS/IPS/SRP
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