

THE INTER-AMERICAN HUMAN RIGHTS PROTECTION SYSTEM

Overview and Present Challenges

The Inter-American Human Rights Protection System (IHRPS) established a framework for the promotion and protection of human rights in the region, and provides a resource for the people of Latin America who have suffered violations of their human rights at the hands of the state.

To comprehend its full dimension, one needs to understand that its origin is inscribed within the regional political context of the states of the Organization of American States (OAS) in 1948, after the atrocities and tremendous disruptions in civil society from the Second World War.

Therefore, presently, the Inter-American System, along with its protocols relating to economic, social and cultural rights (San Salvador Protocol) and the abolition of the death sentence, is recognized by the American Convention on Human Rights as a general treaty. The IHRPS also includes four Inter-American sectoral conventions regarding: 1) the prevention and sanction of torture, 2) the prevention of forced disappearances, 3) the sanction and eradication of violence against women, and 4) the elimination of discrimination against people with disabilities.

At the same time, the system has two pillars, the first being the Inter-American Commission of Human Rights (ICHR) located in Washington DC, which, as an agency of the OAS, has the objective of monitoring and defending human rights while serving as a consultative agency to the OAS in this matter. The second pillar is the Inter-American Human Rights Court (IHC), an autonomous judicial body of the OAS located in San Jose, Costa Rica, the purpose which is to apply and interpret the *American Convention on Human Rights* and other human rights treaties.

The progress that democratically elected governments have had in the region is evidenced by the reaction of countries in Latin America against democratic ruptures in Honduras and Paraguay. Several decades ago, these responses would have been unthinkable, and this reflects the notion that Latin America may be enjoying the longest period of democracy in its history.

These accomplishments are the product of the development of regional and sub-regional institutions that have made democracy an “indispensable condition for the stability, peace, and development of the region,” as established by the preamble to the *Inter-American Democratic Letter* of the OAS. The UNASUR and the MERCOSUR also approved democratic clauses that created consultative mechanisms and sanctions when democratically elected governments were ousted.

In general terms, the institutions mentioned have permitted mechanisms of consultation and immediate response to isolate those countries that abandoned the democratic path, thus impeding its proliferation and avoiding, therefore, the consolidation of dictatorships.

The Commission and the Court have been, for more than five decades, the principal inter-American pillars for the defense of human rights and the state of right. There are many examples of the important changes produced in the countries of the region facilitated by these institutions: visits and denunciations under dictatorships, elimination of contempt laws, approval of laws regarding access of information, opening court procedures against military leaders for the violation of human rights, reforms made to military justice, handing over land to indigenous people, sanction of laws, and the implementation of public policy against domestic violence, etc.

Nevertheless, unfortunately today, some Latin American countries are taking distance from the Commission. In some way, this is another move of a long record of denouncing the Commission and the Court as tools of United States imperialism. Even governments that generally support the Inter-American Human Rights system have grievances against the Commission and have supported “reforms” which could weaken it. In this sense, the recent decision by President Chávez to remove Venezuela from the Court and his policy to reject the decisions and supervision of independent international organizations are not good signs for the collective defense of human rights on the continent.

Bolivia and Ecuador also support withdrawal from the Commission and the creation of a new one without the presence of the United States. Brazil is also taking distance due to the injunctive reliefs initiated by the Commission as they relate to the creation of the Belo Monte dam in the Amazon. The Ecuadorian president Correa participated in the last OAS Assembly in order to put an end to the Commission’s autonomy and injunctive reliefs - both historical, fundamental instruments for stopping human rights violations.

This is a very disquieting situation. One of the most prominent human rights clauses established in our Latin American constitutions is access to international agencies in case of violations, and the Court of Human Rights has been the main receptor of our constant complaints against many current governments. From an international point of view, the main concern is the potential disintegration of a good part of the OAS and the Commission on Human Rights. As a consequence, there is the potential danger of weakening the mechanisms of international supervision, which up to the present have prevented new violations on the continental level. For this reason, the last OAS Assembly decided to call in six months an extraordinary meeting to determine the future of the Commission on Human Rights.

For all the above reasons, IMADR's Latin American Base will make a local expert consultation on the matter after the next OAS General Assembly.

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