



## *United States Delegation*

# General Assembly of the Organization of American States

STRENGTHENING SUPPORT FOR HUMAN RIGHTS

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TO THE FIRST COMMITTEE  
OAS GENERAL ASSEMBLY  
NASSAU, THE BAHAMAS  
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I welcome this opportunity to comment on the Annual Report of the Inter-American Commission on Human Rights.

Indeed, we welcome the Annual Report itself. Of course, it is never "good news" to hear of human rights abuses. What we welcome is the willingness of the Commissioners, year after year, to address these serious and sensitive matters. It is not a perfect report. We do not agree with every judgment expressed in it. The report is flawed in some respects. It suffers from omissions. And, I am sure the seven Commission members will be among the first to acknowledge that it could be improved.

But we also affirm strongly our view that this report is markedly better than last year's report. We hope constructive criticism will help to ensure its continued improvement. And we assert flatly that both the existence and independence of the IACHR are critical to our ability to foster representative democracy.

### U.S. Support for Human Rights and the Commission

The United States has supported the Inter-American Commission on Human Rights from its inception 32 years ago.

Concern for human rights is at the center of our national historical experience. There are no prouder moments in our national life than those when we have lived up to the principles we have enshrined in our Bill of Rights and our Constitution. There are no sadder moments than those when we have failed to meet the mark.

Human rights are a central concern of United States foreign policy. This reflects a sovereign decision to conduct our foreign relations in accordance with our national experience and aspirations. It also reflects the realization after the holocausts in Central Europe and more recently in Cambodia that no country anywhere can be indifferent to violations of basic human rights wherever they occur.

With these considerations we joined the Universal Declaration of Human Rights, the U.N. Declaration on Civil and Political Rights, the American Declaration of the Rights and Duties of Man. For these reasons, we signed the American Convention on Human Rights.

We have not ratified the Convention. We have never argued, however, that nonratification exempts us from the Commission's criticism. When we affirm support for the Commission, we express our readiness to have its judgments applied to ourselves.

The United State has been the subject of on-site investigations by the Commission. We have even been criticized by the Commission for practices we believe are consistent with our legal norms.

-- The annual report for 1981 includes a 23-page report on an abortion case in which the United States was the respondent. The commission found in favor of the United States.

-- The annual report for 1981-82 described the results of on-site observations of the situation of Haitian refugees at U.S. facilities in Miami, Florida and Fort Allen Center in Puerto Rico, responding to allegations of the alleged illegal detention of and the status of some 2,000 Haitian migrants.

-- In the 1986-87 annual report, a capital punishment case in which the United States was the respondent was the subject of a 36-page report. In fact, the argumentation was so extensive the case report had its own table of contents. The commission found against the United States.

-- Capital punishment was again the subject of a case in which the United States was the respondent, as reported in the 1989-90 annual report of the Commission. That time the Commission ruled against the petitioner.

I cite these instances for two reasons:

One is to underscore our support for the Commission. That support would mean little if we held ourselves above judgment.

The other point is that not having ratified the American Convention has not exempted us from the workings of the Commission -- neither by our own choice or by the Commission's decision. Under the American Declaration of the Rights and Duties of Man, the Charter, and other pertinent standards we have been held accountable on issues from capital punishment and abortion to treatment of migrants and indigenous peoples.

#### Priorities for the Commission

Mr. Chairman, under Article 111 of our Charter, the Commission serves the OAS as a "consultative organ". We take this to mean that in matters of human rights, the Commission is to make itself available and responsive to our requests for information and analysis, that it is to give us its best judgments on matters of fact and principle.

The Foreign Minister of Colombia suggested yesterday the idea of establishing a high commissioner for human rights for the region -- a thought-provoking concept made as the Minister affirmed her country's support for the Commission and the Court. My government wishes to reaffirm its confidence in the Commission both personally and institutionally. At the same time, we welcome this Colombian initiative as one of several approaches we should consider to ensure that human rights issues get the serious attention they deserve.

Let me first address what we consider the top priorities of the Commission in the days and weeks immediately ahead.

We are asking much of the Commission: Last year's General Assembly made eleven recommendations (including two introduced by the United States) which the Commission has barely begun to fulfill. In the past 8 months, two Meetings of Foreign Ministers have called on the Commission to address the human rights situations in Haiti and Peru; in the draft resolution before this General Assembly, a draft the United States supports as a minimal consensus document, there are some seven recommendations addressed to the Commission.

None of these requests is out of order. But some clearly have a higher priority than others. Let me turn to Haiti.

## Haiti

The commission has reported on the human rights situation in Haiti. It must stay engaged.

Two images stand out in the chapter on Haiti from the annual report. In each, the elected parliament of Haiti is under siege.

One incident occurs last August, before the coup. The parliament is meeting to question prime minister Preval regarding his policies. The commission report observes: "This questioning took place in a tense atmosphere inasmuch as hundreds of demonstrators had surrounded the legislative palace and were making threats against the members of parliament."

The other incident occurs after the coup. This time it is the military that surrounds and intimidates the parliament. From the report: "On October 7, The Haitian parliament elected magistrate Joseph Nerette ... provisional president. This election was carried out after a detachment of soldiers surrounded the legislative palace and shot at the building."

These two incidents provide a metaphor of the situation in Haiti where the rule of law and institutional democracy is under assault with grave consequences not only for the conduct of government but also for the observance of human rights.

The reporting of the human rights commission reminds us of the important links between the rule of law, democracy, and human rights; and, in doing so it upholds important responsibilities. As member states, we are working towards the restoration of democratic institutionalism; in doing so, we believe that any success in this will help to secure human rights across a wide spectrum.

Let me be frank and, I hope, constructive. The utility of this generally fine report was diminished by the time lapse between its tasking and its execution. In addition, preliminary reporting by the Commission gave currency to uncorroborated accounts and estimates -- an oversight which diminished its credibility and authority.

In situations like Haiti's, the Commission must engage quickly and report findings with a minimum of delay. At the same time, it must use the utmost care to sift the facts, not to spare the violators of rights -- exposure and censure is the point -- but rather to guard the credibility of the Commission.

Timely but careful reporting -- these demands seem to pull in opposite directions. Yet I think all will agree that reporting and critique is not an academic exercise. It must create pressure. It must influence behavior. It must expose wrongdoing and leave malefactors no openings to deflect the criticism their behavior has earned.

### Peru

The Commission must engage with equal seriousness and concern regarding the situation in Peru. Before the disruption of institutional democratic process on April 5, there had been, in our view, notable progress on human rights. Indeed, the Commission noted in its press release of October 31, following its on site investigation, apparent policy commitments by the Government of Peru to deal with access to detainees in emergency zones, prison conditions, the "disturbing problem of impunity," and holding the National Police accountable for "the rights of the citizenry."

Since April 5, the human rights situation has taken on new complexity and added importance. The suspension of the constitution violated the political rights of the Peruvian people. Specific rights violations occurred: the house arrest of the presidents of both chambers of the congress, the raiding of private homes, the closing of news media and sending of military personnel to newspaper, radio, and television facilities. Without judging the report read by the President of the Commission to the ad hoc Meeting of Ministers, it is clear that additional problems exist as well.

With the interruption of the democratic institutional process in Peru it is more important now than ever before that the human rights Commission follow closely the human rights situation there. To take just one example, it is not clear what domestic recourse victims of human rights abuses, or those claiming to be victims, have under the de facto order. At the same time, my government has an observation about how to ensure the credibility of human rights work in Peru. And that brings me to my third priority:

### Terrorism and Irregular Forces

Two years ago in the Working Group on Strengthening the OAS, when that Committee focussed on human rights, my delegation proposed an annual thematic report on a subject chosen each year by the General Assembly. The proposal was adopted by the 21st General Assembly. The draft resolution before this General Assembly calls for a thematic report on the human rights violations committed by "irregular forces." We believe such a report is a priority.

First, violations by irregular forces are serious and we cannot ignore them. Current procedures however do ignore them. For example, the individual case process is designed to deal with complaints brought against governments, not against nongovernmental entities or private parties.

Second, human rights reporting should be comprehensive. To report on abuses attributed to the governments and their police or military agents, but to ignore those perpetrated by terrorist or guerrilla groups gives a lopsided, even erroneous picture. Nongovernmental human rights advocates divide on the issue of reporting actions by irregular forces, but prominent groups like Americas Watch do report them. Amnesty International has decided, in the case of Peru, to do so as well.

We are familiar with the respectable line of argumentation against reporting on abuses by terrorists. In no case, should such reporting be taken as conferring quasi-governmental status on irregular forces. Nor should it be taken to imply that abuses by governmental institutions are somehow justified by the problems created by irregular forces. Nonetheless, we believe a report on violations by irregular forces should be undertaken by the Commission under its authority to report on situations which bear upon the observance of human rights. Whether or not one is ready to call the atrocities carried out by irregular forces like Sendero Luminoso "human rights violations" in the most juridically restricted sense of the term, it should be clear to all that such actions bear upon the observance of human rights in our region.

In our view, then, Mr. Chairman, there are three immediate priorities for the Commission: timely and judicious reporting on the human rights situations in Haiti and in Peru, and a thoroughgoing, hemisphere-wide report that addresses human rights abuses by "irregular forces."

There is, of course Mr. Chairman, another side to this.

First, if we, the member states, demand so much of the Commission, we must be willing to afford it more resources -- not just to do more, but to do it better. The elected commissioners should, in particular, be able to meet longer and be staffed in a timely and professional manner. For example, we in the government and in the nongovernmental community would appreciate more regular publications on the work of the Commission and its implications for human rights law.



Second, we member countries must make it clear when we expect an urgent response by the Commission. General studies and analyses should not displace current and pointed reporting of ongoing situations.

Third, case work is a mandatory function of the Commission. More than that, respect for human rights is an abstraction unless the rights of individual victims come first in our priorities. Our requests of the Commission must keep this in mind.

Finally, it is important to note that our right to request things of the Commission does not diminish in any way its independence. On the contrary, we look to the Commission to render its best judgment, considering facts and applicable standards.

#### Democracy and Human Rights

Let me turn now Mr. Chairman to what we could call the future of the Human Rights Commission in a democratic hemisphere.

Notwithstanding the setbacks in Haiti and Peru, we are agreed that democracy has become the norm in the Americas. Representative democracy is not only the most prevalent system in the region, it has become the standard in our relations and a basis for our fuller cooperation.

Three implications stand out for human rights.

The prevalence of democracy does not mean the end of human rights problems -- not in a single one of our countries. For this reason, we believe that the country reports which have been a feature of the annual report of the Commission continue to be needed.

Consider what the Commission tells us of Cuba. It speaks of "mounting restrictions" on dissidents and of a government that has "hardened its attitude" to dissent. The eight-page report documents cases of arrest, imprisonment, and intimidation against those found guilty of "unlawful association" or operating "clandestine printing presses." Vandalism, mob action, and beatings are among the means used to silence dissidents. The strength of the report on Cuba is its precise documentation and the fact that the Commission speaks in its own voice rather than merely referring to unidentified allegations that are left uncharacterized.

There is no iron law governing which countries are selected for review. My government would hope to see the elimination of the need for country reports as respect for human rights consolidates in the hemisphere. For now, we believe country reports are needed and that it must be for the Commission and the Commission alone to decide, in its independent judgment, which countries shall be included.

There is another implication that democracy has for human rights. Representative democracy puts the rights of the individual human being at the center of its philosophy and practice.

This premise of our common democratic doctrine was expressed succinctly by the Foreign Minister of Brazil in his remarks to the Plenary yesterday: "The modern notion of democracy .. is clear in stating that the State exists to serve the individual and not the other way around."

The focus on individual human rights is enshrined and codified in the procedures of the Commission for addressing the specific complaints of individuals and groups of individuals. The consideration of individual cases is a statutory responsibility of the Commission. In that limited and legalistic sense, it is inescapable. More broadly, however, if we take our commitment to democracy and human rights concretely we must regard the adjudication of cases to be a core function of the Commission.

For this reason, Mr. Chairman, my delegation resisted strongly the idea that the findings in individual cases be separated from the annual report or relegated to an annex. The case work of the Commission distinguishes it among human rights organizations. It has concrete impact on the lives of individuals. It is at the heart of what the Commission does. It reflects the paramount importance of the rights of the individual in our democratic philosophy. For these reasons, the finding of the Commission on individual cases must always be a part of its core publication, the annual report.

Let me conclude my remarks with a third and final point. Democracy is the best guarantor of respect for human rights. This implies that there is a dimension of human rights protection that exceeds the scope of the Commission and that what the member countries do to advance democracy and the rule of law is human rights work of a special and very important kind.



In the United States, the Constitution and Bill of Rights are symbiotic. The Constitution proper sets forth the powers and checks on power of our branches of government. The Bill of Rights identifies those individual political rights which government may not violate. It is the institutional framework laid out in the Constitution that provides the machinery, not only of government but for appropriately limiting government and redressing wrongs.

All of this has bearing on our efforts in Haiti and Peru. There is nothing the member states of the OAS can do that will contribute more to the respect for human rights in Haiti and Peru than to work for the restoration of democratic institutions and processes in those countries. This will not automatically bring an end to human rights abuses; they occur in democratic countries throughout the Americas. Nor will measures to help restore democracy in Haiti and Peru obviate more focussed efforts to redress specific human rights abuses. Nevertheless, the human rights work of the member countries of the OAS includes not only our fullest cooperation with the Commission in its indispensable work of protecting and promoting human rights; it embraces the broad agenda of working for the consolidation of democracy and the rule of law in the Americas.