



## **The Challenges of the Inter-American Commission on Human Rights**

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The Inter-American Commission on Human Rights (IACHR) has repeatedly struggled to be heard and has been criticized for various reasons. The Venezuelan government, among other regional powers, has argued on several occasions that the Commission was politicized.<sup>1</sup> Many others, such as Ecuador and Bolivia, have accused it of prioritizing some rights over others. For this reason, the Commission decided to undertake what it called “Strengthening Process of the Commission,” which began in 2011. They then implemented a series of conferences and other events to assess their standards, policies, and practices by incorporating recommendations of civil society. Nevertheless, the strong trajectory of the Commission’s work to protect human rights has always proven this institution to be an important force for the safeguarding of the most fundamental rights of the citizens of the Americas.

The IACHR has explained why they struggle with their work on many occasions. One issue that the IACHR has frequently emphasized is the universal acceptance of the instruments within the Inter-American system, such as the American Declaration of Human Rights. The IACHR has also stated the need for the Organization of American States (OAS) member states to ratify and fully implement these measures. This is an effort that must be undertaken by all member states in order to protect human rights. Furthermore, the implementation of the most exemplary standards of this organization is a slow process that cannot be upheld without the full and correct application of the principles of the Inter-American Commission by all the States of the Americas.

The Vienna Declaration states that “all human rights are universal, indivisible, interdependent and interrelated.”<sup>2</sup> This creates an obligation for states to protect individuals who have historically suffered and continue to suffer forms of exclusion, discrimination, or mistreatment. There is a clear nexus between the universal system of human rights and the inter-American system, thus making even stronger the statement that the American Convention and all other inter-American human rights treaties should be ratified by member states so that the people of the Americas have a more powerful system of protection of their rights. Arguably, a full observance of human rights is indispensable for achieving a solid democracy. Ratification of international and regional treaties is one of the indicators of the quality of a country’s democracy, thus, countries should make the effort to ratify these instruments rigorously and rapidly<sup>3</sup>.

Today, one of the biggest challenges that the inter-American system faces is a lack of cohesion in the recognition of the inter-American mechanisms of human rights;

therefore, this non-ratification of the inter-American instruments has repercussions of varying dimensions for the OAS member states.<sup>4</sup> This limits the effectiveness of discourse on human rights for states who have not ratified these instruments. Not only does this implicate negative effects for the country's role within the international community, but it also becomes an obstacle for the OAS to protect human rights through multilateral cooperation in its regional goals.

One of the clearest ways in which non-ratification affects the citizens of those member countries which have not ratified the American Convention is through a means of international petitions. However, the number of individual petitions submitted by citizens are relatively low compared to other countries where the Convention has been ratified<sup>5</sup>.

The Commission has pointed out on several occasions that the ratification "is only one step toward the full attainment of human rights protection in the hemisphere."<sup>6</sup> However, non-ratification by some member states is not the only issue that the inter-American system has faced recently. The Commission is now going through a financial crisis that has caused profound negative consequences in their work. In May, serious outcomes of this crisis became visible when the Commission made public that on July 31, the contracts of 40 percent of its personnel would expire since the Commission was unable to renew them due to insufficient funds. The Commission also announced that the visits from the special rapporteurs to OAS countries that were planned for this year were suspended, as well as its 159 and 160 hearing sessions, which had been scheduled for July and October.<sup>7</sup>

The United Nations Human Rights Council has recently said that it is disturbed by the severe financial crisis the IACHR is facing.<sup>8</sup> It has recognized the importance of regional systems, emphasizing the fact that many victims of human rights violations across the Americas will be seriously affected and unprotected if the system does not receive the necessary funding in the coming weeks. "It has provided a vital recourse for victims of human rights violations in the region and has played an important role in advocating for the rights of vulnerable groups," Ravina Shamdasani, the spokesperson for the Office of the United Nations High Commissioner for Human Rights (OHCHR), has stated. The inter-American system has become a strategic partner for the OHCHR to strengthen the protection of human rights in the Americas, thus reaffirming the need to encourage its existence. Some may argue that thousands of victims of human rights violations will be left unprotected if the Commission is unable to access the most areas where there are more human rights violations to investigate and criminalize such acts.

As Shamdasani has said, "The 21<sup>st</sup> century should be characterized by strong support from States, regional and universal organizations to international bodies for the protection of human rights, including the provision of sufficient human and material resources to effectively fulfill their mandate," adding that "no budgetary reason can justify the weakening of international and regional mechanisms that monitor human rights."<sup>9</sup> A strong and independent regional human rights mechanism is essential to protect the most fundamental rights of the peoples of the Americas and to uphold the United Nations' human rights protection system.

However, this crisis could be resolved if states pledged to provide the necessary funds for the IACHR to continue with its regular work. Yet, shortly after the IAHR press release made public that the Commission was going through a deep financial crisis and that it needed more funds from member states, such states have not yet confirmed their contributions. As Shamdasani pointed out, it is unacceptable that a body that works for the protection of human rights faces possible collapse because of lack of funding in the 21<sup>st</sup> century, especially when this lack of funding is due to the fact that many donations that were previously discussed fell through in the end.

There have always been financial and operational constraints, as the Court and the Commission receive a comparatively small proportion of the OAS' total annual budget. Traditionally they have relied on external sources of finance and contributions from member states. There is a significant amount of work, but the agencies have always had to keep the personnel numbers limited, as they are obliged to restrict the budget in many areas.<sup>10</sup>

Over the years, a number of countries have strongly disputed the IACHR and its rulings. Brazil, Nicaragua, Peru, Trinidad and Tobago, and Venezuela, among other countries, have suspended payment of organizational dues in some occasions, and they have even withdrawn their ambassadors from the organization, or threatened to leave altogether. The reaction of some member states when rulings have been brought against them, or when they have disagreed with the Commission or the Court, is proof that they have sometimes ignored the inter-American system altogether.

The ratification of the inter-American instruments is such an important moment for the protection of human rights within the hemisphere. The IACHR highlighted the efforts made by some states in the Universalization of the Inter-American System on Human Rights Report of 2014.<sup>11</sup> Countries like Paraguay, Argentina, Costa Rica, Mexico, and Ecuador, among others, have developed normative, political, and institutional frameworks to advance the protection of their citizens' fundamental rights. Argentina, for instance, has created institutions to ensure the advancement of women's rights, such as the Woman's Office in the Judicial Branch. Costa Rica also enacted the General Law on Migration and Aliens (2009) and the Policy Respectful of Sexual Diversity in the Judicial Branch (2011). The Supreme Court of Justice in Panama established through its case law that the Constitution of the Country (also known as the Political Constitution) must always be interpreted in accordance with the American Convention, because the latter expands the catalog of fundamental rights of the former.

However, there is still hope that many of these countries will cooperate to ensure that this system continues to work. The inter-American system, and in particular, the IACHR, has proven to have an impact on the member countries' policies, and is thus necessary for the protection of its citizens' fundamental rights. Ratification by all member states is still one of the biggest problems for homogeneous protection of rights in the continent, but the struggle that the Commission faces with funding is now an imminent problem that threatens its entire existence. This problem could be solved if all member states were to collaborate in order to ensure that the IACHR can continue working efficiently toward the protection of its people's most fundamental human rights.

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- <sup>2</sup> Vienna Declaration and Programme of Action, World Conference on Human Rights. OHCHR. June 14-25, 1993, A/CONF.157/23, July 12, 1993, para. 5. Accessed June 8, 2016.
- <sup>3</sup> "Universalization of the Inter-American System of Human Rights.", Inter-American Commission on Human Rights. OAS. August 14, 2004. Accessed June 9, 2016.
- <sup>4</sup> Ibid.
- <sup>5</sup> “Statistics on petitions submitted by country”, Inter-American Commission on Human Rights. OAS. Annual Reports of the IACHR, 2009-2013. Accessed June 9, 2016.  
<http://www.oas.org/en/iachr/multimedia/statistics/statistics.html>
- <sup>6</sup> "Universalization of the Inter-American System of Human Rights.", Inter-American Commission on Human Rights. OAS. August 14, 2004. Accessed June 9, 2016.
- <sup>7</sup> “Severe Financial Crisis of the IACHR Leads to Suspension of Hearings and Imminent Layoff of Nearly Half its Staff”, María Isabel Rivero. IACHR Press and Communication Office. Accessed June 8, 2016. May 23, 2016. [http://www.oas.org/en/iachr/media\\_center/PReleases/2016/069.asp](http://www.oas.org/en/iachr/media_center/PReleases/2016/069.asp)
- <sup>8</sup> “UN rights office warns of severe lack of funding for human rights body for the Americas”, UN News Centre. United Nations. May 27, 2016. Accessed on June 8, 2016.  
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<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20059&LangID=E>
- <sup>10</sup> Ibid.
- <sup>11</sup> "Universalization of the Inter-American System of Human Rights.", Inter-American Commission on Human Rights. OAS. August 14, 2004. Accessed June 9, 2016.