

CHAPTER I

INTRODUCTION

1. On balance, in 2006, the Inter-American Commission on Human Rights identifies positive advances and encouraging political commitments that indicate the political will to ensure the full exercise of fundamental liberties in the Hemisphere. In particular, the IACHR highlights the declarations of the President of Chile to the effect that the State will comply with the judgment of the Inter-American Court of Human Rights on the inapplicability of the amnesty law to human rights violations committed under the military dictatorship, the ruling of the Supreme Court of Argentina for compliance with the provisional measures issued by the Inter-American Court of Human Rights, which recognizes the critical situation in the penitentiary system in a province. Another important example of the application of international human rights standards to domestic law is the October 23, 2006, resolution of the Constitutional Court of Ecuador which declared unconstitutional the practice known as "*detención en firme*" (which extends pre-trial detention after the period allowed by the Constitution has expired) and recommended that the National Congress modify the Criminal Procedures Code on an urgent basis, in keeping with that ruling. The Commission also highlights the ratification by Bolivia of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights. Brazil demonstrated considerable progress in bringing its domestic law in line with international human rights norms by enacting the Law on Domestic and Family Violence against Women, known as the "Maria da Penha Law," which enhances protection mechanisms for victims, law which was adopted pursuant to the IACHR's recommendations in the case of that same name. The IACHR also points out that the opening of new prisons in the Dominican Republic has improved the situation of a significant number of individuals deprived of their liberty. Similarly, in 2006, important advances continued in friendly settlement proceedings and in compliance with the Commission's recommendations.

2. This Report, furthermore, demonstrates that the Commission continued to be an important regional forum for addressing the challenges that Member States of the OAS continue to face: such as citizen security, social inequality, access to justice and consolidation of democracy continue to represent the areas which require greater attention in human rights matters. By publishing reports on individual cases, making submissions to the Inter-American Court of Human Rights, holding hearings, preparing special reports, promoting the work of its specialized rapporteurships, and conducting on-site visits to Member States, the Commission was a sounding board as well as a key player in promoting and protecting human rights in the Americas. The Commission confirmed the strengthening of electoral processes with elections held in 12 countries in the Hemisphere over the past two years. However, it is also true that the issues addressed during 2006 reveal the structural weaknesses of democratic institutions and the gaps and contrasts that are characteristic of this, from a socio-economic point of view, most inequitable region in the world. In particular, a weak judiciary in most countries of the region, and attacks on judicial independence and impartiality in some countries represents one of the greatest obstacles faced by OAS member states to guarantee the full exercise of human rights. This results in problems of equal access to justice, drawn-out judicial proceedings, impunity in cases of serious fundamental rights violations and violations of due process.

3. While the strengthening of electoral processes is a welcome development, social exclusion and marginalization continue to be characteristic of the region and not only obstruct the effective exercise of the economic, social, and cultural rights of large segments of society, they also reverberate and are reflected in the various forms of state violence and abuse and impede the strengthening of democratic institutions. This report will highlight certain links between exclusion and institutional degradation: the torture, violent deaths, and intolerable levels of overcrowding that characterize failed prison systems; the arbitrary detentions, beatings, and executions by police of young men from working-class neighborhoods; the abuse of imprisonment without trial as a

mechanism for controlling marginalized sectors; the violent repression of indigenous peoples who resist being evicted from their lands; the ethnic and racial discrimination practiced by police and prosecutors.

4. Equally, the Commission reiterates the imperative need of a public discussion and definition of the State's inalienable duty to guarantee the safety of their citizens in the face of all violence, crime and aggression, while at the same time fully respecting fundamental freedoms. In 2006, again there was a growing problem of public insecurity and a lack of a sufficient institutional response consistent with the principles of a democratic society that respects human rights and fundamental freedoms; usually, hard-line policies are implemented without due attention to the causes of the problem and or consideration of prevention and rehabilitation policies. It is no coincidence that during 2006, the Commission, in a number of press releases, country visits, requests for precautionary and provisional measures, and hearings, had to address the rights of persons deprived of their liberty. This reflects a structural deterioration in terms of the overcrowding and violence that characterize most of the region's prison systems. Unfortunately, the authorities disregarded the many warning signs indicating the dilapidation of the prison system, itself the result of many factors.

5. Inequality continues to be a key factor in any diagnostic assessment of the effective exercise of human rights in the region. Despite that, the issue is not a priority of the public policy agenda of the States. Although over the past few years there has been a consolidation of economic recovery and poverty and indigence indicators have declined in some countries, continue to confront problems of structural unemployment, social marginalization, and inaccessibility to basic social services. Nor has there been a change in the tangible and legal inequality faced by women and other groups traditionally subjected to discrimination, including indigenous peoples, persons of African descent, and homosexuals.

6. OAS Member States need to collectively increase good governance and the quality of public administration as a prerequisite for the effective promotion and protection of human rights. The Commission has repeatedly indicated that structural weaknesses in many basic institutions of democratic societies, together with significant short-term crises that generate political instability, prevent the formation of a broad and lasting consensus. To this aim, it is necessary to broaden and strengthen freedom in the Americas, to build freer societies, with full expression and participation by all citizens, with more independent, impartial, and speedy justice, with greater transparency in public administration, with more freedom of expression and association, with full respect for gender equality, and with respect for the rights of indigenous peoples, communities of African descent, and other vulnerable groups.

7. Against this backdrop, the American Convention on Human Rights, the American Declaration of the Rights and Duties of Man, and the Inter-American Democratic Charter constitute the legal framework adopted by the OAS to strengthen a community of free nations, whose governments are not only democratically elected, but also govern with full respect for the rule of law, guaranteeing at all times the human rights of all their citizens. The Inter-American Commission, as the principal organ of the inter-American human rights system for the promotion and protection of human rights, is available to the citizens of the Americas and their Governments. The Commission therefore appreciates the collaboration and cooperation of the Organization's Member States and acknowledges particularly the demonstrations made by numerous governments of their political support for and commitment to human rights. In particular, the Commission acknowledges the reaching of friendly settlements, the recognition of international responsibility in cases before the Commission and the Court, and the invitations extended by many countries to conduct on-site visits. These gestures demonstrate a thorough understanding that the organs of the system and the proceedings brought before them are subsidiary to the primary function of the State as guarantor of fundamental freedoms. Fulfilling its mandate thus requires the Commission, above all, to work, not

against Governments, not in spite of Governments, but instead with Governments. Therefore, it is in this context that the Commission values the start of a dialogue with many States.