

Reform process – 2012

IACHR methodology for reviewing regulatory provisions, policies, and practices in order to strengthen the inter-American human rights system

Introduction

The Inter-American Commission on Human Rights was established in 1959 by the Organization of American States (OAS) with a mandate to promote and protect human rights in the region. The Commission monitors the situation of human rights in all the states of the Organization, handles individual complaints, and works through its thematic rapporteurships. The Commission promotes and protects the effective exercise of human rights through all these functions and through other promotional activities such as its thematic reports, press releases, responses to requests for information, and training of state agents, civil society organizations, and other actors of the system; every year, hundreds of such activities are carried out.

On June 29, 2011, the Permanent Council of the OAS created a *Special Working Group to Reflect on the Workings of the Inter-American Commission on Human Rights with a view to Strengthening the Inter-American Human Rights System*. On December 13, 2011 the Group adopted its Report and on January 25, 2012 the Report was approved by the Permanent Council. As a part of those processes, the IACHR is now considering the report in a receptive and constructive spirit.

Additionally, many civil society organizations have expressed their opinion on the recommendations issued. For instance, on January 27, 2012, after the adoption of the recommendations of the *Special Working Group* by the Permanent Council, more than 90 human rights organizations signed a press release expressing their opinion on the recommendations and the need to open a space of dialogue for discussing them. On March 28, 2012, the International Coalition of Human Rights Organizations in the Americas, in representation of more than 700 organizations of the civil society, also expressed its opinion over some of the recommendations during a public hearing before the Commission.

At its 144th period of sessions, the IACHR decided to undertake an in-depth examination of its procedures and mechanisms, and as part of that analysis will carry out a consultation with the users of the Inter-American System.

On May 30, 2012 the IACHR held the First Regional Seminar on the recommendations formulated by the Member States in the *Report of the Special Working Group*. In that Seminar, all actors underlined the importance of underscoring the scope, content, viability and means of implementation for the recommendations.

At its 145th period of sessions, the Commission developed an agenda for its process of reform that includes addressing the concerns and recommendations presented in that report. In this document, the Commission announces the methodology it will employ in reviewing regulations, policies, and practices during the remainder of 2012. The Commission has been particularly careful to consider the work program of the Permanent Council and other actors of the Inter-American System to design its methodology, and trusts that it offers ample opportunities to establish points of contact between the processes carried out by the IACHR, the Permanent Council and other actors.

Principles

According to the American Declaration of the Rights and Duties of Man, “juridical and political institutions [...] have as their principal aim the protection of the essential rights of man.” The Commission will have that aim in mind as it studies any proposals regarding its Rules, policies, and practices; any change or amendment will be based upon a fundamented conclusion as to how to improve the protection of human rights.

In conducting the review, the Commission will be guided by the following principles:

1. Broad participation by all interested actors in the process of review of Rules, practices or policies implemented by the IACHR in relation to the aforementioned resolutions. Among the actors are the Member States of the Organization and other users of the system;
2. Consideration of all inputs submitted by the various actors and the adoption, in an independent, autonomous manner, of decisions conducive to the best performance of its mandate, and
3. The importance of making all of its activities as effective as possible.

Methodology

Calls for universal adoption

The IACHR notes that an initial group of the *Special Working Group's* recommendations refer to activities to promote universal adoption of the system. In that regard, the IACHR emphasizes that:

1. The competence of the Commission is universal in the sense that all Member States of the Organization of American States are subject to monitoring of their human rights situations, to the system of individual petitions, and to follow-up in the thematic areas.
2. Member States must assume their responsibility for achieving universal ratification of the American Convention on Human Rights and other inter-American human rights instruments. The Commission accepts the States' call for it to further this aim in every way it can, will emphasize its efforts in this regard, and will integrate promotion of universal adoption into all its visits and activities where appropriate.

Possible reforms

Some of the recommendations to the IACHR by the Special Working Group refer to matters governed by the Rules of Procedure. This is true of the following areas in particular:

1. Individual petitions and cases, including friendly settlement;
2. Precautionary measures;
3. Monitoring of the situation in member states (e.g. "Chapter IV"); and
4. Promotion.

The Commission is now preparing consultations on these questions, which will be published on or before **August 25, 2012**. These documents will be the subject of broad consultation, open for comment to all users of the system during a minimum period of one month. The consultation will be carried out through the following means:

1. Formal invitation to the member states;
2. Invitation through lists of civil society organizations, and
3. Announcement on the IACHR website and social networks.

Once the period for comments has ended *circa* **September 25, 2012**, the IACHR will determine the steps to be followed bearing in mind, to that respect, the working methodology of the Permanent Council of the Organization, and other relevant input.

Other recommendations by the Special Working Group to the IACHR refer to institutional policy and practice, involving the following topics:

1. Permanent presidency;
2. Allocation of resources to different work areas;
3. Content, data, and statistics to be included in the Annual Report, and how it should be organized;
4. Dissemination of criteria and jurisprudence (including preparation of manuals);
5. Criteria for raising specific funds, and
6. Institutional structure.

Although some of these topics, or specific aspects of them, may be subject to consultation, the Commission is already implementing measures that relate to the recommendations of the Special Working Group's Report. These, with any possible reforms to the Rules, policies and practices of the IACHR, will be communicated to the Permanent Council and broadly disseminated on or before September 30, 2012.

Seminars and academic events

The IACHR will conduct and/or participate in sub-regional seminars and academic events organized in coordination with all actors in the System in August and September 2012, for deeper examination of the technical aspects of the reform agenda and its major themes. The Commission will organize Sub-regional Seminars in coordination with actors in Middle-America, the Andean Region, the Southern Cone, the Caribbean and North America to serve as *fora* for ample discussions, open to all users of the System and all interested in its strengthening. The IACHR will deploy its best efforts to ensure wide invitation and dissemination of contents. The Seminars will be the occasion to convoke experts, representatives of the Member States and civil society organizations, and draw conclusions on the topics of the process of reform.

Collaboration with the Permanent Council

The President of the IACHR will commit his best efforts to personally accompany the work of the Permanent Council. Furthermore, the Executive Secretary, or a person he appoints, will attend sessions and meetings, will provide the pertinent or necessary information, and will deal with any request directed to the IACHR.

Public hearings

The IACHR will convene two hearings on strengthening measures, on October 30, 2012, to give key actors an opportunity for dialogue in addition to the ample opportunities provided within the consultation process.

The IACHR and its activities

As for the system of individual petitions, a few indicators will illustrate the Commission's workload. There are around 8,500 matters pending before the IACHR: 7,000 in the initial examination phase; 1,000 in the admissibility phase, and 500 in the merits phase. Over its lifetime, the IACHR has received and responded to over 20,000 petitions. In recent years, the IACHR has received, annually, over 400 requests for precautionary measures that require swift decisions and provides follow-up to more than 580 matters including measures in effect and matters in which, without adopting measures, the IACHR has requested information with a view to reaching a decision.

In 2011, the Commission's activities included three periods of sessions; receiving and recording over 1,600 new petitions; in connection with petitions, adopting 67 reports on admissibility, 11 reports on inadmissibility, eight reports on friendly settlement, 54 decisions to archive, and 25 reports on the merits; publishing five reports on the merits, and submitting 23 cases to the Inter-American Court of Human Rights. They also included carrying out 91 hearings, 58 working meetings, over 30 working and promotion visits led by country rapporteurs or thematic rapporteurs, 138 press releases, conducting five seminars and training courses, and a broad range of promotion efforts. This shows the great number and diversity of demands the Commission faces and the various ways in which it protects and promotes human rights in the Hemisphere.

In its Strategic Plan, the IACHR emphasized that proper fulfillment of its mandate to promote and protect human rights in the Hemisphere would require a substantial increase in its budget, which, for 2012, should be increased to at least US\$14,520,000. This year, however, the OAS has assigned to the IACHR 17 attorneys, 15 administrative staff persons, and, for operating expenses, US\$946,000, for a total of US\$4,779,700 (six percent of the overall OAS budget).

Through its fundraising, the IACHR has secured US\$1,049,863, as of June 30, 2012, in specific funds. In the second half of 2012, it expects to receive US\$4,332,209, for a 2012 total of US\$5,382,072 from specific funds. The IACHR takes this opportunity to thank Member and Observer States and other entities for their voluntary contributions, and calls for the gradual transformation of its regular budget to ensure the sustainability and predictability of its activities.

If all these projections materialize, the IACHR will have received, from the general OAS budget, the states, and cooperation agencies, a total of US\$10,161,772, or around 70% of what it needs under its Strategic Plan. The goals in the Strategic Plan will have to be amended accordingly.

The IACHR has said repeatedly that the resources allocated are insufficient to enable it to discharge its mandate effectively. This results in an unacceptable case backlog and in severe limitations in the analyses requested by the General Assembly, visits and other promotion activities, participation in proceedings before the Inter-American Court of Human Rights, difficulties in funding the Commission's third period of sessions, and restrictions in the functions of thematic rapporteurships.

Some of the recommendations of the *Report of the Special Working Group* refer to this problem. In connection with this, the IACHR hopes that any decisions adopted will bear in mind its enormous workload and the urgent need to receive sufficient resources to discharge it efficiently.

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Washington, D.C.