



ORGANIZATION OF AMERICAN STATES

WASHINGTON, D.C. 20006 U.S.A.

HUMAN RIGHTS DEFENDERS

November 10, 2008

Background

On June 2001, the General Assembly of Organization of American States entrusted the Inter-American Commission on Human Rights (hereafter the Commission or IACHR) with the task of preparing a general study on the theme of human rights defenders. On December 2001, in accordance with the request, the Executive Secretariat of the IACHR created a Human Rights Defenders Unit, the main purpose of which is to coordinate activities of that area. This Unit report directly to the Executive Secretary.

The IACHR approved this general study on March 7, 2006, entitled the "Report on the Situation of the Human Rights Defenders" and presented it to the Permanent Council. On June 2007, the General Assembly invited "member states to inform the Inter-American Commission on Human Rights of measures adopted to follow up on the recommendations contained in the "Report on the Situation of Human Rights Defenders in the Americas," prepared in 2006 by the Unit for Human Rights Defenders of the Inter-American Commission on Human Rights". This invitation was reiterated by General Assembly Resolution 2412 in June of last year.

In Accordance with that Resolution, and due to several requests received by States, civil society organizations, and human rights defenders in the hemisphere, the IACHR has decided to create a study evaluating the fulfillment of recommendation continued in its report. With the purpose of recollecting information for the new study, the Human Rights Defenders Unit has prepared the following questionnaire:

1. Describe the activities that have been carried out to promote the work of human rights defenders, including those in the executive, legislative and judicial spheres.
2. Describe the spaces of dialogue with the human rights organizations in the State.
3. Policies to prevent the risk faced by human rights defenders and to protect them from the risk
 - a. Describe the measures adopted to prevent the risk faced human rights defenders.
 - b. Describe the prevention mechanism applied by the State in cases of threats or risk of the human rights defenders.

- c. Describe specific mechanisms (if they exist) to implement the precautionary measures granted by the IACHR and the provisional measures granted by the Inter-American Court of Human Rights.
 - d. How many human rights defenders have protection? Is there any pattern identified by gender, activity or specific period of time in regard to the risk?
 - e. What mechanisms have been effective in protecting human rights defenders?
4. Describe the investigative proceedings and judgment in cases of threats, assaults, intimidation, or assassination attempts suffered by human rights defenders.
5. How many complaints related to threats, assaults, intimidation, or assassination attempts of human rights defenders have been received in the last two years?
6. Are there guidelines regarding for the use of the force by the State when public demonstration occur?
7. How many people have been penalized for failing the respect those guidelines?
8. Registry and financing
 - a. What does national law require in order to create a human rights organization?
 - b. Is there any institution in charge of supervising the proceedings of registry of the human rights organizations?
 - c. Is there a legal remedy with which the resolution of this institution can be challenged with regard to the creation a human rights organization?
 - d. What requirements are needed in order to for human rights organization to obtain national or international financing?
9. Describe other measures adopted since June 2006 in order to carry out the recommendations described in the Report on the Situation of the Human Rights Defenders in the Americas.

ANNEX OF THE QUESTIONARE
REPORT ON THE SITUATION OF HUMAN RIGHTS DEFENDERS IN THE AMERICAS

X. RECOMMENDATIONS

342. Based on the information and analysis undertaken by the Commission throughout this report, and in order to contribute to the protection of human rights defenders and ensure the effective development of their work,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS RECOMMENDS TO THE STATES OF THE AMERICAS:

1. Foster a culture of human rights in which the fundamental role played by human rights defenders in guaranteeing democracy and the rule of law is recognized publicly and unequivocally. The commitment to this policy should be reflected at every level of the state – local, state or provincial, and national – and in every branch of government – executive, legislative, and judicial.
2. Publicly recognize that the exercise of the protection and promotion of human rights is a legitimate action and that, on exercising these actions, human rights defenders are not working against state institutions, but rather, to the contrary, are contributing to the strengthening of the rule of law and the expansion of all persons' rights and guarantees. All state authorities and officials at the local level should be aware of the principles regarding the activities of human rights defenders and their protection, as well as the guidelines applicable to the observance of those principles.
3. Undertake activities for education and dissemination for all state agents, society at large, and the press, to raise awareness about the importance and validity of the work of human rights defenders and their organizations. The Commission calls on the states to promote and widely disseminate the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms. The Commission also calls on the states to design a program of specific measures to implement the Declaration.
4. Instruct their authorities to ensure that, from the highest level, forums for open dialogue are generated with human rights organizations to learn of both their opinions on public policies and the problems that beset them.
5. Implement, as a priority matter, a comprehensive policy of protection for human rights defenders. Adopt an effective and exhaustive strategy of prevention in order to prevent attacks against human rights defenders. This requires granting appropriate funds and political support to the institutions and programs. This policy of prevention and protection should take into account the periods when they are most vulnerable. The state authorities should remain vigilant especially during those periods and make public their commitment of support and protection.
6. Urgently adopt effective measures to protect the life and physical integrity of human rights defenders who are threatened, and to ensure that these measures are decided on in consultation with the defenders. Ensure the security of trade union leaders, community and campesino leaders, indigenous leaders, and judicial officers in the performance of their activities. In those countries in which the attacks on these actors are more systematic and numerous, the states should earmark all the resources needed and spelled out in this recommendation to prevent harm to the life and physical integrity of these leaders.

7. Guarantee in particular the security of women human rights defenders whenever they are at risk of attack through specific mechanisms because of their gender, and to undertake measures to obtain recognition of the importance of their role within the movement to defend human rights.
8. Allocate human, budgetary, and logistical resources to implement the adequate measures of protection sought by the Inter-American Commission or the Inter-American Court to protect the life and physical integrity of human rights defenders. Such measures should be in force for the time requested by the Commission or Court, and they should be agreed upon in consultation with the defenders to ensure they are appropriate and allow them to continue carrying out their activities.
9. Illegal armed groups are among the main perpetrators of violence against human rights defenders. States must implement a serious policy to investigate, prosecute, and punish all of the actors involved, not only their armed members, but also those who promote, direct, support, or finance such groups or participate in them.
10. The governments should not tolerate any effort on the part of state authorities to cast in doubt the legitimacy of the work of human rights defenders and their organizations. Public officials must refrain from making statements that stigmatize human rights defenders or that suggest that human rights organizations act improperly or illegally, merely because of engaging in their work to promote and protect human rights. Governments should give precise instructions to their officials in this respect and should impose disciplinary sanctions on those who do not comply with such instructions.
11. The states should ensure that their authorities or third persons will not manipulate the punitive power of the state and its organs of justice in order to harass those who are dedicated to legitimate activities, such as human rights defenders. The Commission reiterates that the states have the duty to investigate those who violate the law within their territory, but the states also have the obligation to take the measures needed to ensure that state investigations are not used to bring unjust and unfounded criminal proceedings against persons who legitimately call for respect and protection of human rights.
12. Adopt mechanisms to prevent the excessive use of force during public demonstrations, through planning, prevention, and investigation measures that follow, among others, the guidelines set forth in paragraph 68 herein.
13. Refrain from engaging in any type of arbitrary or abusive meddling in the home or offices of the organizations of human rights defenders, or in their correspondence and telephone and electronic communications. Instruct the authorities affiliated with the state security agencies to respect these rights, and impose disciplinary and criminal sanctions on those who engage in such practices.
14. Revise the premises and procedures governing intelligence-gathering activities targeting human rights defenders and their organizations to ensure due protection of their rights. To this end, the implementation of a mechanism for periodic, independent review of such archives is recommended.
15. Allow and facilitate the access of defenders, and the general public, to public information held by the state, as well as private information about them. The state

should establish an expedited, independent, and effective mechanism for this that includes review by civilian authorities of decisions taken by the security forces to deny access to information.

16. Ensure that the procedure for entering human rights organizations in the public registries will not impede their work and that it will have a declaratory and not constitutive effect. The states should guarantee that the registry of the organizations will be processed quickly and that only the documents needed to obtain the information appropriate for registering will be required. Domestic laws should clearly establish the maximum time frames for state authorities to answer requests for registration.
17. Refrain from promoting laws and policies regarding the registration of human rights organizations that use vague, imprecise, and broad definitions of the legitimate motives for restricting their establishment and operation.
18. Ensure that the human rights organizations whose registrations are rejected have available to them a remedy to challenge that decision before an independent court. The states should also ensure an impartial remedy for situations in which organizations' registration is suspended or they are dissolved.
19. Refrain from restricting the means of financing of human rights organizations. The states should allow and facilitate human rights organizations' access to foreign funds in the context of international cooperation, in transparent conditions.
20. Guarantee effective administrative and legal measures for the protection of union delegates, including mainstream and minority unions and those in formation, against discrimination and harassment associated with carrying out their functions.
21. Undertake, as a matter of public policy, the struggle against impunity for violations of the rights of human rights defenders. The Commission calls on the states to undertake exhaustive and independent investigations into the attacks suffered by human rights defenders, and to punish their perpetrators, as a fundamental means of preventing such attacks.
22. Strengthen their mechanisms for the administration of justice and guarantee their independence, which is necessary if they are to perform their function of investigating, prosecuting, and punishing those who carry out attacks on human rights. It is essential, for such strengthening, that the states guarantee a sufficient budget and human resources adequate for ensuring effective administration of justice.
23. Take the necessary steps to ensure adequate and clear coordination within the institutional spheres of jurisdiction for the investigation and prosecution of crimes against human rights defenders who are discredited due to their activities. Establish specialized units of the police and public ministry with the necessary resources and training to act in a coordinated fashion and respond with due diligence in investigating attacks on human rights defenders.
24. Ensure that the military courts not have jurisdiction to investigate and prosecute members of the military who commit crimes against human rights and fundamental freedoms.

25. Create and strengthen legal mechanisms for effective precautionary remedies in situations of imminent threat or risk for the defense of human rights that adhere to the characteristics set forth by the Commission in paragraphs 120 and 121 herein.
26. Provide as necessary to promptly and effectively comply with the recommendations of the Inter-American Commission and the judgments of the Inter-American Court of Human Rights.