

[During its 150th session of public hearings the Inter-American Commission is tested and stands strong](#)

23.05.2014

The Inter-American Commission on Human Rights (IACHR) has just published its [report on its 150th session of public hearings](#), recently held in Washington. For the span of a week, twice a year, the Commission provides States and civil society of the region with the opportunity of requesting a hearing to present and discuss human rights issues



The Inter-American Commission on Human Rights (IACHR) has just published its [report on its 150th session of public hearings](#), recently held in Washington. For the span of a week, twice a year, the Commission provides States and civil society of the region with the opportunity of requesting a hearing to present and discuss human rights issues. For many, the Inter-American Commission is the place they come to for the recognition, protection and justice they are denied at national level. As one defender noted, 'Where the Commission asks questions, lives are saved'.^[1] Nevertheless, the Commission faces financial and political challenges which test its resolve.

The Commission carries out its mandate to promote the observance and protection of human rights in a different way to its homologue in Africa, the African Commission for Human and Peoples' Rights. There is no system of periodic reporting by States regarding implementation of their human rights obligations, nor do all State parties attend the full period of public sessions. Hearings are generally held on thematic issues called for by the Commission itself, civil society actors or States. States are invited to respond where petitioners are civil society actors. These hearings, which usually last an hour, inform the Commission's ongoing engagement with member States and their production of thematic reports.

Protection of human rights defenders

During two hearings held on the protection of human rights defenders, impunity for violations against defenders was highlighted as key to their ongoing vulnerability. Defenders spoke to the range and gravity of threats and attacks they experience, and highlighted the phenomenon of criminalisation, including arrest on charges of 'sabotage' or 'terrorism' and detention of defenders during peaceful protests.

The cornerstone of the Commission's response to this vulnerability is the issuance of precautionary measures for those most at risk; that is, a request for the State concerned to take immediate action to protect the person

at risk. These have had some success, but where States fail to put these measures into practise, attacks against defenders may be perpetuated.

The failure of law enforcement agents and members of the judiciary to connect violations with the fact that the victim is a defender was repeatedly mentioned as a contributing factor in impunity. Meanwhile, State representatives dismissed allegations of attacks by officials targeting defenders and journalists, suggesting the perpetrators were most likely gang members. Commissioners asked whether cases of violations against defenders could be better investigated if guidance was provided on how to identify and prosecute attacks against defenders. Meanwhile, the Commission's [Special Rapporteur on Human Rights Defenders](#) asked defenders to provide information on what is preventing identification of the source of the threats they face.

Where specific State protection mechanisms and measures for defenders exist, they were described as suffering from a lack of adequate resourcing, a failure to provide for the specific protection needs of women human rights defenders, and a failure to respond with the necessary speed to emergency cases.

The issues of criminalisation and of mechanisms for the protection of defenders will be the subjects of upcoming reports by the Special Rapporteur on Human Rights Defenders.

Women human rights defenders

The 20th anniversary of the adoption of the Inter-American women's rights protocol - the 'Convention of Belém do Pará' - saw the first ever hearing held at the IACHR on the situation of women human rights defenders across the region. The Center for Justice and International Law (CEJIL) spoke of the importance of understanding how broader gender relations inform the vulnerability of women defenders to intimidation and attack. The President of the Commission agreed, noting that relevant national legislation has tended to focus on domestic violence - creating a view of women as victims - when the focus needs to be much wider: on women's participation, full citizenship and full equality.

Defenders working on corporate accountability

The situation of environmental defenders and indigenous communities in resistance was illustrated through the criminalisation of Ecuador's [Pachamama Foundation](#). Petitioners noted the vague framing of Ecuador's Executive Decree 16 which regulates NGOs and which is open to arbitrary interpretation and application. [Ecuador's targeting of defenders working to challenge abuses by transnational corporations](#) is inconsistent with its role in promoting the development of a legally binding treaty to regulate the work of transnational corporations and to provide appropriate protection, justice and remedy to the victims of abuses.[2]

Reprisals against those cooperating or seeking to cooperate with the Commission

On several occasions Commission President Tracey Robinson repeated that the mechanism would not stand for reprisals against defenders who cooperated or sought to cooperate with it. Several cases of reprisals were highlighted during the session.

1. The Commission expressed regret that the Dominican Republic had kept an activist from participating in hearings, and noted that the Commission was still awaiting information on why she had not been allowed to travel.
2. The Commission expressed grave concern at the reference by a Venezuelan delegate to 'terrorist acts of the opposition' when speaking of the deaths that occurred during protests since February 2014. The Commission criticised the State for increasing the risk faced by a sector of the population through stigmatising them in this way.
3. During a hearing on the judiciary in Chile, Chilean judges who hold State agents to account, or apply Inter-American jurisprudence locally, faced reprisals. Petitioners asked the Commission to hold a seminar to discuss the Commission's report on the independence of the judiciary. The State denied the allegations.

The Commission does not currently have a system for documenting reprisals of this type. A more concerted effort to document, and contribute to creating evidence of the problem of reprisals across the international human rights system, could provide for better protection for human rights defenders.

Five recommendations made to the Commission regarding the protection of defenders

During the session, NGOs made a range of recommendations to improve the situation and protection of human rights defenders, including:

1. Develop guidelines for States on how best to investigate threats against human rights defenders, mindful of the particular risks faced by particular groups.
2. Create a means to track the implementation of Commission recommendations to allow for more effective follow up. Precautionary measures granted, for example, could be better followed-up through: country visits; making corresponding recommendations to States; careful prioritization of cases passed to the Court; and the preparation of specific reports on implementation compiled with the input of national human rights institutions and civil society partners.
3. Remind States of their obligations under the Convention of Belém do Pará, and call for disaggregated information in order to understand the context in which women human rights defenders work and meet their specific protection needs.
4. Signal serious intent to work towards the prevention of reprisals and intimidation against those that cooperate or seek to cooperate with the IACHR, by designating a focal point to investigate cases of reprisals.
5. Revise Article 63 of the current Commission [Rules of Procedure](#) to extend guarantees of protection for those that cooperate with the Commission in all instances, not solely when attending hearings.

Other key developments at the Commission

Shortly after the session, the Commission announced its intention to establish a full-time Special Rapporteur on Economic, Social and Cultural Rights, building on the prior Unit working on this topic. It has put out a call to OAS States to contribute to a fund for the establishment of the rapporteurship. Defenders also called on the Commission to consider the [working group](#) model used by the African Commission that brings civil society and Commissioners together to work on the issue at stake.

The [Commissioner on the Rights of Indigenous Peoples](#) was urged to make country visits to bring visibility to international legal protections and, by showing solidarity with local defenders, contribute to increasing the focus on their struggles. The Commissioner asked whether a Commission manual on the right to free, prior and informed consent could assist in contesting the frequent violations of this right by States. Responding to civil society pressure, she also expressed an interest in looking at how the Commission could engage with international bodies - such as the IMF and World Bank - that play such a large part in defining economic policies that impact on indigenous communities.

The President of the Commission, and the mandate-holder of the new [Rapporteurship on the Rights of Lesbian, Gay, Trans, Bisexual and Intersex Persons](#), Tracey Robinson, chaired hearings on the situation of LGBTI people in several countries of the region, including Canada. Her office noted the relative lack of engagement by the Commission with LGBTI people from the Caribbean. As a Jamaican national Ms Robinson's nomination as President may help shift the perception of the Commission as a Latin American space and encourage more engagement by Caribbean civil society on all issues of human rights concern.

How States view the Commission

This session marked the end of the so-called 'strengthening process', in which the Commission's work has been under a formal review, and thus interaction in Washington could again open up to broader human rights concerns. However, the climate of questioning the Commission and its authority - which characterised the recent review process - continues to be evident in the behaviour of some States.

Ecuador refused to attend either of the country-specific hearings - on freedom of association and environmental activists, and on freedom of expression - stating that the Commission was overreaching its powers and involving itself in internal State affairs. The Minister of Foreign Affairs and Human Mobility characterised the IACHR as a politicised body acting in the name of 'Northern economic interests'. Much of this echoed Ecuador's position during the review process. It was the second set of public hearings in a row which Ecuador has failed to attend.

Despite attending other country-specific sessions, **Colombian** State representatives walked out of a hearing on the 'legal regime and institutional practices to impose restrictions on individual political rights in Colombia'. The State's criticism was that the hearing would examine individual cases, which it claimed should be handled under the individual petitions procedure. The Commission noted in response that it was not extraordinary in the process of monitoring human rights situations, for hearings to touch on issues that are similar to those raised through petitions. The hearing went ahead without the State being present.

Following its denunciation of the American Convention on Human Rights, **Venezuela** no longer acknowledges the jurisdiction of the Inter-American Court of Human Rights, considering it a 'politicised body'. Any human rights violations taking place in Venezuela after September 10, 2013 will therefore not be considered by the Court. Whilst the Commission does continue to have jurisdiction to consider matters related to Venezuela, including handling petitions, cases and precautionary measures, State representatives have been vocally critical of the body, recently calling the Commission and Court 'protectors of the powerful'.^[3]

Key UN figures have urged Venezuela to reconsider its decision, noting Human Rights Council resolutions aimed at enhancing cooperation and dialogue between international and regional human rights mechanisms, to no avail.^[4] Venezuela's position undermines the drive toward strengthening and universalising the Inter-American system.

Despite these attempts by States to undermine the mechanism, the Commission cites the 12 requests from States to hold hearings during this recent session, as evidence of the credibility and legitimacy given to the system by the majority of its members.

Over the 150th session of public hearings, the Commission showed that, despite facing a serious lack of resources to fulfil its promotional and protective mandate, and regular failure by States to implement its recommendations, it is striving to deepen the impact of its work to safeguard and enable the work of human rights defenders.

(ISHR is currently considering ways in which we may contribute to civil society efforts for the promotion and protection of defenders through the Inter-American human rights system.)

Contact: Eleanor Openshaw, e.openshaw@ishr.ch

^[1] Human rights defender during discussion with Rapporteur on the Rights of Indigenous Peoples.

^[2] Statement delivered by Ecuador on behalf of a Group of States, at the 24th Session of the Human Rights Council, September 2013: <http://bit.ly/1aVmcnQ>

^[3] 'OAS Human Rights Bodies 'Protectors of the Powerful'', 11 Sept 2013: <http://venezuelanalysis.com/news/10014>

^[4] OHCHR newspiece, September 2012: <http://bit.ly/1qUQz50>