

LATIN AMERICA & THE LIBERAL WORLD ORDER

*Will political shifts change
global engagement?*



GLOBAL AMERICANS

Welcome to Global Americans

and the

Foreign Policy and Democracy Monitoring Project

Global Americans, LLC, was established as a 501(c)(3) in 2015 to promote moderate debate on the Americas and the region's role in the world. Changes in global politics call for a fresh perspective on international relations, democratic development, social inclusion, and foreign policy, particularly in a region in which foreign relations and comparative politics have traditionally been measured and studied in relationship to the United States alone. The economic, diplomatic and political growth and presence of countries like China, Russia, Turkey, India, and Brazil have increasingly defined the global international order and the foreign policies of Latin America and the Caribbean, not necessarily in exclusion of the U.S. but as part of a larger, more diverse shift.

Global Americans works with a range of scholars and activists across the region to promote analysis and discussion on these changes and their implications for democracy, human rights, social inclusion, development, and foreign policy—including U.S. foreign policy. Its central publishing platform is its website, www.LatinAmericaGoesGlobal.org, where it posts op-ed style essays, data, articles, and reports by its contributors and staff members. These articles are often translated into Spanish and syndicated to the *Grupo de Diarios America*, the association of daily newspapers in Latin America.

Made possible by the generous support of the National Endowment for Democracy, this report is the second in a project to analyze and track the foreign policies of Latin American states and those of other select countries of the Global South as they relate to democracy and human rights, and the international norms and practices that have emerged in the past 50 years to defend and protect them. Using this report's analysis as a baseline, we will continue to provide updates and media alerts on votes and actions by states in the hemisphere—including the U.S.—and explore how those affect democratic governance and human rights. The goal is to promote greater discussion and accountability of foreign policy in the Western Hemisphere.

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If you have comments or questions about this report, the project or our other activities, please don't hesitate to contact me via e-mail (sabatini@latinamericagoesglobal.org) or Twitter (@ChrisSabatini).

Sincerely,
Christopher Sabatini

Changes in global politics call for a fresh perspective on international relations, democratic development, social inclusion, and foreign policy.

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Executive Summary

Britain's June 2016 vote to exit the European Union (Brexit) was no isolated incident. The sharply anti-international sentiment in Europe and the U.S. in areas such as trade and multilateralism, the rising tide of xenophobia in Europe and the United States, and the efforts by the Global South to dilute human rights protections and create multilateral and financial institutions parallel to traditional norms and organizations signal that the post-World War II international architecture is being seriously questioned, if not under attack.

How have Latin America and the Caribbean added their voices to this populist, anti-liberal clamor?

This is the second report tracking the human rights and democracy foreign policies of Latin American and Caribbean governments. As with the last, we monitor governments' votes and activities in different multilateral forums dedicated to promoting human rights, including the UN Human Rights Council (UNHRC), the Organization of American States (OAS), the Union of South American Republics (UNASUR), and the Inter-American Commission on Human Rights (IACHR).

In our last report we cataloged the ways that many states in Latin America and the Caribbean (such as Mexico and Chile) have defended modern international principles such as popular sovereignty and democracy. Yet there was also a contingent of states that actively sought to undermine those norms, internationally and regionally (Bolivia, Cuba, Ecuador, Venezuela, and—at least within the region—Argentina), while Brazil often abstained, intentionally or unintentionally enabling the erosion of liberal norms.

For this report, we broadened our scope to include anti-corruption and

The standards of election observation have deteriorated, and Venezuela and Nicaragua have pulled back from credible observers.

election observation. In the 1990s Latin America and the Caribbean led the world in these two areas. Sadly, that has changed. There has been a retrenchment of international and domestic defense of these rights, and a growing coalition of governments openly flaunting regional standards and practices.

Since our first report, there has been an ideological shift in South America, evident in the election of a more liberal president and government in Argentina after 13 years of government under the Peronist Kirchners (husband and wife), the election of Pedro Pablo Kuczynski in Peru, and the politicized impeachment of leftist president Dilma Rousseff in Brazil and her replacement with the more conservative Michel Temer. At this point it remains unclear whether and how these shifts will manifest themselves in the regional commitment to liberal and democratic norms.

In this report we note that the standards of election observation have deteriorated, largely due to the rise of a new multilateral organization

purporting to serve as technical, independent observers, but with none of the guarantees or independent orientation to do

so. Venezuela and Nicaragua are pulling back from more professional, credible election observation to serve their own political goals and calling more on these groups.

Similarly, conventions against corruption and the movement toward governmental transparency have stagnated if not regressed. So too have the legal guarantees for civil society in many countries, both in terms of their domestic freedom of operation and their rights to receive support from and collaborate with international organizations. This has occurred not just regionally but globally, as we show on page 4 and page 17.

There is, though, one bright spot. For the first time, the OAS convened a discussion about the state of democracy in Venezuela, thanks to the leadership of Secretary General Luis Almagro. Most important, the discussion went forward with the support of some one-time, anti-liberal states from the Caribbean.

The UN Human Rights Commission

How Are the New Members Voting?

In the latest two sessions of the United Nations Human Rights Council (UNHRC or the Council), the 31st session held in March 2016 and the 32nd in July 2016, the Latin American representatives changed: Ecuador and Panama joined the Council, while Argentina and Brazil left, having completed their terms. (Each country can have up to two three-year terms, after which it must remain off the Council for a year.)

The departure of Argentina and Brazil from the Council represents a big change for the region's representation. Argentina was a regional leader in upholding and supporting human rights on the Council. Brazil was what we have termed an "enabler"—often abstaining from key votes, even on Ukraine and North Korea—the net effect being to avoid a broader condemnation of clear human rights-violating states.

Nevertheless, the region's voting patterns didn't really change. The mainstay "rogues," Cuba and Venezuela, remain on the Council, consistently voting to protect national sovereignty over their international human rights obligations. Meanwhile the "liberals," represented by Mexico, Paraguay and now Panama voted consistently to promote human rights. More interesting are the countries that fall in the middle that change their vote on different topics. This year, those countries were represented by Bolivia, Ecuador and El Salvador.

As in our last report, we monitored how Latin American countries voted on three specific regional issues: the ongoing conflict in Syria, the breakdown in government control over eastern Ukraine, and ongoing human

rights violations in North Korea. The latest resolution regarding North Korea passed the UNHRC by consensus, meaning that Cuba, Venezuela and Bolivia, along with Russia and China (the typical stalwart no votes) did not object to the resolution condemning the human rights situation in the country—something that they have done only occasionally in past sessions.

The ongoing conflict in Syria had two recorded votes, the Ukraine conflict one. The vote breakdown for Latin America was similar for both: Bolivia, Cuba and Venezuela voted no in every case, while Panama joined Mexico and Paraguay in voting yes, recognizing the bloodbath in Syria and condemning Russia's intervention and the human rights violations in eastern Ukraine. Ecuador and El Salvador proved less straightforward. Ecuador, despite being a member in Venezuela's Bolivarian Alliance for the Peoples of Our America (ALBA), abstained in both Syria votes and voted yes in the Ukraine conflict. El Salvador, which had voted consistently yes in the past, chose to abstain on the vote regarding Ukraine, while joining the liberals on Syria.

As we discuss later, the UNHRC also held a recorded vote on the thematic

Bolivia, Cuba and Venezuela voted no on resolutions raising human rights concerns in Syria and over Russian intervention in Ukraine.

UN ECOSOC's Vote on Civil Society

You would think that a UN commission dedicated to defend human rights would be steadfast in its defense of the rights of civil society. After all, the ability of nongovernmental organizations to assemble, speak freely, and investigate human rights abuses has been critical to the defense of human rights the world over. Surprisingly, not all countries on the UNHRC agree, including some Latin American states, which lined up with some of the usual suspects. Below are some sample countries and how they voted.

YES

Ecuador
El Salvador
France
India
Mexico
Panama
Paraguay
United Kingdom

NO

Cuba
China
Russia
South Africa
Venezuela

ABSTENTION

Bolivia

issue of protecting civil society, an area of growing concern, as many countries move to clamp down on civil society through increased regulatory and legal hurdles. The resolution specifically recognized that

in many countries, persons and organizations engaged in promoting and protecting human rights and fundamental freedoms frequently face threats, harassment and attacks.... [as well as] restrictions on freedom of association or expression or the right to peaceful assembly, or abuse of criminal or civil proceedings, or deplorable acts of intimidation and reprisal.

And the resolution called on states “to create and maintain, in law and in practice, a safe and enabling environment in which civil society can operate free from hindrance and insecurity.”

Countries voted on this resolution in line with their previous records. Those that gave priority to human rights and popular sovereignty supported it; those that emphasized national sovereignty did not. Cuba and Venezuela voted no, but Bolivia broke ranks with its ALBA allies and abstained. The remaining Latin American countries—Ecuador, El Salvador, Mexico, Panama, and Paraguay—all voted to support the measure, which passed by a vote of 31 to 9, with 7 abstentions.

Finally, an emerging trend is the use of procedural hurdles to gum up the system and slow down or stymie the UNHRC's intended purpose of promoting human rights globally. At the 32nd Council meeting alone, there were multiple amendments offered, all aimed at watering down or negating the main purpose of the resolution. Pakistan submitted 11 amendments (of which 7 were adopted) to a resolution regarding the establishment of a special rapporteur on violence against the LGBT community, and 15 amendments were submitted by China and Russia (though none adopted) to the resolution on civil society seeking to remove references to human rights defenders.

The Universal Periodic Review

Focus on Civil Society and Human Rights Defenders

The Universal Periodic Review (UPR) by the UN Human Rights Council has continued to work its way through reviewing each country around the world during the Council's second cycle, completing two new sessions since our last report.¹

In this, our second report, we focus on how much attention is given to Latin American countries on issues of protecting civil society and human rights defenders. Twenty Latin American countries received recommendations from the global community regarding the rights of civil society and protecting human rights defenders. However, many of the recommendations involving civil society regard including civil society input on specific topics of human rights, such as women's rights, health or LGBT issues, rather than on protecting civil society itself.

Latin America generally does well when it comes to accepting the role that civil society should play in protecting human rights and in the need to protect human rights defenders specifically in the UPR process. The vast majority of the recommendations made to the region fell into one of three categories: involvement of civil society in protecting and promoting human rights, protection of the basic rights needed for civil society to function (such as freedom of assembly and the right to protest), and the need to protect human rights defenders and investigate when they have been threatened

or victimized (including unsolved murders of activists). For some in the region these are much bigger issues than in others: Honduras and Mexico each received 27 and 26 recommendations about their treatment of human rights defenders.

By and large, the countries accepted these recommendations. There were only a few countries that did not accept every recommendation given to them: Bolivia accepted 2 of 3, Cuba 4 of 16, Guatemala 4 of 8, Jamaica 0 of 2, and Peru 3 of 4.

In contrast, when it comes to raising similar concerns in other countries, only a handful of Latin American countries speak out on behalf of the rights of civil society and human rights defenders. Those most outspoken on these issues generally were Mexico, Uruguay, Costa Rica, Chile, and Colombia. Each one of these issued multiple recommendations to countries around the world, including to other Latin American countries, such as Paraguay and Honduras, and to leaders of the Global South such as Russia and China. In these cases they raised their voices in defense of protecting the right to peaceful assembly,

association and expression, the need to protect human rights defenders, and in some cases the need to re-examine laws that seek to restrict civil society. In all of the receiving countries there had been alerts issued by international NGOs about either legal or regulatory limits placed on independent civil society or on the treatment of human rights defenders.

Other countries that spoke out, in a limited fashion, on these concerns included Argentina (to Honduras and Cameroon), Brazil (to Iran, Iraq, Egypt, Honduras, and Paraguay), and Paraguay (to Honduras and the Maldives), though more on the specific topic of protecting threatened human rights defenders than on protecting civil society generally.

Not surprisingly, those countries most involved in cracking down on civil society within their own borders (see page 17) are silent when it comes to protecting civil society against similar abuses in other countries. The silence and the similarity of the efforts across regions indicate a potential cross-country learning effect and even collaboration.

One note: when Venezuela does speak up, it is to encourage "strengthening ties" between government and civil society in Iran, Qatar and Sri Lanka. It did not encourage an independent and vibrant civil society. The reasons are obvious: for many of these countries—competitive authoritarian, theocratic, and totalitarian—civil society exists to serve the state, not as a source of independent thought and action that can mobilize and represent citizens before the state.

1. The 25th session has submitted its recommendations, but the countries under review have not yet responded. The 26th and final session of this cycle will take place in November–December 2016.

The Organization of American States Meets Under the Democratic Charter

The big surprise was the abandonment of support for Venezuela from some PetroCaribe countries, such as Bahamas, Belize, Guyana, Jamaica, and Suriname.

The Inter-American Democratic Charter was invoked this year by OAS secretary general Luis Almagro. On June 23, 2016, after 4 hours of reports and speeches, the OAS Permanent Council meeting on the state of democracy in Venezuela ended without coming to any conclusion. But that was only half the story. The real drama and showdown came during the vote over the agenda.

Venezuela didn't want the hearing to be held at all and had worked hard before the vote to reject the agenda from the outset—effectively trying to end the meeting before it even began. Nicaragua and Bolivia echoed this in their preliminary remarks, attempting to change the conversation from Secretary General Luis Almagro's report to a call for his resignation.

Eighteen votes were needed to simply continue with the agenda for the day. After much confusion (including delegates asking multiple times, "What are we voting about?"), the agenda received 20 in favor, 12 opposing, and 2 abstentions. What is interesting is where countries strayed from their expected positions, namely those countries that have previously protected Venezuela from any criticism.

Unsurprisingly, almost all of the countries of the ALBA alliance voted in support of Venezuela—i.e., to reject the agenda. (The sole exception was St. Lucia, which abstained.) However, except for the ALBA countries of Ecuador and Bolivia, South America, including regional leaders of Argentina and Brazil, voted solidly to recognize the right of the secretary general to call the meeting, implement the agenda, and hear Almagro's report.

The big surprise was the abandonment of support for Venezuela from some PetroCaribe countries, such as the Bahamas, Belize, Guyana, Jamaica, and Suriname, even though they have historically benefited from Venezuela's oil largesse.

What caused these countries to abandon their benefactor? With low oil prices and its own economy collapsing, Venezuela has had to scale back the PetroCaribe oil-assistance program, possibly causing some of these countries to no longer feel beholden to President Nicolás Maduro.

Or maybe countries are just waking up to the fact that things are not so wonderful in one of "the most developed democracies, not only in the region, but in the world" (according to Venezuela's ambassador at the meeting), and that the state of democracy really is in crisis in Venezuela. Either way, by failing to halt the meeting, Venezuela helped to demonstrate regional action is possible, even if still not probable, and unwittingly proved its diminishing clout in the hemisphere.

IACHR Financing

In May 2016, the Inter-American Commission on Human Rights (IACHR or the Commission) issued an urgent press release announcing that, due to a significant budget shortfall, the Commission would be laying off 40 percent of its staff in July and suspending two of its thematic hearings sessions as well as all planned trips by the Commission around the region for the rest of the year. The announcement embarrassingly highlighted that European countries such as Sweden, Denmark, France, and Spain, were some of the largest supporters of the Commission while countries in the Americas, except the U.S., were pulling up short in their obligations. With the economic crises in Europe, extra-hemisphere actors were curtailing their donations. Unfortunately, though, regional member states (and beneficiaries) of the IACHR failed to step up to fill the gap.

In fact, in recent years, many regional actors have complained about the extra-regional support given to the IACHR as undermining the system's credibility. However, when given the opportunity to address their own complaints and bolster the legitimacy of the regional body, most have demurred.

But since the first alarm bell was sounded, multiple member states as well as international organizations have stepped up with contributions to help support the Commission's work. The regional body has now received funds or letters of commitment from Antigua and Barbuda, Argentina, Colombia, Panama, Peru, Chile, and

OAS Vote Chart

It seemed like a simple vote on an agenda for a meeting. But the vote in the OAS Permanent Council on June 23 went to the heart of the right of the body to discuss the deteriorating democratic situation in Venezuela and the authority of the secretary general to report on it. Here is how member states voted. Their ties to Venezuela—in PetroCaribe or ALBA—turned out to be less of a predictor of votes than usual.

YES	NO	ABSTENTION
Argentina	Antigua and Barbuda ALBA PETRO	St. Lucia ALBA PETRO
Bahamas PETRO	Bolivia ALBA	Trinidad and Tobago
Barbados	Dominica ALBA PETRO	
Belize PETRO	Dominican Republic PETRO	
Brazil	Ecuador ALBA	
Canada	El Salvador	
Chile	Grenada ALBA PETRO	
Colombia	Haiti PETRO	
Costa Rica	Nicaragua ALBA PETRO	
Guatemala PETRO	St. Kitts and Nevis ALBA PETRO	
Guyana PETRO	St. Vincent ALBA PETRO	
Honduras PETRO	Venezuela ALBA PETRO	
Jamaica PETRO		
Mexico		
Panama		
Paraguay		
Peru		
Suriname PETRO		
United States		
Uruguay		

Mexico, and it is in talks for further contributions from the United States, the EU delegation in Mexico, the United Nations Refugee Agency, and the Central America and Mexico Migration Alliance. If those commitments are met, the IACHR will be able to hold the hearings originally scheduled for the end of the year that it had suspended and renew staff contracts expiring in November and December.

While these donations and commitments (if all received) will help, many activities remain suspended, and one-time contributions will not fill the long-term budget gap. Member

states, those that have benefited from the Commission's work in years past and today (by defending human rights of citizens and setting regional legal precedent) need to step up, commit to long-term support, and speak out publicly and loudly about the importance—historical and current—of the IACHR. And yes, at times, this includes criticizing those same member states that are financially supporting the Commission. So who's willing to do it? History, precedent, and the future of human rights in a hemisphere that has set an example for the world depend on it.

The Inter-American Human Rights System

Underfunded and Underappreciated

In the four months since our first report we have continued to monitor the thematic hearings of the OAS Inter-American Commission on Human Rights (IACHR or Commission). There have since been two sessions of hearings, the 157th, held in March 2016, and the 158th, held in June 2016, in Chile, as a special session. Unfortunately—as we discussed in the previous section—the 159th session was canceled due to the severe financial crisis of the IACHR. The 158th hearings in Chile were only one week, so fewer countries and cases were involved; as a result we have included a weighted average here.

This round of hearings does not hold many surprises from our previous monitoring. Once again, there is a clear split between the countries that object to the hearings, if they bother to attend at all, and those that attend and engage with the Commission. The countries acknowledging the human rights issues within their borders and embracing the need to address them included countries from both the right and left, from Colombia and Peru to Bolivia and Brazil. Those shunning or objecting to the hearings included Cuba, Nicaragua, Venezuela (at the 157th hearings), and the Dominican Republic. The ALBA countries continued to object to any international oversight on what they view as purely domestic issues. The Dominican Republic, while not part of ALBA, has continued its resistance to any international or regional comment or exhortation on the issue of its treatment of Dominicans of Haitian descent. In the months before this hearing, the IACHR produced a report

documenting the government's policies and actions against Haitians in the Dominican Republic and Dominicans of Haitian descent, including illegal expulsion. Predictably, the Dominican government denounced the report, calling it full of "inaccuracies, prejudices, obsolete judgments and serious omissions."

However, there is one surprise. Venezuela has historically attended the hearings but objected vehemently to any concerns over human rights abuses in the country and the legitimacy of the Council to discuss them. For example, at the 157th hearing, at a discussion of the mounting economic crisis in the country, the Venezuelan representative stated "Things should be dealt with in context, and yes, I call attention to the Commission for the irresponsibility of handling this as an issue of 'humanitarian crisis' when there is no humanitarian crisis. In our view this is a political issue." But by the 158th, Venezuela had changed its tune and acknowledged the problems

Predictably, the Dominican government denounced a Commission report on its treatment of Dominicans of Haitian descent as full of "inaccuracies, prejudices, obsolete judgements and serious omissions."

in the country and the need to address them. This led Venezuela's score to increase from 1's in the 157th hearings to a 2.5 (out of 3) in the 158th.

Since both hearings took place after the December 2015 legislative elections won by the opposition, and with the foreign ministry still controlled by Maduro's government, the change is most likely due to the administration's inability to deny the deteriorating humanitarian situation in the country—with growing food lines, riots, and evidence of patients dying in hospitals due to lack of medicine, equipment and electricity—than a wholesale intellectual change of heart concerning the legitimacy of the regional human rights norms and their institutions. (If there was any doubt about that, the behavior of the Venezuelan ambassador to the OAS at the Permanent Council discussion of the human rights situation in June 2016 showed that little had changed in the government's view of claims of popular sovereignty.)

Who Is Cooperating with the Inter-American Commission?

Here we list the thematic hearings at the OAS Commission's 157th and 158th sessions (March and June 2016) and rate them based on government attendance and participation. A 0 indicates that government representatives did not attend; 1 that the government attempted to disrupt or protested during the hearing; 2 neutral participation; and 3 active and positive engagement by the government. If a country had multiple hearings, the score presented is an average.

COUNTRY	NUMBER OF CASES	TOPICS	PARTICIPATION			SESSION		AVG
			Absent = 0	Negative = 1	Neutral = 2	Positive = 3	157	
Argentina	3	Right to Freedom of Expression and Changes to the Law on Audiovisual Communication Services in Argentina; Case 12.056—Gabriel Oscar Jenkins and others, Argentina; Human Rights Situation of Persons Deprived of Liberty in the Province of Mendoza, Argentina				3	3	3
Bolivia	2	Human Rights Situation of LGBT Persons in Bolivia; Indigenous Peoples' Right to Free, Prior, and Informed Consultation in Bolivia				2.5	2	2.3
Brazil	4	Human Rights Situation of Afrodescendent Women in Brazil; Student Protests and Human Rights in São Paulo, Brazil; Cultural Rights and the Internet in Brazil (requested by State); Impacts on Human Rights of Mining Activity in Brazil				2.6	3	2.8
Canada	1	Follow-up on the Report "Missing and Murdered Indigenous Women in British Columbia," Canada				3		3
Colombia	5	General Situation of Human Rights in Colombia; Search for Missing Persons in La Escombrera de Medellín, Colombia; Case 12.954—Jineth Bedoya, Colombia; Jahel Quiroga Carrillo, Colombia (case); Territory, Human Rights, and Peace-Building in the Departments of Cauca and Córdoba, Colombia				2.6	3	2.7
Costa Rica	1	General Situation of Human Rights in Costa Rica (Hearing requested by the State)				3		3
Cuba	1	Situation of Human Rights Defenders in Cuba				0		0
Dominican Republic	1	Political Rights of Dominican Persons of Haitian Descent in the Dominican Republic				1		1
Ecuador	2	Right to Freedom of Association of Indigenous Peoples in Ecuador; Luis Eduardo Guachalá Chimbo and Zoila Chimbo Jarro, Ecuador (case)				0.5		0.5
El Salvador	2	Human Rights and Citizen Security in El Salvador; Impunity for Grave Human Rights Violations during the Armed Conflict in El Salvador				3		3
Guatemala	3	Agapito Pérez Lucas, Luis Ruiz, Nicolás Mateo, Macario Pu Chivalán, Guatemala (case); Right of Women to a Life Free of Violence in Guatemala; Right of Children to Food in Guatemala				3		3
Honduras	2	Human Rights Situation of LGBT Persons in Honduras; Human Rights Situation in Bajo Aguán, Honduras				2.8		2.8
Mexico	4	General Situation of Human Rights in Mexico; Rights of Persons Deprived of Liberty and the Privatization of the Prison System in Mexico; Missing Children and Adolescents in Mexico; Access to information and indirect restrictions on freedom of expression in Mexico				2.5		2.5
Nicaragua	2	Human Rights and Citizen Security in Nicaragua; General Situation of Human Rights in Nicaragua				0		0
Paraguay	2	Right to Freedom of Association in Paraguay; Sexual Violence and Human Rights of Girls and Adolescents in Paraguay				2.5		2.5
Peru	4	National Reparations Plan in Peru; Human Rights of Indigenous Peoples and Campesino Communities in Espinar, Cusco, Peru; Human Rights Situation of Labor Leaders in Peru; Impacts on Human Rights of Oil Spills in Peru				3	2	2.8
United States	3	Public Debt, Fiscal Policy and Poverty in Puerto Rico, United States; Human Rights Situation of Migrant and Refugee Children and Families in the United States; Human Rights and Access to Water in the United States				2.5		2.5
Venezuela	5	General Situation of Human Rights in Venezuela; Right to Health in Venezuela; Jimmy Guerrero and Ramón Antonio Molina Pérez, Venezuela (case); Human Rights and "People's Liberation Operation" in Venezuela; Right to Health and Access to Medicine in Venezuela				1	2.5	1.3

Inter-American Court Case Studies

As in our UPR section, for our case studies of the Inter-American Court of Human Rights (Court) we look at examples in which the Court, under the Inter-American Convention on Human Rights, reinforced the responsibility of the state to both defend and protect the rights of civil society. Precedent set by the Court's decision established the rights of independent civil society organizations as human rights.

Kawas-Fernández v. Honduras

April 3, 2009

Jeannette Kawas Fernández was the president of an environmental organization (Foundation for the Protection of Lancetilla, Punta Sal, Punta Izopo and Texiguat) that works to improve the quality of life for those living in the Bahía de Tela region of Honduras. Much of the work focused on bringing public attention to the pollution of rivers and forests and blaming private actors of attempting to “illegally appropriate” the area of Punta Sal.

In 1995, Fernández was murdered. Those responsible were never brought to justice. In its application to the Court, the Inter-American Commission on Human Rights held that, following her death, “serious omissions revealed that the State authorities did not adopt with due diligence all the necessary measures to conduct an investigation.” The Court agreed, and ruled that the state must pay compensation, carry out the required criminal proceedings, publicly acknowledge responsibility, and carry out a national

awareness campaign recognizing the work performed by environmentalists and their contribution to the defense of human rights.

Ms. Kawas-Fernández was the first person recognized to have been murdered in Honduras for defending natural resources and the environment. Since then a number of other human rights and environmental defenders have been murdered in Honduras, and their cases never solved. The attacks and impunity have had a chilling effect on the environmental movement in the country. Nevertheless, in its ruling the Court successfully drew a line connecting environmentalism and human rights, an argument that continues to be used to defend the rights of threatened environmentalists and environmental leaders.

Huilca-Tecse v. Peru

March 3, 2005

On December 19, 1992, Pedro Huilca Tecse, a trade union leader in Peru, was murdered in what appeared to be an extrajudicial execution linked to *La Colina*, a death squad with ties to the Peruvian Army's intelligence service. Huilca Tecse had been a vocal critic of government labor policies, quite likely making him a target. After the murder, the police blamed the *Sendero Luminoso* (a leftist terrorist organization) for the killing, though a number of eyewitnesses and human rights groups claimed that the murder had been conducted by *La Colina*. These claims of links to *La Colina*

and eyewitness accounts pointed to the likelihood that those eventually arrested were not the ones who had committed the attack.

In its decision in March 2005, the Court ruled that the state had violated the right to life and the right to freedom of association, and had failed to adequately investigate. The Court ordered the state to conduct and publish another investigation, discover and punish the actual killers, make a public apology, and pay compensation to the family.

Much as with the *Kawas-Fernández v. Honduras* case, described above, the Court was recognizing that the murder of a trade union leader and the lack of an adequate investigation constituted a violation of human rights. By doing so the Court established that labor rights and the right to advocate on their behalf as civil society—as with the case of environmental activists—was a human right for which the state was responsible.

International Election Observation

Who's Inviting? Who's Complying?

Since 1993, the OAS has sent 177 missions to 26 countries around the hemisphere to monitor and promote free and fair elections.

The regional body and its member states recognize that free and fair elections are a crucial component of democracy and the multilateral body's role in ensuring them. But the quantity of missions tells us little about their quality. It also fails to highlight the key countries that have dropped out of the "community of observed countries."

Overall, the number of countries inviting the OAS to monitor the fairness of an election has grown since 1993. This is largely due to an increase in small nations in the Caribbean basin requesting monitoring missions, turning to the OAS for both international validation and technical expertise, in countries with limited resources. However, for the first time this year, it also includes a mission to monitor the U.S. presidential elections in November.

Those countries that invite the OAS missions tend to be repeat customers, such as Bolivia (14 elections), Peru (13 elections), Ecuador (12 elections), and the Dominican Republic and Nicaragua (11 elections each)—though it looks more than likely that Nicaragua will drop out this year.

Curiously, the ALBA countries of Bolivia, Ecuador, Nicaragua, and Venezuela have some of the highest numbers of OAS monitoring missions, for now, at least. The numbers hide some important emerging changes and likely forthcoming developments. Below, we explain.

Ecuador

While Ecuador has been a frequent customer of OAS missions, it has

While Ecuador has been a frequent customer of OAS election missions, it has harassed and even shut down domestic observers such as *Participación Ciudadana*.

harassed and shut down domestic observers such as *Participación Ciudadana*—groups that serve as essential counterparts to credible international teams and efforts. These groups are on the ground before the international observers arrive and, in addition to monitoring the balloting on election day, educate voters on how to vote and on the importance of free and fair elections. President Rafael Correa has called *Participación Ciudadana* an agent of U.S. influence (though ironically it certified as free and fair the election that originally brought him to the presidency) and has imposed increasing restrictions on "political" organizations. In addition, the Correa government has harassed independent media, an essential component in guaranteeing equal media airtime, especially when the government uses—as it does in Ecuador—public television and radio stations for partisan purposes.

Nicaragua

The government of President Daniel Ortega has cracked down on Nicaragua's internationally respected domestic electoral watchdog organization *Ética y Transparencia*. The Ortega administration and its odd coalition

of allies have also packed the electoral commission, the CSE, with pro-government sympathizers and recently used the Supreme Court to hand the leadership position of the main opposition party to a government ally and kicked 28 opposition legislators out of the National Assembly.

But Ortega in Nicaragua has gone even further than Correa in Ecuador. He recently announced that OAS observers will not be invited for the upcoming general elections in November 2016. This despite the fact that it was OAS observers that helped to legitimize President Ortega's democratic return to power in 2006 and to validate his re-election in 2011. The recent turn of events unravels one of the most successful and recognized cases of democratic electoral rebuilding in the region.

Venezuela

Since 2006, Venezuela's government has stopped inviting the OAS to observe its elections (despite its claim that it is one of the most democratic countries in the world). Instead, the government has preferred to invite monitors from the Union of South American Nations (UNASUR), which have significantly weakened election observation standards in the region. According to UNASUR's own mandate, its election observation missions are sent to a country to accompany and verify the work of the state's own electoral commission. In the case of Venezuela that means

The current political crisis in Venezuela has highlighted a major weakness of the OAS election-monitoring mandate: the requirement that a country's executive guarantee what should be a fundamental right.

certifying the work of the infamously partisan national electoral commission (CNE), in which—as many have documented—over half of the members of the electoral oversight body, including its president, are *chavistas*.

The current political crisis in Venezuela has highlighted a major weakness of the OAS election-monitoring mandate: which leaves the country's executive to guarantee a fundamental democratic right. Despite a request from the Venezuelan opposition coalition to monitor the December 2015 legislative elections (which the opposition won), the OAS couldn't do so without an invitation from the executive. Even now that the opposition controls the National Assembly, the legislative branch and local governments lack the authority to invite observers.

Changing trends?

OAS election missions are seen as a legitimizing tool for governments on both the international and domestic stages. For this reason, the OAS is still invited by governments around the region. But as electoral standards have been undermined in places like Nicaragua and Venezuela, the OAS has no longer been welcome. While its record hasn't always been perfect, the OAS has spoken out against flagrant election violations and will refuse to participate in an election where it believes it does not have the access to guarantee a fair process. Part of this involves an agreement of diplomatic immunity for OAS observers by the host government and a procedural agreement by the local electoral authorities to guarantee access and

provide information requested by the visiting mission. Negotiations over such details can take weeks after the initial invitation.

Inviting the OAS to observe elections is not without risk to the government. In past missions, OAS observations that have detected flaws or fraud in an election have forced governments to change their actions. Widespread fraud in the Dominican Republic election of 1994, documented by the OAS, led to new elections 18 months later; in Peru, criticism of pre-electoral conditions and elections of 2000 led to increased international attention on President Alberto Fujimori, who later resigned and fled to Japan after the eruption of a corruption scandal; and in Haiti in 2010, an OAS review of the voting results changed the winner of the presidential election.

Today, though, much of the stifling of the opposition, of civil society and of the press has taken place long before an election is announced and international observers arrive. As Venezuela has demonstrated, a government can ensure a weak opposition through restrictive regulation and laws against freedom of the press and assembly, a biased electoral commission, criminal prosecutions, and generally using the judicial system to hound opponents.

The governments of Venezuela and Nicaragua have so gutted civil and state democratic checks and balances and packed their national electoral commissions that they have already gamed the system to remain in power.

The trend is not limited to ALBA countries. The most recent election

in the Dominican Republic in May 2016 had numerous problems, and the opposition candidate accused the government of using government jobs to influence voters and of paying people not to vote. The OAS follow-up report detailed disparities in access to media and in the distribution of government funding to parties as well as loopholes in financing, such as the lack of limits on private contributions to campaigns. However, despite these problems and some limited violence, the OAS preliminary report did not document any serious reservations about the outcome of the election. Informally, however, a number of outside observers and participants expressed frustration over the lack of access to the voter registration audit and the limited freedom of mobility imposed on diplomats on election day.

And in Peru the most recent election, also held in May 2016, exposed fault lines within the OAS itself. With just weeks to go before the presidential election, two of the four leading candidates were disqualified by the electoral commission for breaking new “vote-buying” laws, despite evidence that the front-runner, Keiko Fujimori, was doing the same but was not disqualified. This led the secretary general of the OAS, to claim that the election would not be fully democratic if the same standards were not used for all candidates. Juxtaposed against that, the OAS mission said that the electoral commission was within its legal authority in choosing to disqualify only two candidates, while not passing judgment on the quality of that decision. This split highlighted the limitations

A Comparison of UNASUR and OAS Election Observation Standards

A straight-up comparison of how UNASUR and OAS define their election observation missions tells the story. Whether it's how the mission is selected and the invitation issued, the methodology of the two (with no clear standards for UNASUR), or the steps for an observation, what is clear is that UNASUR's approach is clearly both pro-government and less technocratic. What aspiring autocratic government—of whatever ideology—wouldn't want a UNASUR observation?

	UNASUR	OAS
Foundational Norms (according to organization's founding documents)	Impartiality; Objectivity; Independence; Legality; Non-Intervention; Transparency.	Objectivity and neutrality; Respect for the host country's domestic laws; Non-substitution of national actors.
Objectives of Each Mission	To help develop electoral processes and best practices that can be used, so long as the legislation of respective countries allow.	To observe and verify compliance; to analyze and make recommendations to help improve the electoral system; to ensure impartiality, transparency, and reliability; to demonstrate international support and inter-American solidarity.
Members of Each Mission	A Special Representative (chosen by UNASUR's foreign ministers), a General Electoral Coordinator (chosen by the Electoral Council of UNASUR), and a Base Group.	The Chief and Deputy Chief of Mission (chosen by the OAS SG), the Core Group specialists, the regional coordinators, and observers (long-term, short-term, and domestic observers).
Requirements for Each Mission	Member state must request and provide security, cooperation and information.	The electoral process must be exclusively the purview of the relevant electoral body. The OAS Mission cannot be subject to any legal or regulatory limitations, and conditions are guaranteed for security, free access to information, and broad cooperation.
Invitation	The mission is officially established via an agreement between the requesting state and UNASUR, setting out the mission's specific objectives, dimensions, reach, commitments, and reports.	An invitation is sent from the electoral body to the Ministry of Foreign Affairs for formal presentation to the General Secretariat of the OAS.
Methodology	No standard methodology—determined for each mission by Electoral Council. Typically preliminary information provided by the State, verification by the Mission and interviews.	A quick vote tabulation, a Document of Indicators of the Electoral Process, and Election Day Questionnaires completed by Observers of the Mission.
Indicators for Evaluation	Developed by the General Electoral Council for each mission, but no standard indicators.	Four basic indicators: inclusive elections, clean elections, competitive elections, and elective public offices.
Periods Observed by Missions	Preliminary visits and presence on Election Day.	Pre-electoral period, Election Day, and post-electoral period.
Reports	<p>Previous Report: Written upon arrival with expectations and plan of activities.</p> <p>Preliminary Report: The Special Representative and General Electoral Coordinator will produce a preliminary report for the electoral body.</p> <p>Final Report: After 15 days the Base Group will issue a report to be made public.</p>	<p>Verbal Report: Presented to the OAS Permanent Council.</p> <p>Final Report: This is prepared by the Deputy Chief of Mission within 3 months of the verbal report. This document is presented to the OAS secretary general for consideration and approval before being distributed to the Permanent Council.</p>

of electoral monitoring: UNASUR evaluates elections with regard to the domestic laws of the countries, which may or may not be in line with international democratic standards (though it may make recommendations for improvement). While the OAS mission

was commenting on the legal authority of the electoral board, Almagro was commenting politically on the inadequacies of the Peruvian electoral setup. It remains to be seen whether Venezuela's rejection of OAS monitors is an exception to the region or the beginning

of a new trend, with Nicaragua now following its lead. Regardless of whether Nicaragua eventually allows OAS monitors or not, President Ortega has set the stage for his own re-election, one not likely to be approved by any independent monitor.

Anti-Corruption Efforts

OAS and OECD Conventions and Domestic Freedom of Information Laws

Latin America has been at the forefront of tackling corruption—at least in terms of laws on the books. In 1996, the entire region (except Cuba) signed an OAS treaty, the Inter-American Convention against Corruption, that was the first multilateral convention to focus exclusively on corruption, both domestic and international. In addition, a number of countries in the hemisphere are party to the Organisation for Economic Co-operation and Development (OECD) Anti-Bribery Convention: Argentina, Brazil, Chile, Colombia, and Mexico. But there’s a difference between signing onto an agreement and complying—though a growing number of countries are refusing to do even the former.

The OAS treaty seeks to both encourage the development of domestic mechanisms to fight corruption and coordinate between countries on anti-corruption measures to make anti-corruption laws and investigations more effective. It obligates countries to implement the treaty obligations into domestic law and has a peer-review enforcement body, the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption, or MESICIC. The peer committee conducts periodic reviews of all members and issues a hemispheric report on the state of anti-corruption efforts regionally.

MESICIC has had more success than might be expected for a body made up of peers in a hemisphere that is traditionally averse to self-criticism. But by focusing on technical, legal, and concrete ways to improve anti-corruption measures, MESICIC has been able to steer clear of politics and make recommendations that have been less controversial and easier for countries

to comply with. The collaborative and constructive nature of the peer process avoids the heavy-handed evaluation or the finger-wagging dynamics that often make governments defensive and such processes ineffective.

In addition to the region-wide OAS treaty, the five largest regional economies, Argentina, Brazil, Chile, Colombia, and Mexico, have also committed to the OECD Anti-Bribery Convention. The treaty focuses exclusively on cross-border or foreign corruption and bribery of public officials by businesses.

The most recent OECD country reports call out Argentina and Brazil. The report argues that Argentina is “seriously non-compliant with key articles” and has widespread delays, raising concerns about judicial independence. The report, though, is backward-looking, to the practices of the notoriously corrupt government of Cristina Fernández de Kirchner. Today the question is whether the government of current president Mauricio Macri will prove more transparent and accountable.

More criticized by the OECD reports is Brazil, the 7th-largest economy in the world. According to the report, the South American giant has brought forward only five investigations of foreign bribery in the 14 years since committing to the treaty. The 2014 report also all but predicted the Petrobras scandal, raising a specific concern that economic considerations for national “champions” were influencing investigation decisions.

According to the same report, even Chile, considered one of the least corrupt countries in the region, was not sufficiently investigating bribery allegations.

On a national level, the region has experienced a wave of freedom of information legislation, codifying a right recognized in the Inter-American Convention on Human Rights and the Declaration of Chapultepec. Before 2000, there was only one country (Colombia) with a law explicitly protecting this right. Today that right has either been protected by new legislation or recognized as one of the rights protected constitutionally in each country around the region. The exception, of course, is Cuba.

But while the right may be recognized and “on the books” in each country this does not mean that each government lives up to its promises in an effective or timely matter. According to the World Justice Project’s Open Government Index, 75 percent of the people who requested information in Venezuela received the information; in Mexico that number was 79 percent; and in Peru 67 percent. Surprisingly, Colombia did the worst

Compliance with Anti-Corruption Standards and Freedom of Information Laws

The 2000s in the hemisphere were marked by a flurry of initiatives to improve transparency to access to information. International conventions to reduce corruption and bribery and the promotion of freedom of information laws domestically were all the rage. How is the region doing a decade later?

COUNTRY	TI EVALUATION OF OECD COMPLIANCE ¹	OAS/MESICIC PARTICIPANT	CONSTITUTIONAL PROTECTION?	SPECIFIC LAW ENACTED	PRESUMPTION OF RIGHT	SCOPE/ EXCEPTIONS/ OVERRIDES ²	RECEIVED INFO?	WITHIN A WEEK?	APPROP. INFO	TI SCORE
Argentina	Moderate	Yes	Constitutional protection	2004	Yes	No mention of law's application to legislature/ judiciary; exceptions for classified information and legitimate rights and info of others; no mention of overrides	68%	41%	76%	32
Brazil	Little	Yes	Constitutional protection	2011	Yes	Applies to all bodies, including private bodies that receive public funding; vague on national security exceptions; limited overrides	62%	16%	60%	38
Chile	Little	Yes	Constitutional protection	2008	Yes	No requesting procedure for legislature/ judiciary; law trumped by state secrecy laws; no overrides	71%	46%	69%	70
Colombia	Not Yet Evaluated By TI	Yes	Constitutional protection	1985	Yes	Applies to all bodies including parastatals; does not trump state secrecy law; mandatory overrides	56%	26%	44%	37
Dominican Republic	Not Evaluated	Yes	Partial protection	2004	Yes	Limited application to legislature/judiciary; exception for national security and international relations; has overrides	79%	75%	N/A ³	33
Ecuador	Not Evaluated	Yes	No constitutional protection	2004	Yes	Broad scope, but no right to ask questions; exceptions for military secrets/intelligence, with other laws allowed to classify info; no overrides	75%	25%	83%	32
Mexico	Little	Yes	Constitutional protection	2002	Yes	Applies to all branches, but without same appeals process; exceptions for info exempted by other laws; mandatory overrides	79%	66%	84%	35
Peru	Not Evaluated	Yes	Constitutional protection	2003	Yes	Applies to all branches but does not trump secrecy laws; many exceptions for military, intelligence, national security, banking/ commercial; has override, unless would threaten democratic system	67%	26%	51%	36
Venezuela	Not Evaluated	Yes	Constitutional protection	none	Yes	There is a constitutional right to information recognized in Venezuela, however, this right has been ignored and reduced under <i>chavista</i> governments by regulations, court decisions and government harassment	75%	62%	69%	17

1. TI stands for Transparency International. Not all countries part of OECD Convention.

2. "Overrides" refers the exceptions that exclude information from the right to information law for reasons of human rights and public interest.

3. Dominican Republic did not have the percentage that received appropriate information.

according to the index, with only 56 percent of those polled receiving the information they requested.

The quality of information also

varied across the region. With the exception of Colombia, over half of all recipients in all the countries surveyed reported receiving the information

actually requested, with that number reaching 83 and 84 percent in Ecuador and Mexico, respectively.

The Troubling Growth of Domestic Restrictions on Civil Society

There is a growing global trend toward restricting civil society organizations, both domestically and on the international stage, and Latin America is no exception. Like many across the Global South, including non-democratic countries like Russia and China as well as democracies like Indonesia and Turkey, Latin American countries have been curtailing NGOs by restricting the space, protection and resources they need to achieve their missions.

One of the roles played by civil society groups is to monitor or criticize government policies and actions, making it not surprising that governments, especially thin-skinned, intolerant ones, have an incentive to control how much civil society groups can raise their voices to denounce abuse and inefficiency. Rather than prohibit problematic organizations outright, though, governments have developed more subtle forms of legal measures and policies that restrict the establishment, activities, speech, international contact, resources, and assembly of civil society. The restrictions are applied selectively to those groups most critical of the government, such as advocacy groups or human rights defenders, or those that have missions contrary to the traditional “morals” the government wishes to protect (such as LGBT groups in Russia).

The International Center for Not-for-Profit Law (ICNL), has collected data on the various categories of laws that restrict NGOs. As shown in the graph on the following page, we took the data from ICNL and coded it based on the level of severity and

implications for nonprofit organizations. Solid red indicates a significant hurdle for an NGO, either legally or in practice, meaning, typically, active harassment and the use of force or threats if government is opposed to your mission; the red ring indicates a less severe, but still moderately difficult environment—including excessive regulation giving a government the ability to overtly interfere and harass a “problematic” NGO; and blue shows minimal impediments on organizations in that country.

According to the ICNL, those countries in Latin America with the strongest NGO barriers are Ecuador, Nicaragua and Venezuela—all members of the ALBA, which has become known for restrictions on its citizens’ human rights—as well as Colombia, a country just now coming out of decades of armed conflict. The ratings show that these countries have especially restrictive policies curtailing NGO activities, freedom of speech and freedom of assembly. Though Venezuela, Nicaragua and Ecuador are competitive authoritarian systems (more than out-and-out autocracies) and Colombia

While Colombia has a strong and vibrant civil society generally, it is still one of the more dangerous countries in the world to be a human rights defender.

is a democracy (albeit with some limitations), these restrictions are more similar to those in authoritarian or communist countries such as China and Russia than to other democracies.

Both Ecuador and Venezuela have used excessive financial penalties and criminal proceedings to harass and shut down organizations critical of their actions and policies.

In Colombia, decades of fighting and civil war have led to an environment in which human rights groups, especially those that question the government’s heavy-handed tactics, face significant barriers to formation and harassment, from both inside and outside the government. Thus, while Colombia has a strong and vibrant civil society generally, it is still one of the more dangerous countries in the world to be a human rights defender.

It is no surprise that the ALBA countries, given their interest in sustaining a monopoly over who gets to speak on behalf of “the people,” have such excessive policies.

But why do countries with more moderate governments, ranging from Honduras to Peru, which vote or speak up, at least on an international stage, to protect human rights, also have restrictions on NGOs, freedom of speech and freedom of assembly? As in Colombia, could restrictions in these countries be a legacy of the violence

Domestic Restrictions on Civil Society: A Global Comparison

Governments' opposition to greater respect for human rights such as freedom of association and expression often translates into domestic regulation of those internationally defined rights. In the region, Ecuador and Venezuela track most closely with China, Indonesia, Russia, and Turkey—though are not that far out of step with Colombia, Honduras, Panama, and Peru.

COUNTRY	BARRIERS					
	ENTRY	ACTIVITIES	SPEECH	INT'L. CONTACT	RESOURCES	ASSEMBLY
Colombia	○	○	●	●	●	○
Ecuador	○	●	●	●	○	●
El Salvador	○	●	●	●	●	○
Honduras	○	○	○	●	●	○
Mexico	●	●	●	●	○	○
Nicaragua	●	○	○	●	○	●
Panama	○	○	●	○	●	○
Peru	●	○	○	●	○	○
Venezuela	●	●	●	○	●	●
China	●	●	●	○	●	●
India	○	○	●	●	○	○
Indonesia	○	●	○	●	●	●
Russia	○	●	●	●	○	●
South Africa	●	●	●	●	●	○
Turkey	○	○	●	●	○	●

- Full freedoms
- Legal restrictions or hurdles/harassment
- Severe restrictions, to the point of criminal imprisonment, targeting with excessive fines meant to drive groups out, or the murder/lack of investigation or protection against death threats, etc.

and armed conflict that have historically allowed governments a freer hand in curtailing groups from speaking up for, and protecting, the rights of those fighting the government? Civil society groups have historically played an important role, intrinsic to their very nature, in democracies around the world by providing services and support—effectively a safety net for the most vulnerable—often times in areas

or times where the government was absent. This role can be seen as threatening, especially if organizations can use these popular bases of support to question government actions.

With the erosion of Latin America's populist left, as well as the final end to Colombia's decades-long conflict, there may be hope for the region to buck the global trend toward restricting civil society organization and

recognize instead the various crucial roles NGOs can play, whether in providing needed services in areas where the government cannot, in protecting human rights, or in holding a government accountable for its actions, even if the government does not agree with their views.

International NGO Restrictions

(ECOSOC NGO Committee)

Imagine a UN committee dedicated to accrediting civil society organizations that doesn't accredit the vast majority of those that apply. Next, imagine a UN committee dedicated to accrediting civil society dominated by governments leading crackdowns on civil society in their own countries. Pretty absurd, but put the two together and that's what's happening repeatedly at the United Nations.

The UN committee intended to accredit and approve international

the bidding of the authoritarian governments—including China, Russia and Cuba—that make up a majority of the 19 countries represented on the committee.

The question is, how did governments fundamentally opposed to independent civil society get on a global body dedicated to peace and freedom and on a committee charged with overseeing civil society?

The NGO committee reviews applications from nonprofit organizations seeking accreditation to participate in ECOSOC's various committees, events and programs, including the United Nations Human Rights Council. Its 19 members are elected by ECOSOC, but

seats are allocated by region, with little regard to NGO protections and regulations within a candidate country.

Of the 19 members on the committee, 10 voted no, 6 voted yes, and 3 abstained, regarding the CPJ application. The no votes were Azerbaijan, Burundi, China, Cuba, Nicaragua, Pakistan, Russia, South Africa, Sudan, and Venezuela—all of them regularly cited by CPJ and other human rights activists for their violations of freedom of expression. Three other

countries that have had their own confrontations over freedom of expression in their country (and in the case of the latter in Germany)—India, Iran and Turkey—abstained. Only Greece, Guinea, Israel, Mauritania, the United States, and Uruguay voted in support of CPJ's accreditation before the global body.

Diplomats and UN officials have expressed their disappointment with the recent round of denials—though criticisms over the politicization of the body have percolated for some time. The spokesperson for the Office of the High Commissioner for Human Rights, Rupert Colville, stated “we see more and more evidence of more and more States clamping down on the freedoms of expression association and assembly, with the media and human rights defenders in the frontline... While this may be in the interests of authorities wishing to crush criticism and retain power, it is clearly not in the interests of their populations. This unfortunate episode involving CPJ is emblematic of this unfortunate and very negative trend.”

In South Korea, UN secretary general Ban Ki-Moon said that freedom for civil society, NGOs and human rights defenders is under attack, “including at the last place this should happen: the United Nations.”

In its press release, CPJ called the accreditation procedure “Kafkaesque,” and the executive director, Joel Simon, stated “a small group of

The UN NGO committee has rejected or repeatedly deferred applicants on topics of LGBT rights, women's rights, freedom of religion, and oppressed minorities.

civil society to participate in the United Nation Economic and Social Council (ECOSOC) completed its work in May and rejected 34 out of 37 applicants. One of those rejected was the well-respected freedom of expression group Committee to Protect Journalists (CPJ), which for decades has worked to protect the lives and rights of independent media and journalists across the world.

The reason was obvious (and sadly predictable): the UN body was doing

countries with poor press freedom records are using bureaucratic delaying tactics to sabotage and undermine any efforts that call their own abusive policies into high relief.”

But while CPJ has the international reputation and clout to gain attention on this issue, other groups are not so lucky. After the U.S. ambassador to the UN, Samantha Power, raised an appeal at the full ECOSOC meeting, the decision was reversed and the CPJ later accredited in July 2016. The UN NGO committee has rejected or repeatedly deferred other applicants on topics of LGBT rights, women’s rights, freedom of religion, and oppressed minorities, among other topics. As Ambassador Power points out, the NGO committee “is turning into an anti-NGO committee.”

Rather than complaining about one decision and the poor performance of the committee in doing its supposed job, perhaps time should be directed toward understanding and doing something about how those governments even gained a seat on the committee to begin with. In the end, these representatives are doing what one would expect of autocrats. Energy and diplomatic efforts would be better spent finding more worthy candidates and calling out those governments that originally voted for such a rogues’ gallery of anti-civil society governments on a committee dedicated to supporting civil society’s global voice.

Energy and diplomatic efforts would be better spent finding more worthy candidates and calling out those governments that originally voted for such a rogues’ gallery of anti-civil society governments.

What's Next?

Little has changed in terms of governments' voting behavior on liberal issues since our last report. What has changed are the governments in Argentina, Brazil and Peru. Unfortunately any change in their voting actions is not yet reflected in this report.

Nevertheless, in the interim, there have been advances. The Organization of American States' discussion under the Inter-American Democratic Charter on the situation in Venezuela—and the surprising support it received from some Caribbean nations—indicates a changing tide in the region. Ironically, the appeal by the government of impeached Brazilian president Dilma Rousseff to the Inter-American Commission on Human Rights to denounce the impeachment process as a coup indicates a curiously late embrace of the extra-national system of rule of law. Only a few years earlier the same government briefly allied itself with Ecuador and Bolivia to weaken the Commission. Perhaps Brazil's last-minute appeal will serve as a message to other governments and leaders that international norms and rule of law that defend basic norms—even though they may occasionally sanction you—may some day be your ally.

But even if there is a broader shift toward human rights and democracy in the hemisphere, other practices and transparency norms are at risk. As we detail, not only have countries started to bend or even reject electoral standards and conventions and domestic laws governing transparency, the fault line is not just between the ALBA countries and all the rest. UNASUR—as we detail on page 13—has weakened electoral standards and multilateral norms. Governments such as the Dominican Republic have subtly bucked long-standing OAS election observation standards, even while inviting the OAS and outside observers,

by limiting their scope and action. At the same time, governments' commitment to transparency standards on issues of access to information and OECD anti-bribery standards, despite having been a trend a little more than a decade ago, is on the retreat.

The unknown is whether the region is turning a corner. As we revealed in our last report, Argentina had been a stalwart defender of human rights internationally under the governments of Néstor and Cristina Fernández de Kirchner, but it did less well on matters of regional human rights standards. Under the government of President Mauricio Macri, the hope is that

Beyond votes to reject Venezuela's leadership of Mercosur, the larger question is whether new governments will invest political capital to recover international and regional liberal norms.

the international human rights profile of Argentina will continue, but with a stronger defense of human rights standards regionally and domestically. Similarly, in Brazil the controversial government of interim president Michel Temer and his outspoken foreign minister José Serra have started to stake out a new, more pro-democracy position in the hemisphere. And Pedro Pablo Kuczynski in Peru has also called for more regional engagement on mediating the democratic and humanitarian crisis in Venezuela.

But beyond the individual crises, or votes to reject a rogue regime from assuming the leadership of Mercosur, the larger issue is whether these new administrations will be willing to invest political capital to recover international norms and standards in areas such as elections and to support the regional human rights commission—all the while distancing themselves from or even opposing the anti-liberal domestic and international agendas of the governments in Russia or China.

We'll see. Better yet, in our our next report we'll tell you.

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