



**Testimony of Alfonso Aguilar  
President, International Human Rights Group**

**House Committee on Foreign Affairs, Subcommittee on the Western Hemisphere**

**Hearing on “Advancing U.S. Interests Through the Organization of American States”  
February 14, 2018**

Chairman Cook, Ranking Member Sires, members of the Sub-Committee, thank you for the opportunity to be part of this afternoon’s hearing.

My name is Alfonso Aguilar and I am the president of the International Human Rights Group, a Washington, DC based legal foundation that seeks to defend and promote fundamental human and political rights throughout our Hemisphere.

From the outset, I would like to state my strong belief that a strong OAS is needed today to promote democracy, security, peace and human rights in the region.

And while we must recognize that the OAS continues to be the most important multilateral organization in the Hemisphere, the only one that includes the U.S. and Canada, it is undeniable that its relevance has been seriously diminished.

For the last fifteen to twenty years, as left-leaning autocratic regimes have taken hold in countries like Venezuela, Bolivia and Nicaragua, manipulating elections, overturning the existing constitutional order and violating fundamental political and human rights, the OAS hasn’t been able to take any meaningful action to address these situations.

It is important, therefore, that we ask what has led to this situation and what the U.S. can do to turn things around so that the OAS can begin to function again as a relevant forum for the protection of democracy and human rights in the Hemisphere.

First, we must understand that the basic structure of the OAS, as established in its Charter, inherently limits and slows down its ability to act swiftly or at all. Decisions are usually made by consensus or only when there's a large majority for a specific course of action.

Needless to say, it's very easy for a significant minority of countries to prevent the organization from taking action on important matters. A good example of this is the case of Venezuela.

A small coalition of nations ideologically aligned with Venezuela, which includes countries like Bolivia, Ecuador and Nicaragua, with the support of the small but numerous island states of the Caribbean, has prevented the deteriorating situation in the country from being properly addressed by the organization. To this day, the OAS hasn't been able to pass a resolution to denounce the abuses of the Maduro regime.

The new socialist countries of the region have been very effective in manipulating the consensus-based decision-making system of the OAS to obstruct any effort that could challenge their legitimacy. But, ironically, what has allowed them to be so successful is the leadership vacuum at the OAS left by the U.S.

During the last century, the OAS was influential in the region because the U.S. was very engaged in it. The U.S. relied on it as one of the main forums through which to advance its interests. The U.S. today, however, seems to have lost interest in the OAS and is not exerting adequate and proper leadership in the organization.

The OAS needs strong leadership from the largest and oldest democracy in the hemisphere. It's not about being heavy-handed or trying to impose our way. It's about regularly and consistently playing a leadership role to try to forge the necessary consensus to make the organization work.

There's no way around it: to begin restoring the influence of the OAS in the region this and future administrations need to make a clear policy commitment to re-engage in the high-diplomacy efforts of the organization. Congress, through the leadership of its members and the relevant committees and subcommittees such as this one should press upon the administration the urgency of this endeavor.

The continuous new mandates and initiatives the organization takes up as well as the overly broad strategic goal of promoting development in the region, which is actually one of the organization's so-called four pillars as defined by its Charter, may also distract the organization from properly addressing the regional challenges to democracy and human rights. The Department of Economic Development of the OAS's Executive Secretariat for Integral Development, for instance, manages projects and technical assistance programs to promote competitiveness, innovation and technology, trade and economic development, culture and tourism and corporate social responsibility. Many experts argue that these initiatives are well beyond the organization's expertise and human and financial resources and could better be managed by a multilateral agency like the Inter-American Development Bank.

It's my understanding that our Mission, based on the OAS Revitalization and Reform Act of 2013, which calls for limiting and prioritizing new mandates, has been working within the

organization to address this problem and try to narrow the focus of these programs. I suspect that this is another predicament that would benefit from renewed leadership from the U.S.

Turning now to the Inter-American Commission of Human Rights and at the Inter-American Court of Human Rights, I should say that something quite different is happening with these bodies. These forums are affiliated to the OAS, but they are autonomous and act independently of member states.

Both the Commission and Court have actually acted swiftly to condemn attacks to democracy and human rights in the region. The Commission has issued important reports and precautionary measures on human rights violations in Bolivia, Ecuador and Venezuela, particularly regarding freedom of the press). And the Court has issued strong sentences against rulings from Venezuelan courts controlled by the regime which violate the fundamental rights of its citizens guaranteed in the American Convention of Human Rights.

The problem with these organizations is that they are compromising their credibility by often weigh-in on a myriad of issues that go beyond their mandate under treaty law and that are of the internal jurisdiction of member states.

The Commission regularly issues statements about matters outside its treaty law purview. It has questioned U.S. government's decision to end Temporary Protected Status for nationals from certain countries and has called on the U.S. Congress to pass gun control laws.

In 2011, the Commission issued a precautionary measure requesting the government of Brazil to halt work on a hydro-electric plant until it addressed concerns from indigenous communities. The Brazilian government responded by suspending relations with the Commission as well as its funding to it, calling the request "precipitous and unwarranted."

The Inter-American Court, unfortunately, is following the same route. The Court is engaging continuously on judicial activism, issuing rulings and opinions not based on the text of the American Convention of Human Rights. In August of last year, for example, in the case of *Lagos del Campo vs. Peru*, the Court, went beyond its duty to interpret the Convention and based on a broad clause from it, crafted specific labor standards for all the nations under its jurisdiction. And just last month, without any basis on the actual text of the Convention, the Court issued an advisory opinion, which had been requested by the government of Costa Rica, instructing not only the twenty countries under its jurisdiction, but incredibly all OAS member states, to recognize same-sex marriage and "gender identity."

These intrusions of the Commission and the Court in the internal affairs of member states understandably cause great concern in the countries of the region and are perceived as an attempt against their sovereignty and constitutional order.

The recent Court's advisory opinion on same-sex marriage has generated great uproar throughout the region, not only because of the subject matter, but because of the Court's overreach. In Costa Rica, it became the principal issue of the general elections, propelling to victory in the first round

of the presidential election the candidate of a small party who made a campaign promise to withdraw Costa Rica from the Court.

On this front, again, we need leadership from the U.S. The U.S. should raise its voice at the OAS to express concern about this trend in the Commission and Court. This would be well received by most member states and would open the door to a frank discussion about how to rein-in the excesses of the Commission and the Court.

The U.S. should also begin to pay more attention to the candidates that are being nominated to the Commission to ensure they are objective human rights experts and not activists committed to advancing a particular ideological perspective, from the left or the right. Ensuring the impartiality of Commissioners would go a long way in restoring full credibility to the Commission.

In the case of the Court, even though we are not under its jurisdiction, part of our financial contribution to the OAS regular fund goes to fund the Court. The U.S. could demand that none of our funds are used to finance the Court until it goes back to working within the legal mandate and framework under which it was created.

In conclusion, I think it's important to realize that there are no easy structural fixes or reforms that can restore the OAS to its previous relevance in the region. The OAS can only become pertinent again if the U.S. fully reengages in the organization and become actively involved in forging broad coalitions in support of the agenda of democracy and human rights.

I thank you for the opportunity to testify on this important issue and will be happy to answer the questions that you may have.