



Human Rights Foundation
350 Fifth Avenue, Suite 809 • New York, NY 10118
Ph: (212) 246-8486 • Fax: (212) 643-4278
www.humanrightsfoundation.org • info@humanrightsfoundation.org

August 20, 2008

Thor Halvorssen
PRESIDENT

INTERNATIONAL COUNCIL

Kenneth Anderson

Vladimir Bukovsky

Palden Gyatso

Garry Kasparov

Mart Laar

Armando Valladares

Álvaro Vargas Llosa

Ramón J. Velásquez

Elie Wiesel

James Q. Wilson

Harry Wu

DIRECTORS AND ADVISORS

Charles Hoeflich

Michael J. Horowitz

Roy Innis

Ron Jacobs

Eduardo Mendoza

Tom G. Palmer

Robert L. Pfaltzgraff, Jr.

Robert A. Sirico

Armando Valladares
CHAIRMAN

José Miguel Insulza
Secretary General
Organization of American States (OAS)
1889 F Street NW
Washington, DC 20006

Re: The Inter-American Democratic Charter and Mr. Insulza

Dear Secretary General Insulza,

Despite the signing of the Inter-American Democratic Charter nearly seven years ago, you have repeatedly failed in your responsibility to activate its "democratic clause." As a result, the human rights situation in Latin America has fallen into a perilous state unlike any since military dictatorships ruled the continent in the 1980s. This letter ranks as one of the most important that the Human Rights Foundation (HRF) has ever written. We write to inform you that HRF has started a program called "The Inter-American Democratic Charter and Mr. Insulza," with the goal of bringing global attention to the pernicious impact you have made on the human rights situation in the Americas.

According to Article 7 of the Inter-American Democratic Charter, democracy is "indispensable" for the protection of fundamental freedoms and human rights. It took Latin America more than 50 years to acknowledge this crucial relationship, during which time innumerable violations of human rights went unpunished.

In 1948, the countries of the Americas signed two fundamental documents: the American Declaration of the Rights and Duties of Man and the Charter of the Organization of American States. The Declaration was the world's *first* international instrument for human rights, while the Charter created an organization with the mandate to defend these rights. In 1959, in accordance with that mandate, the OAS created the Inter-American Commission on Human Rights and, ten years later, approved the American Convention on Human Rights. By 1979, the creation of the Inter-American Court of Human Rights established the current Inter-American system for the protection of human rights. However, even though the Commission and the Court have conducted very important reports on the status of human rights in member countries, systematic violations of human rights in the continent have continued to occur without an effective effort on behalf of the OAS to stop them. In an attempt to correct this, on September 11, 2001, the OAS approved the Inter-American Democratic Charter as a guide to help formulate rules and principles that

would identify and sanction governments that violate human rights.

In 1959, Fidel Castro overthrew the dictatorship of Fulgencio Batista only to create his own. According to the first two reports of the Inter-American Commission regarding the human rights situation in Cuba, from 1959 to 1962, thousands of individuals were detained arbitrarily and tortured for political reasons—hundreds of them had even been executed by firing squads. In 1962, the General Assembly of the OAS excluded the Cuban government from participating in any branch of the organization, stating that a Marxist-Leninist government was incompatible with American unity, solidarity, and security, principles that require respect for human rights and full exercise of representative democracy. The link between human rights and the term, “representative democracy,” as opposed to, “popular democracy,” such as those in Eastern Europe, was tenuous, and the decision to narrowly focus on sanctioning Cuba was more understandably explained by the politics of the Cold War. Indeed, during the 1970s and 1980s, thousands of people were executed for political purposes, detained arbitrarily, and tortured by right-wing dictatorships in Latin America—all without any response from the OAS.

In the early nineties, the fall of the great majority of Latin American dictatorships paved the way for democratically-elected governments. In 1992, these governments decided to reform the charter of the OAS and establish the “democratic clause” in order to prevent future dictatorships and systematic abuses of human rights. According to Article 9 of the reformed charter, a member State whose democratically-constituted government had been overthrown by force may be prevented from participating in the OAS by a two-thirds vote of the member States. The punishment established in this clause was the same that had been applied to Cuba in 1962, and, at this point, the term “democratically constituted government” obviously meant a government established by a popular election. However, as the member states of the OAS would soon recognize, democracy consists of much more than just elections: elected governments can also violate human rights.

In the 1990s, Alberto Fujimori abused his legitimacy as the democratically-elected president of Peru by taking control of the media, dissolving Congress, and seizing complete control of the judiciary, the Controller’s Office and the Public Ministry. Finally, he created a Constituent Assembly to draft a constitution that would fit his priorities. All of this happened while the OAS attempted, unsuccessfully, to apply the democratic clause, restrained by the fact that it was dealing with a “democratically-elected” government. As a result, systematic abuses of human rights went unchecked in Peru. Since 2005, the Peruvian ex-president has been detained for usurpation and abuse of authority, and is facing trial for crimes against humanity for the massacres of: “Barrios Altos” and “La Cantuta,” as well as for the multiple cases of torture committed in the basement of the National Intelligence Service building.

It was clear then that the violations of human rights in Peru, under a government elected by popular vote, were very similar in nature to the violations of governments that had taken power by force. For instance, since 1959, the Cuban government has openly maintained a one party policy, continued to censor the press, and denied freedom of expression to its citizens, while concentrating all branches of government into its head of state. As a consequence, systematic abuses of human rights continue to occur daily in Cuba. Likewise, in Chile, Augusto Pinochet, after leading a violent coup against Salvador Allende’s government, declared himself president, suspended the constitution and Congress, prohibited the existence of political parties, and strongly censored the press and people’s freedom of expression. As a result, during his more than

15 years in power, Chile witnessed heinous violations of human rights.

In recognition of this reality, in 1991, the General Assembly of the OAS dictated Resolution 1080. Ten years later, led by a proposal from the Peruvian government, the General Assembly approved the Inter-American Democratic Charter, which declares the right of the peoples of the Americas to democracy (Art. 1) and then defines the essential elements of representative democracy (Art. 3): 1) respect for human rights and fundamental freedoms; 2) access to, and the exercise of power in accordance with, the rule of law; 3) the holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people; 4) a pluralistic system of political parties and organizations; and 5) the separation of powers and the independence of the branches of government. Accordingly, the democratic clause (Art. 20) entitles the Secretary General of the OAS to request the immediate convocation of the Permanent Council, in order to start a procedure that could end with the suspension from the OAS of those governments which, though elected-democratically, have committed unconstitutional interruptions of the democratic order or unconstitutional alterations of the constitutional regime. Indeed, as the history of this continent has proven, the breach of any of the five essential elements of democracy—not just of elections—is often a clear precursor to systematic abuse of human rights. Therefore, the Inter-American Democratic Charter, approved in 2001, became the document that provided some hope that the OAS could both expediently prevent violations of human rights from taking place in any kind of regime, as well as sanction the violators.

Mr. Secretary General, since the inception of the OAS, tens of thousands of people have been persecuted, detained, tortured, and killed because of their political beliefs in the Americas. Their pain and suffering finally led to the design of a mechanism to both prevent the systematic violation of human rights in the Americas and clearly denounce the violators. However, Mr. Insulza, with your constant unwillingness to implement the democratic clause, individuals throughout the continent are suffering terrible violations of their human rights. Furthermore, with every passing day, the way that governments have been able to violate human rights with impunity demonstrates that the OAS would rather tacitly support these monsters than condemn or stop them.

Currently, the Cuban dictatorship, which is rightfully excluded from OAS participation, is not the only perpetrator of persecution, arbitrary detention, torture, and even murder in the Americas—offending countries include those with democratically elected governments, such as Venezuela, Bolivia, and Ecuador. Day after day, these governments are strengthening repressive instruments within their military, police, and intelligence services, aimed at destroying the freedom and livelihood of those who dissent from their policies. These are governments that overtly shut down independent media, publicly attack the press, and carry out a public discourse throughout the continent that incites violence, intolerance, and political and racial hatred among the people of their countries. Of course, these violations of human rights undermine the democracy championed in the Inter-American Democratic Charter. Governments that routinely violate human rights openly disregard the rule of law, eliminate the pluralistic party structure, attack the independence of the judiciary, and, ultimately, sustain themselves on fraudulent electoral acts. For example, political persecution in Venezuela already has left a wake of dozens of political prisoners, scores of dead, and more than a thousand arbitrary detentions since 1999; such persecution has even included the creation of public lists that denominate which citizens are

considered "enemies of the revolution." The president of Ecuador shut down Congress to set the path for a constituent assembly controlled by his party. Bolivia no longer has a functioning constitutional tribunal in place to protect the fundamental rights of its citizens and the death toll under the current government's watch is over 40, with most deaths occurring as a result of the government's political intolerance and racial hatred, overtly incited by high government officials and President Evo Morales himself.

Mr. Insulza, since its beginning, HRF has denounced the political persecution and detainment of youth and the existence of political prisoners in Venezuela, and has denounced the arbitrary shutdown of a television channel in that country (see letter of May 23rd, 2007), while you have been giving speeches in Washington about the crucial role youth activism plays in ensuring the future of democracy, affirming that democracy in Venezuela is in good health. HRF has denounced the alarming number of deaths due to lynching under the guise of a mislabeled: "communal justice," and of murders resulting from the actions or negligence of the Bolivian police and armed forces, while you travel to La Paz to provide your public support to a constitution that legalizes this perversion of "communal justice," in violation of international treaties on civil and political rights; a constitution whose approval was accompanied by the deaths of three civilians and the injuries to hundreds more under army fire, in a military compound in the city of Sucre, where the opposition was denied access. While you were the guest of honor in OAS forums held in Washington on women and their political participation, Guadalupe Llori, one of the few women elected by popular vote in Latin America, was taken prisoner violently and arbitrarily 8 months ago. She is currently being tortured by her custodians in the El Inca jail of Ecuador. Finally, it is clear by your comments in the United States that you take pride in your claim that democracies in Latin America are being strengthened by OAS oversight and endorsement of their elections, while in truth, the government of Venezuela has arbitrarily disqualified, by decree, more than 200 opposition candidates for the upcoming elections and the electoral fraud of Morales in Bolivia is scandalous.

Mr. Insulza, your responsibility as Secretary General to activate the mechanism for implementation of the democratic clause stems from Article 9 of the OAS Charter and is explicitly established in Article 20 of the Inter-American Democratic Charter. This power was ratified by two additional resolutions of the OAS General Assembly (2154 in 2005 and, quoted here, 2251 in 2006), which, "reaffirm that the Secretary General may bring to the attention of the Permanent Council, in the exercise of the functions conferred to him by the Charter of the Organization of American States and in application of the Inter-American Democratic Charter, those situations likely to lead to action under the said instruments." However, against the expressed direction of your mandate, not only have you continued to deny your responsibility in the public events you attend, but you continue to deny that human rights are being violated in various countries in Latin America and have even publicly supported the governments responsible for such violations.

As expressed at the beginning of this letter, Article 7 of the Inter-American Democratic Charter outlines that democracy is *indispensable* for the effective exercise of fundamental freedoms and human rights. Almost seven years after the approval of that historic document, the Human Rights Foundation recognizes that its mission to defend human rights in the Americas includes the obligation to promote the essential tenets of democracy and to denounce its abusers. In concordance with this duty, HRF respectfully informs you that, as of today, you will receive a

monthly letter in which we will publicly remind you of all the grave abuses to democracy occurring in Latin America and the resulting violations of human rights in the continent. Each letter will be made available to all of the embassies of the OAS member states, the media, and the general public, carrying the title of "The Inter-American Democratic Charter and Mr. Insulza."

The purpose of this endeavor is not only to denounce your failure to protect human rights in the Americas, but also to ask you to consider rectifying your actions. Remember that what is at stake here is not your political career, but the freedom and livelihood of millions of Americans.

Sincerely,



Thor Halvorsen
President



Armando Valladares
Chairman

cc.

Assistant Secretary General, OAS (Albert R. Ramdin)
Ambassador, Permanent Representative of Antigua and Barbuda to the OAS (Deborah Mae Lovell)
Ambassador, Permanent Representative of Argentina to the OAS (Rodolfo Hugo Gil)
Ambassador, Permanent Representative of the Bahamas to the OAS (Cornelius A. Smith)
Ambassador, Permanent Representative of Barbados to the OAS (Michael King)
Ambassador, Permanent Representative of Belize to the OAS (Nesto Méndez)
Ambassador, Permanent Representative of Bolivia to the OAS (Reynaldo Cuadros Anaya)
Ambassador, Permanent Representative of Brazil to the OAS (Osmar Chohfi)
Ambassador, Permanent Representative of Canada to the OAS (Graeme C. Clark)
Ambassador, Permanent Representative of Chile to the OAS (Pedro Oyarce)
Ambassador, Permanent Representative of Colombia to the OAS (Camilo Ospina)
Ambassador, Permanent Representative of Costa Rica to the OAS (José Enrique Castillo Barran)
Ambassador, Alternate Representative of Dominica to the OAS (Judith Anne Rolle)
Ambassador, Permanent Representative of the Dominican Republic to the OAS (Roberto Alvarez)
Ambassador, Permanent Representative of Ecuador to the OAS (Efrén A. Cocios)
Ambassador, Alternate Representative of El Salvador to the OAS (Luis Menéndez-Castro)
Ambassador, Permanent Representative of Grenada to the OAS (Denis Antoine)
Ambassador, Permanent Representative of Guatemala to the OAS (Jorge Skinner-Klee)
Ambassador, Permanent Representative of Guyana to the OAS (Bayney R. Karran)
Ambassador, Permanent Representative of Haiti to the OAS (Duly Brutus)
Ambassador, Permanent Representative of Honduras to the OAS (Carlos Sosa Coello)
Ambassador, Permanent Representative of Jamaica to the OAS (Anthony Smith Rowé Johnson)
Ambassador, Permanent Representative of México to the OAS (Gustavo Albin)
Ambassador, Permanent Representative of Nicaragua to the OAS (Denis Ronaldo Moncada Colindres)
Ambassador, Permanent Representative of Panamá to the OAS (Aristides Royo)
Ambassador, Permanent Representative of Paraguay to the OAS (Manuel María Cáceres)
Ambassador, Permanent Representative of Perú to the OAS (María Zavala Valladares)
Ambassador, Permanent Representative of St. Kitts and Nevis to the OAS (Izben C. Williams)

Ambassador, Permanent Representative of St. Lucia to the OAS (Michael Louis)
Ambassador, Permanent Representative of St. Vincent and the Grenadines to the OAS (La Celia A. Prince)
Ambassador, Permanent Representative of Suriname to the OAS (Jacques R.C. Kross)
Ambassador, Permanent Representative of Trinidad and Tobago to the OAS (Glenda Morean-Phillip)
Ambassador, Permanent Representative of the United States to the OAS (Héctor Morales)
Ambassador, Permanent Representative of Uruguay to the OAS (María de Lujan-Flores)
Ambassador, Permanent Representative of Venezuela to the OAS (Roy Chaderton-Matos)
President, Inter-American Court of Human Rights (Cecilia Medina Quiroga)
Vice President, Inter-American Court of Human Rights (Diego García Sayán)
Judge, Inter-American Court of Human Rights (Sergio García-Ramírez)
Judge, Inter-American Court of Human Rights (Margarette May-Macaulay)
Judge, Inter-American Court of Human Rights (Manuel E. Ventura-Robles)
Judge, Inter-American Court of Human Rights (Leonardo A. Franco)
Judge, Inter-American Court of Human Rights (Rhadys Abreu-Blondet)
Special Rapporteur for Freedom of Expression (Catalina Botero Marino)
President, Inter-American Commission on Human Rights (Paolo G. Carozza)
First Vice President, Inter-American Commission on Human Rights (Luz Patricia Mejía Guerrero)
Second Vice President, Inter-American Commission on Human Rights (Felipe González)
Inter-American Commission on Human Rights (Sir Clare Kamau Roberts)
Inter-American Commission on Human Rights (Paulo Sérgio Pinheiro)
Inter-American Commission on Human Rights (Florentín Meléndez)
Inter-American Commission on Human Rights (Víctor E. Abramovich)
Executive Secretary, Inter-American Commission on Human Rights (Santiago Canton)
President, Inter-American Commission of Women (Jacqui Quinn-Leandro)
Vice President, Inter-American Commission of Women (Martha Lucía Vázquez)
Executive Secretary, Inter-American Commission of Women (Carmen Lomellin)
HRF Argentina
HRF Bolivia
HRF Ecuador
HRF United Kingdom