

STATEMENT BY DEPUTY LEGAL ADVISER  
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FIRST COMMITTEE, 29th OAS GENERAL ASSEMBLY  
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Mr. Chairman, my delegation would like to take this opportunity to reiterate our respect for the Inter-American Court of Human Rights and comment on its jurisprudence over the last year. We would like to thank the judges of the Court for their work, and welcome newly elected judges Policarpo Callejas-Bonilla, Sonia Picado-Sotela and Orlando Tovar-Tamayo. The United States participated in one advisory opinion case decided this year and is preparing a submission in another. We encourage other countries also to participate in the Court's deliberations.

In our view, the Court has distinguished itself by its consideration and judgments in the Velasquez Rodriguez, Godinez Cruz, and Fairen Garbi and Solis Corrales cases, noted in the Annual Report of the Court. They were extremely difficult cases that the Court handled with considerable skill and expertise. In decisions such as these, the Court has brought much favorable international attention to the Inter-American system for the protection of human rights.

On the other hand, we are compelled to note our difficulties with the opinion of the Court in case OC-10, an advisory opinion on the legal status of the American Declaration of the Rights and Duties of Man brought by Colombia. Various governments submitted views on the request, including the United States, Venezuela, Peru and Uruguay. Costa Rica and Colombia joined the United States in making an oral presentation to the Court.

The Court's advisory opinion in case OC-10 is summarized in part in the Annual Report of the Court. In its advisory opinion, the Court agreed with various submissions made to it, including from the United States, that the American Declaration is an important source for the interpretation of the OAS Charter and the American Convention on Human Rights. The Court also suggested, however, that as a legal matter the Declaration, which we all know was adopted as a resolution of the OAS General Assembly in 1948, has changed in some unspecified way from a nonbinding to a legally binding instrument.

Although the Court's decision is not entirely clear on the latter issue because it does not suggest how the transformation took place, it seems the Court is asserting that the legal character of the American Declaration has changed over time.

The United States accepts and promotes the importance of the American Declaration. It is a solemn moral and political statement of the OAS member states, against which each member state's respect for human rights is to be evaluated and monitored, including the policies and practices of the United States. It is critical and necessary to the proper functioning of the Organization and to the protection of human rights in the hemisphere. The Inter-American Commission on Human Rights -- which is often referred to as the "conscience of the OAS" -- plays a vital role in the Organization when it undertakes to judge a member state's human rights performance in light of the fundamental principles contained in the Declaration.

The United States does not believe, however, that the American Declaration has binding legal force as would an international treaty. We believe that most if not all governments understand that even unanimously approved and formal declarations of international organizations such as the OAS or the United Nations general assemblies are not legally binding per se, but are political and moral statements. Submissions to the Court by Costa Rica and Venezuela made this same point. The U.S. submission in case OC-10/89 sets out in detail our views on the issue. We understand all submissions to the Court in this case, as well as a transcript of the hearing, will be published by the Court and available to interested governments and private persons.

Given the strong U.S. support for the American Declaration and commitment to uphold its principles, our disagreement with the Court's decision may seem a technical one. However, it goes to the heart of international law. It is an important aspect of the sovereign equality of states that, generally speaking, they freely accept international legal obligations. Nonbinding international resolutions and declarations, however critical they are from a moral and political standpoint, do not evolve without state action into binding legal instruments. We do not believe it advances the development of international law or international institutions to say they do.

Thank you, Mr. Chairman.