REPORT NO. 3 OF THE
SECTION OF INDIVIDUAL RIGHTS
AND RESPONSIBILITIES
PRESENTED JOINTLY WITH THE
SECTION OF INTERNATIONAL LAW AND PRACTICE
AND THE
STANDING COMMITTEE ON
WORLD ORDER UNDER LAW

RECOMMENDATION*

BE IT RESOLVED, That the American Bar Association urges the United States Government to meet promptly and fully its financial obligations to the Organization of American States.

BE IT FURTHER RESOLVED, That the American Bar Association urges the United States Government to actively support a larger budget allocation within the Organization of American States for the activities of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.

REPORT

The Organization of American States (OAS) is the oldest regional society of nations in the world, dating back to the First International Conference of American States, held in Washington, D.C. in 1890 at which the International Union of American Republics was established. When the United Nations was created in 1948, the organization, now re-organized as the OAS, joined it as a regional organization. The stated purposes of the OAS are to promote mutual defense and economic, social and cultural development.

Today, the OAS is made up of 32 member states; the United States was a charter member. It provides an important forum for issues facing the nations of the Americas and has shown itself to be particularly useful in connection with efforts regarding human rights conditions in the hemisphere.

*The recommendation was approved. See page 37.
The OAS human rights role is accomplished through two bodies: the Inter-American Commission on Human Rights (Commission) and the Inter-American Court of Human Rights (Court). The Commission was established in 1959 and was made a permanent organ of the OAS in 1967. It receives and investigates complaints of human rights abuses and prepares reports of its findings. Based upon those findings, it may also submit claims to the Court and recommendations to the OAS General Assembly. The Commission's annual and country-specific reports are widely acknowledged to be fair and objective. Initiatives have included reviews of human rights conditions in Cuba, Chile, El Salvador, Guatemala, Nicaragua, Paraguay and Suriname.

The Court was established by the American Convention of Human Rights (American Convention) in 1969 and became effective in 1978. The jurisdiction of the Court is adjudicatory (or contentious), as well as advisory. Only state parties which have ratified the American Convention (which the U.S. has not) and the Commission may participate in the contentious proceedings. The Court has seven judges who are elected by the OAS General Assembly, one of whom is currently Professor Thomas Buergenthal of the Emory University School of Law. In 1988, the Court decided its first adjudicatory action, unanimously finding the Honduran government guilty in the 1981 disappearance of a Honduran citizen. The Court provides a useful forum for the resolution of disputes which is only in the early stages of development.

Former Secretary of State George Shultz, in a 1987 speech to the OAS General Assembly, highlighted the human rights work of the OAS:

The OAS has an outstanding record on monitoring human rights, most notably through the activities and impressive public reports of the Inter-American Human Rights Commission. It has undertaken major support for democratic processes through the observation of elections and other technical assistance. It has been trying to assist countries that want to improve their judicial systems.1

Starting in 1982, for reasons unrelated to any dissatisfaction with the organization, the United States stopped paying its full quota or dues to the OAS. A member nation's dues are determined by its income. The United States quota is two-thirds of the OAS annual budget, which for 1989 is approximately $66 million. Cumulative U.S. arrears now equal $26 million. It should also be noted that the U.S. arrears have had a multiplier effect in that they have provided easy justification, particularly in the face of the Latin American debt crisis, for other OAS members to follow the U.S. example and not pay their full contribution. Total arrears to the OAS currently equal nearly $40 million.

Since 1985, the Reagan Administration and now the Bush Administration has committed the U.S. to paying all financial obligations due the OAS. Congress has agreed but

due to budgetary constraints (related to Gramm-Rudman constraints rather) has not found the funds to do so in the budget. That situation still prevails; the Bush Administration has included the amounts due in its budget request to Congress where the matter now rests.

The impact of the arrearages on the OAS budget has been severe. In real dollars, the budget has remained level since 1982. The resulting budgetary constraints pose an immediate threat to the work and effectiveness of the Commission and the Court, which account for a small percentage of the total OAS budget. A continuation of years of attrition will cripple their ability to pursue even the most fundamental of activities. The persistence of the arrearages also threatens to weaken U.S. influence and credibility within the OAS and limit its ability to encourage the direction of increased resources into the Commission and Court.

Respectfully submitted,

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August, 1989