Regional Human Rights Systems

Volume V

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The Library of Essays on International Human Rights

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Series Preface

The *Library of Essays on International Human Rights* provides access, in a single series, to some of the most important and influential journal articles and papers on the subject. Selections include broad overviews of key areas in international human rights law, critical assessments of this law and of human rights institutions and inquiries into areas of contestation. Some are classic works in the field; others are more recent works that provide insight into important developments or debates.

The series comprises five volumes. A volume on the development of international human rights law covers both the historical and philosophical development of human rights law as well as major issues during this development. A volume on challenges of human rights law presents works not only on issues of non-state actors, transitional justice and terrorism, but also articles on a human rights approach to public health, severe poverty as a human rights violation, investment arbitration as a venue of human rights challenges and climate change. The subject of equality and non-discrimination under international law merited its own volume, as the principles of equality and non-discrimination lie at the heart of human rights law. They are the only human rights explicitly included in the UN Charter, and they appear in virtually every major human rights instrument.

The volume on the United Nations system for protecting human rights presents leading articles on the UN bodies specially created to promote and monitor the implementation of human rights, but it also goes beyond those entities to present articles on the human rights work of UN specialized agencies such as the World Health Organization, the International Labour Organization, UNICEF and UNESCO. Finally, the volume on regional systems for protecting human rights provides selections on the regional human rights instruments and on institutions and their jurisprudence, procedures, activities and effectiveness.

Each volume opens with an introductory essay providing an overview of the topic covered and discussing the significance and context of the works selected. It is my hope that this series will serve as a valuable research resource for those already well-versed in the subject as well as those new to the field.

STEPHANIE FARRIOR
Vermont Law School, USA
Series Editor

Introduction

Introduction

The evolution of human rights protection at the international level is a consequence of the failure of the state to afford adequate protection at the national level. The international mechanism provides the victim with a 'last resort', but it is always subsidiary to the state's primary responsibility; the admissibility of any international petition is contingent upon the victim having exhausted all adequate and effective domestic remedies. Over the past 60 plus years the regional human rights systems have surpassed the United Nations human rights bodies in affording protection to the victims of human rights violations. This is largely due to the fact that states have been willing to grant regional human rights courts the power to issue legally binding judgments and reparations for violations of human rights, which they have been unwilling to do at the international level. There is no United Nations human rights court (Kozma *et al.*, 2011). To understand which forum victims prefer, compare the 120,000 pending cases before the European Court of Human Rights to the approximately 550 petitions pending before all the UN human rights treaty bodies.[1]

The essays in this volume examine the structure and functioning of the principal regional human rights systems in the world today: (1) the Inter-American Commission and Court of Human Rights; (2) the European Court of Human Rights; (3) the African Commission and Court of Human and Peoples' Rights; and (4) the ASEAN Intergovernmental Human Rights Commission. Since the Southeast Asian Intergovernmental Human Rights Commission was not established until 2009, it will receive only cursory treatment. As of this writing, there is no comparable regional human rights mechanism in the Middle East.[2] The regional human rights organs selected form part of a regional system or 'regional arrangement', as defined under Chapter VIII of the United Nations Charter; respectively, the Organization of American States (OAS), the Council of Europe, the African Union (AU) and the Association of Southeast Asian Nations (ASEAN) and must be understood in the context of these regional organizations. From an institutional perspective, the inter-American system is the oldest regional system in the world, in continued existence since its establishment in 1890 as 'the International Union of American Republics'.

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[1] According to information provided by the UN Office of the High Commissioner for Human Rights on 18 September 2013, there are 526 petitions pending before Human Rights Committee: HRC (361), Committee Against Torture: CAT (120), Committee on the Elimination of Discrimination Against Women: CEDAW (27), Committee on the Rights of Persons with Disabilities: CRPD (12), Committee on the Elimination of Racial Discrimination: CERD (6). The statistics for the European Court are 119,750 pending applications as of 31 August 2013.

[2] Dr Nabil Elaraby, the Secretary-General of the Arab League announced that an Arab Court for Human Rights will be established in Manama, Bahrain, after the Arab League ministerial meeting to be held in September 2014. The proposed Arab Court was the initiative of the King of Bahrain and approved by the Arab League with limited participation of civil society in the elaboration of its statute.

There are difficulties in organizing a volume on regional human rights bodies. First, in all of these regions many interesting commentaries on the work of these systems are published in languages other than English. Second, by the time these essays are published some of the procedures and functions of these systems will have changed. These bodies are dynamic and respond to changing events and the requirements of the stakeholders in the system: the petitioners (in representation of the victims), the states, third parties and the institutional organs of the system, and in a broader sense, the general public.

This year, 2013, is no different. The OAS has been involved in a two-year state-initiated reform process to 'strengthen' the inter-American human rights system; the Council of Europe has been almost constantly in a reform process and the AU is considering the adoption of an additional Protocol to the Statute of the African Court of Justice and Human Rights. Dinah Shelton (1999, p. 398) has termed this dynamic constant reform process the 'promise' of the regional systems in the on-going striving for greater efficiency in the protection of human rights. Since reforms are underway in the three major bodies under consideration, the selection of essays has focused on more recent publications in order to reflect the current reality and present less of an historical narrative.

Central to all four systems is the concept of democracy. The major regional human rights instruments deal primarily with civil and political rights and were written for states with a democratic form of government. They presuppose three branches of government that exert checks and balances on each other; freedom of expression, in particular, the right to criticize the government; the right to vote and to stand for public office; access to justice and fair trials with guarantees of due process. These instruments, however, were not always written by democracies, but despite that fact, democracy has been recognized by all the regional systems as the requisite form of government to guarantee human rights at the national level. The experience of the inter-American system has shown that by chronicling the gross and systematic human rights violations committed by non-democratic governments against their own populations, such states lose legitimacy both within their regional group and at home. African states, which explicitly excluded any reference to 'democracy' when drafting the African Charter, over time, also recognized that a democratic form of government was essential for the realization of human rights.

The essays in this volume describe how all four regional human rights systems were created, the instruments that govern them and the scope of their jurisdiction. The evolution of the systems is also addressed. In addition, we attempt to compare the systems in terms of meeting the very different challenges they are confronted with (Christof Heyns and Magnus Killander).

Why Do We Need Regional Human Rights Organizations?

International protection of human rights by international organizations dates from 1945 and the creation of the United Nations, following the revelation of the shocking atrocities committed before and during World War II. The Pan American Union became the 'Organization of American States' in May 1948, when both the OAS Charter and the American Declaration of the Rights and Duties of Man were adopted; the latter instrument antedated by seven months the United Nations' adoption of the Universal Declaration of Human Rights. As Mary Ann

Glendon describes, in Chapter 2, Latin America was the forgotten crucible of the universal human rights idea (p. 30).

The Council of Europe was created in 1949. Peter Leuprecht, long time head of the Council's Directorate of Human Rights, points out in Chapter 1 that the Council's philosophical and political roots grew out of the fight against Nazism and Fascism. The motto of the Council's founding fathers was 'Never again' (p. 3). The founders were determined to build a new united Europe on solid foundations based on strong, shared values and the principles of pluralist democracy, human rights and the rule of law. Respect for and compliance with these values and principles were to be the chief condition for admission and the continuing obligation of its members. On 5 November 1950, in Rome, 12 member states of the Council of Europe adopted the European Convention on Human Rights, the world's first legally binding human rights treaty. This treaty signified a revolutionary change in international law, which previously was predominantly concerned with relations between and among states. Luzius Wildhaber (Chapter 13), the long time President of the Eurpean Court remarked that the European Convention gave individuals an international remedy against their governments: 'For the first time individuals could challenge the actions of Governments before an international mechanism under a procedure leading to a binding judicial decision' (p. 317). The European Court was to constitute a collective insurance policy against the relapse of democracies into dictatorships. Decades later, Leuprecht noted, since the European Convention has been incorporated into the domestic law of nearly all of its contracting states, any person, in principle, could invoke its provisions directly in applying or appealing to a national court or authority in any of those states.

The European Convention created a European Commission and Court of Human Rights, which were established at the headquarters of the Council of Europe in Strasbourg, France. In 1998, the European Commission and Court were merged and today individuals have direct access to the Court. The European system is generally recognized as the most developed and effective system of human rights protection in the world and until the expansion of the Council of Europe, following the dissolution of the Soviet Union, its strength, according to Leuprecht (Chapter 1), was in the relative homogeneity of the member states and its common shared values. It has been called a 'quasi-constitutional court for the whole of Europe' (p. 6).

The American Declaration on the Rights and Duties of Man (*sic*), like the Universal Declaration and unlike the European Convention, was not designed to be a legally binding instrument. Since its establishment in 1959, however, the Inter-American Commission on Human Rights has applied the American Declaration, the only catalogue of human rights guarantees in the hemisphere (prior to the adoption of the American Convention in 1969), as though it were legally binding. In Chapter 7, Robert K. Goldman notes in his concise history of the Commission that the American states decided not to make the Declaration binding and provided no machinery to promote or protect the rights that they had proclaimed (p. 171). Thomas Buergenthal, in his 1975 seminal essay, presents the rationale for the position that the American Declaration became legally binding by incorporation into the amended OAS Charter (Chapter 4). The Commission has continued to defend the obligatory nature of the Declaration, affirming that it is a 'source of legal obligation for all OAS member states' and 'as a source of legal obligation, states must implement the rights established in the American

Declaration in practice within their jurisdiction'.[3] The obligatory nature of the Declaration is not without controversy as many states, including the US, refuse to accept it as legally binding, but the Declaration serves as the benchmark against which the Commission scrutinizes human rights observance in states that have not yet become parties to the American Convention on Human Rights (Cerna, 2009).

There is a similar debate about the normative status of both the Inter-American Commission's and the former European Commission's decisions under their respective treaties. Since the treaties explicitly state that the respective courts have the power to issue legally binding judgments it is generally considered that Commission decisions are mere recommendations. Dinah Shelton (2012, p. 571) submits that the Inter-American Court 'now consistently reaffirms its insistence on a good faith obligation of compliance with recommendations of the Commission'. But in the final analysis, recommendations remain recommendations. It is worth pointing out, however, that the Inter-American Commission does not consider itself bound by the Inter-American Court's judgments and continues to advocate for its interpretation on points of law that the Court has not yet accepted. Since the Commission effectively controls the Court's case load, this is not a minor matter.

The inter-American system is unique among regional human rights systems because it functions under two basic instruments, the American Declaration and the American Convention on Human Rights. The latter entered into force in 1978, and as a consequence, the Inter-American Court was established in San Jose, Costa Rica, in 1979. Unlike the European system, in which one Commissioner and one Judge were elected for each state party to the European Convention, in the inter-American system seven Commissioners represent 34 OAS member states (Cuba does not participate in the activities of the OAS), not the countries of their nationalities. Similarly, the seven Judges of the Court represent the 23 states parties to the American Convention that elected them. The US is the only founding member of the OAS not to have ratified the American Convention, and, consequently, the US has not participated in the work of the Court since its creation.

Unlike the Commission, which has jurisdiction over all OAS member states, the Court only has jurisdiction over the 20 states party to the American Convention that have also expressly accepted its jurisdiction.[4] Consequently, the Court has evolved as a 'Latin American' and not as an inter-American institution (see Mónica Pinto [Chapter 9], p. 223). Every Spanish-speaking member state of the OAS and Portuguese-speaking Brazil, has become a party to the Convention and accepted the compulsory jurisdiction of the Court, while very few English-speaking countries have done so, resulting in OAS member states undertaking one of three levels of obligations. Venezuela is no longer a state party.[5] This unequal situation provoked the latest reform agenda. We have included Joseph Diab's 1992 essay on the US given the US's failure to ratify the American Convention, the situation has not changed (Chapter 8).

The inter-American system evolved differently from the European system due to very different historical circumstances. The Inter-American Commission was created, in part,

[3] See, for example, Inter-American Commission on Human Rights: IACHR, Report No. 80/11, Case 12.626, Merits, *Jessica Lenahan (Gonzales) et al.* v. *United States*, 21 July 2011.

[4] Three states, Grenada, Jamaica and Dominica are parties to the American Convention but have not accepted the compulsory jurisdiction of the Inter-American Court.

[5] Venezuela on 10 September 2012 became the second country to denounce the American Convention (after Trinidad & Tobago, in 1998); its withdrawal became effective on 10 September 2013.

out of the fear that revolutions modelled after the 1959 Cuban revolution would spread throughout the region. As Goldman notes, in Chapter 7, during the Cold War the United States provided counter-insurgency support to numerous authoritarian regimes with questionable human rights practices on the ground that they were bulwarks against communist expansion (p. 180). During the 1960s, 1970s and the early 1980s, many countries in Latin America under military dictatorships faced leftist insurgencies. The governments imposed a form of state terror by means of militarized states of emergency, and engaged in systematic murder, torture, disappearances and widespread arbitrary detentions, censorship of the media and outlawing of political parties, unions and student groups. The inadequacy of the legal machinery at the national level to provide effective judicial remedies rendered a complaint mechanism at the international level ineffective because judicial remedies could not be exhausted and international remedies could not be enforced domestically. Although exhaustion of domestic remedies may be excused for denial of justice reasons, the system is premised on the existence of democratic governments and functioning independent judiciaries. In distinction to the European system, which is limited by the terms of the European Convention to the processing of individual cases, the inter-American system, in the absence of a human rights treaty, was free to invent its own procedures. It began to conduct on-site visits and to chronicle massive human rights violations encountered in the countries visited.

The main criterion for measuring the success of a regional human rights system, Leuprecht (Chapter 1) posits, is whether it effectively helps the people (p. 3). The Inter-American Commission began to receive complaints from victims of human rights violations even though a complaint mechanism was not explicitly provided for, because the very existence of a human rights body will motivate victims to file complaints. The drafters of the European Convention expected the member states of the Council of Europe to respect human rights and the European Commission to serve as the primary human rights body, with victims having only infrequent recourse to the Court. Leuprecht attributes the ability of the human rights organs of the Council of Europe to maintain their high level of compliance to the homogeneity of the membership prior to 1989, however, recourse to the European Court grew more and more frequent over time. The homogeneity of the Council of Europe broke down with the fall of the Berlin Wall and the dissolution of the Soviet Union. As additional countries joined the Council of Europe and redefined the European continent, the European human rights system began to be confronted with the human rights challenges that faced the Americas during the 1960s–1980s.

Cecilia Medina, a Chilean refugee and former Judge of the Inter-American Court, who fled the repression of the Pinochet dictatorship, examined in her doctoral dissertation (Medina, 1988) how the inter-American system confronted gross, systematic violations of human rights in the hemisphere. She reviewed the evolution of the Commission's innovative on-site visits, and described its work on Cuba, Nicaragua and Chile under military dictatorships, at a time when the rule of law was extinguished in the region. Her premise was that violations of human rights can be distinguished between those that constitute a definite pattern and those that could be described as isolated instances of violations. Importantly, she suggests that the international supervisory mechanisms were established to deal almost exclusively with isolated instances and were not very suitable for effectively dealing with gross violations constituting a pattern.

In 2004, the European Court instituted a 'pilot judgment' procedure in an effort to deal with systemic human rights violations that affected large numbers of people; however, these

cases deal with massive violations *ex post facto*. In *Broniowski* v. *Poland*, for example, Poland failed to compensate individuals who had lost their land during World War II, a situation that affected as many as 80,000 potential complainants. In deciding *Broniowski*, the Court decided that all similar applications were to be adjourned pending the outcome of this case and the adoption of measures to be taken at the national level (Wildhaber [Chapter 13], p. 328). This development has become the subject of a recent study (Leach *et al.*, 2010).

The African system, similarly, has evolved over time with several additional protocols and the establishment of a court. The Organization of African Unity (OAU), established in 1963, was transformed into the African Union in 2001, and all states in Africa are members, except Morocco which withdrew in 1984, when the OAU recognized Western Sahara (see Heyns and Killander [Chapter 22], pp. 462–63).

The African Charter on Human and Peoples' Rights, also known as the 'Banjul Charter', was adopted in Nairobi, Kenya in June 1981, and entered into force in October 1986. The African Commission on Human and Peoples' Rights was established in 1987 and monitors compliance with the African Charter through state reporting, a complaint mechanism, special rapporteurs and working groups. The Commission has decided 196 cases as of 3 August 2013. Commentators remark that the reporting and complaint mechanisms are not a strength of the African Commission for a host of reasons, but that the Commission has achieved advances via its promotional role through trainings and workshops, involving key players such as police, local government and members of civil society.

A Protocol to establish an African Court on Human and Peoples' Rights was adopted in 1998 and entered into force in January 2004. In January 2006, the first 11 judges were elected to the Court, which was established in Arusha, Tanzania. In July 2008, at an AU summit in Egypt, member states signed a Protocol, which is intended to merge the African Court with a to-be-created African Court of Justice. This Protocol, if ratified by 15 states, will confer upon the to-be-established African Court of Justice and Human Rights the jurisdiction to convict and sentence individuals for international crimes such as genocide, crimes against humanity and war crimes as well as trafficking in hazardous wastes, illegal exploitation of natural resources and corruption. It is generally believed that the proposed international criminal law jurisdiction is the AU's response to the International Criminal Court (ICC)'s prosecution of only African cases. Progress has been slow once again as the political will to establish the African Court of Justice and Human Rights has been lacking and few states have become party to the 2008 Protocol.

The United Nations has been advocating the creation of regional human rights systems throughout the world. Despite the failure to create a pan-Asian mechanism, ASEAN, a sub-regional group created the ASEAN Intergovernmental Human Rights Commission in 2009. The ASEAN Commission or AICHR held its first meeting in Jakarta, Indonesia, from 28 March to 1 April 2010.

Unlike the other regional mechanisms, whose members are not government agents, this Commission is comprised of 10 government representatives whom the governing instrument (known as the 'Terms of Reference') suggests should be appointed following consultation with the appropriate stakeholders. In fact, Indonesia and Thailand used an open and transparent procedure to appoint their representatives as the position was publicly advertised and two independent human rights experts were appointed. Non-governmental organizations (NGOs) and civil society feared that government appointees would not be as independent as

experts elected in other regional systems, however, candidates who are elected in the other regional systems are nominated and elected by states, so their 'independence' from states is never absolute. To date, ASEAN has not contemplated the creation of a human rights court. The ASEAN Commission has been criticized by civil society for its secrecy and, in general, unwillingness to consult civil society. In response to the urging of civil society, the ASEAN Commission has launched an official website (www.aichr.org) to share developments in its work with the public. The ASEAN Human Rights Declaration was adopted on 18 November 2012 in Phnom Penh, Cambodia, but AICHR has not yet established a complaint mechanism.

In March 1993, a regional meeting was held in Southeast Asia in preparation for the June 1993 UN Vienna World Conference on Human Rights. This meeting produced Asia's contribution in the form of the 'Bangkok Declaration', which upset the conference by challenging the generally accepted view that human rights are universal. The Asian cultural relativist approach, expressed in this Declaration, suggested that unique regional factors – historical, cultural and economic – determined human rights standards and that this was essentially a domestic matter. The challenge was overcome by the Vienna Declaration's reaffirmation of the universality of human rights.

Starting in 2011, the ASEAN Commission focused on drafting the ASEAN Human Rights Declaration which includes General Principles, Civil and Political Rights, Economic, Social and Cultural Rights, the Right to Development, the Right to Peace and a section on the Cooperation in the Promotion and Protection of Human Rights. The Declaration's General Principles have been harshly criticized, *inter alia*, by Navi Pillay, the UN High Commissioner for Human Rights, as being too reflective of regional and not universal standards. Article 7 of the Declaration states:

> All human rights are universal, indivisible, interdependent and interrelated. All human rights and fundamental freedoms in the Declaration must be treated in a fair and equal manner, on the same footing and with the same emphasis. At the same time, the realization of human rights must be considered in the regional and national context bearing in mind different political, economic, legal, social, cultural, historical and religious backgrounds.

This language echoes the Bangkok Declaration and suggests that the 'Asian Values' debate has not entirely been put to rest.

The Evolution of the Right to Democracy in the Regional Organizations

Europe

The collapse of the Soviet Union has been compared to the fall of the Roman Empire and its impact on Europe cannot be underestimated (see Leuprecht [Chapter 1], p. 16). In 1992, Russia applied for membership in the Council of Europe and was admitted in 1996. Russia's application for membership has been included in the compilation because of the impressive list of human rights commitments undertaken (Chapter 16). On 6 July 1989, Mikhail Gorbachev gave an historic speech at the Council of Europe in which he referred to Europe as 'a Common Home', and which was followed 20 years later by his reflections on

the succeeding two decades, which is less well known and for which reason we have included both in this compilation (Chapters 14 and 15).

The Council of Europe grew from 23 member states to 47 and now includes the Russian Federation and many states derived from the former Soviet Union and East and Central Europe. The change has reconfigured the Council of Europe: as of 31 August 2013 five countries dominated two-thirds of the case-load of the European Court – Russia (19.5 per cent), Italy (12.2 per cent), Turkey (11.6 per cent), Ukraine (11.9 per cent) and Serbia (10.2 per cent). Three of these countries were not even members of the Council of Europe in 1989. Pending cases, for example, involving the forced abduction of civilians by members of the military in Chechnya leading to their subsequent disappearance and Russia's failure to conduct an effective investigation echo the forced disappearance cases of the inter-American system.[6] The human rights violations denounced against some of these countries could induce one to call this the 'Latin Americanization' of Europe (Christina M. Cerna [Chapter 6]).

The homogeneity and shared values of the 23 countries that comprised the Council of Europe in 1989 has been compromised by the enlargement of the Council of Europe to 47 members (all European states except Belarus). Leuprecht (Chapter 1) warned that the enlargement of the Council of Europe would entail a dilution of European standards:

> The Convention system seems relatively powerless to address and remedy serious and systematic violations of human rights, a defect which is in striking contrast to the, at times, almost minute attention the Convention bodies devote to comparatively minor matters or 'legal niceties.' This may be seen as part of a wider phenomenon: the inability of international human rights bodies to react speedily and effectively to urgent situations and to gross, systematic human rights violations, including torture, disappearances, summary executions, and arbitrary arrests on a large scale. (p. 7)

Paul Mahoney (2005, p. 3), the former Registrar and now the British judge on the European Court, noted the change in the 'nature of cases', for example, the 'special feature of Turkish cases in the frequency of serious allegations such as destruction of villages, ill-treatment of detainees involving torture or inhuman treatment, prohibition of political parties'.

Leuprecht's lament that the expansion of Europe signified the lowering of standards in the European human rights system warrants renewed consideration of the criterion he posited for assessing the success of a regional human rights organization: does an enlarged Council of Europe effectively help the people? Although the Russian Federation is notorious for not complying with European Court judgments, Russia has not chosen to withdraw from the European Court nor has the Council of Europe taken any steps to expel it, so presumably some benefit must be derived from its continued membership.

In the early 1990s, neither the Council of Europe nor the European Court played a role in the worst European human rights crisis since World War II, simply because Yugoslavia was not a member state of the Council of Europe. But isn't it the point of a regional human rights system to serve as the last resort for the victims of human rights violations when remedies at the national level fail? Given the Council's membership requirement at the time that a state must have achieved a certain threshold of human rights compliance for admission, resulted

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[6] See European Court of Human Rights: ECHR, *Shaipova and Others* v. *Russia*, Application no. 10796/04, Judgment of 6 February 2009, *Saidova* v. *Russia*, Application no. 51432/00, Judgment of 9 December 2013.

in depriving the Yugoslav victims of any recourse before the regional system. The evolution of the European system into a regional body that now includes every state in Europe except one, requiring compulsory acceptance of both the European Convention and the European Court, creates a much more integrated Europe and the triumph of the democratic ideal. As Leuprecht notes, the Council is increasingly assuming the pan-European dimension that was originally intended for it and its 'new task is to play an active role in "democracy building" in the post-communist countries, and to this end important programs have been created and implemented, some of which are conducted jointly with the European Commission' (Leuprecht, p. 16).

That said, Wildhaber (Chapter 12) notes that only a few cases have been so exceptional as to influence the fate of European democracy (p. 308). The *Greek Military Junta* case may qualify, he suggests and also the cases which recognized the existence of a democracy's right to defend itself against its enemies, such as *Rekvényi*, *Refah Partisi*, or *Żdanoka*. In *Refah Partisi*, the Grand Chamber held that *Shari'a* (Islamic law) is incompatible with the fundamental principles of democracy contained in the European Convention.[7]

The Americas

Just as in Europe, by 1991, the political situation in the Americas changed dramatically. In 1991 in Santiago, Chile, the OAS celebrated the fact that the government of every member state, except for Cuba, was democratic and the product of free elections. The end of the military dictatorships in the region produced a kind of 'Europeanization' of Latin America, as the nature of violations presented to the Inter-American Commission now involved issues of due process, access to justice and the rights of indigenous peoples rather than forced disappearances, extrajudicial executions and torture, which had characterized the earlier period (Cerna [Chapter 6]).

As mentioned above, during its first 30 years, the Commission (1959–89) carried out on-site visits and prepared country reports on the situation of human rights in member countries for the OAS's political bodies. The Commission was not given explicit authority to carry out monitoring visits but created that competence by dint of its own initiative. Its Statute, which is approved by the OAS member states, authorized it to hold meetings in any member state and the Commission converted that authorization to displace itself into a mandate to conduct on-site visits and to prepare country reports on the respective human rights situations in the hemisphere. These reports dominated the agenda of the OAS General Assemblies for many years, especially during the long period of military dictatorships in the region, when the Commission critically reviewed the behaviour of these states as regards their failure to respect human rights.

The re-democratization of the hemisphere may be considered, at least in part, a consequence of the work of the inter-American human rights system. The Commission succeeded in de-legitimizing non-democratic governments in the region by setting forth the human rights

[7] ECHR, Grand Chamber, *Rekvényi* v. *Hungary*, Application no. 25390/94, Judgment 20 May 1999; *Partisi (The Welfare Party) and Others* v. *Turkey*, Applications nos 41340/98, 41342/98 and 41344/98), Judgment 13 February 2003; ECHR, Grand Chamber, *Ždanoka* v. *Latvia*, Application no. 58278/00, Judgment 16 March 2006.