Re-Reading Historic Articles in the ZaöRV: Anniversary Series

The Inter-American Commission on Human Rights: Past, Present, and Future

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Abstract

In 1968, Christian Tomuschat published the article titled 'Die Interamerikanische Menschenrechtskomission' (The Inter-American Commission on Human Rights) on the history, operations, and impact of the then-still-nascent institution.[1] Now, more than fifty years after Tomuschat's analysis, this essay critically revisits his core claims and offers an updated perspective on the challenges, threats, and opportunities facing the Inter-American Commission on Human Rights (hereinafter 'IACHR', 'the Commission', or 'the Inter-American Commission'). While Tomuschat understood the challenges faced by the system with far greater clarity than his contemporaries, his analysis and solutions are nonetheless tinged with a Euro-centric perspective that overemphasises written standards and the role of individual cases, implicitly stressing legalistic measures that seek to emulate the European system as the (only possible) solution. Tomuschat recognises the social and political factors at play in the Americas, but does not centre them in his analysis. We contend it is these factors, and the response to them by the Commission, more than the formal legal standards themselves (whether in treaties, statutes or rules of procedure), that have fundamentally determined the limits and achievements of the system. To his credit, Tomuschat does recognise the Inter-American capacity to adapt to local circumstances with local knowledge, but he does not anticipate (admittedly, a very high bar of expectation) the Commission's ability to develop a dynamic system moulded by and suited to the needs of the hemisphere despite the shortcomings in its formal, legal standards.

The essay proceeds in three parts, representing the three main themes that it covers. First, it explores Tomuschat's argument that a binding treaty would render the Commission more effective by assessing the impact of the American Convention in relation to other factors. We note in the first part that it was the practice of country visits and reports that raised the profile of the Commission in the hemisphere in the 1970s, and not the drafting and entry into force of the American Convention in that same period. Second, we note that Tomuschat rightly predicted that a binding treaty would strengthen the implementation of human rights standards in the Americas. Still, he does not afford adequate explanatory force to the system's ability to drive human rights change even without such a treaty and, later, its capacity to do so despite a treaty that still lacks important ratifications. We contend that Tomuschat mistakes treaty ratification – an important indicator of commit-

[1] Christian Tomuschat, 'Die Interamerikanische Menschenrechtskomission', HJIL 28 (1968), 531-560.

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ment to the rule of law and human rights – with actual commitment to the rule of law and human rights. Positive changes in state policy, implementation of measures needed to curtail abuses, and financial and other support for the system itself are more relevant indicators of commitment to human rights than treaty ratification. Still, he is correct that the creation and ratification of the American Convention would be an important advance in many countries in the Americas and for the Inter-American system as a whole. The Convention not only codified the functions and powers that the Commission had developed on its own, but also granted the Commission additional authority. The creation of a binding treaty, however, has not rendered the selection of commissioners a merit-based system, nor has it ensured the financial stability of the Commission and Court. As we explain, both of those essential elements in state commitment to human rights and thus system efficacy are driven by political forces not fully addressed by Tomuschat. Third, the essay argues that although Tomuschat predicted many challenges that the Commission would face, because his analysis implicitly accepts the European human rights system as *the* model, and because his analysis centres on critical review of texts rather than political and social forces and the responses of the Commission to those forces, he failed to foresee the depth of the challenges and the full potential of the Inter-American Commission. We emphasise in this section the role of the United States (US) and financial constraints in limiting the system's efficacy. We then turn to the unique aspects of the Commission's contemporary role and its transformative impact over the past five decades. Ironically, these aspects are today sorely needed in the European system, whose membership has expanded in ways that suggest the need for a further 'Inter-Americanisation' of the European system, rather than the reverse. The essay concludes by noting the continuing challenges to the effectiveness of the Inter-American Commission and international human rights oversight in general, while suggesting how these challenges might be addressed in the future.

Keywords

Inter-American Commission on Human Rights (IACHR)

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I. A Critical Summary of Tomuschat's 'Die Interamerikanische Menschenrechtskomission'

In his article 'Die Interamerikanische Menschenrechtskomission', Tomuschat made two core claims. First, he contended that the Inter-American Commission on Human Rights is 'one of the most original and most effective legal instruments' for the promotion and protection of human rights.[2] Second, Tomuschat argued that the work of the Commission would be significantly more effective if the Americas had 'a binding international treaty similar to the European Convention on Human Rights'.[3]

Acknowledging the importance of regional context when comparing legal systems, Tomuschat highlighted that in the Americas the threats to life, liberty, and security were commonplace. Meanwhile, in Western Europe such threats had been 'reduced to a peripheral exception'.[4] While accurate to significant extent at the time, at least with regard to the limited set of states in the European Court system, the implicit claim that certain abuses are to be expected in the Americas but not in Europe has failed to pass the test of time. Over the past five decades, Europe has experienced genocidal campaigns (e. g., Srebeniça), massacres (Russia), and forced disappearances (Turkey), among other grave violations of the rights to life, liberty, and security. At the same time, while grave violations of civil and political rights in the Americas have continued, the Inter-American system has addressed increasingly sophisticated issues related to these rights and has developed jurisprudence on economic, social and cultural rights far more than the European system.

Regarding the first proposition, Tomuschat found the work of the Inter-American Commission to be significant from the institution's start.[5] Although the Commission began with a mandate that was limited, and at times, unclear, it was bold and innovative in asserting authority.[6] For example, the Commission's 1960 Rules of Procedure did not give it express authority to receive communications from individuals, but the Commission determined that receiving these communications was necessary for conducting its work,

2 Tomuschat (n. 1), 532.

3 Tomuschat (n. 1), 549-550.

4 Tomuschat (n. 1), 549-550.

5 Tomuschat (n. 1), 532; see also Felipe González Morales, 'La Comisión Interamericana de Derechos Humanos: Antecedentes, funciones y otros aspectos', Anuario de Derechos Humanos (2009), 35-57 (56).

6 Alexandra Huneeus and Mikael Rask Madsen, 'Between Universalism and Regional Law and Politics: A Comparative History of the American, European, and African Human Rights Systems', I.CON 16 (2018), 136-160 (144).

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and that it must therefore have been granted the power implicitly.[7] In 1965, the Commission acquired the express authority to process individual complaints concerning human rights violations and to direct recommendations to individual States.[8] Although the Commission uses many methods for the promotion and protection of human rights, today it is best known for its adjudication of individual complaints, a power it first claimed for itself before its official or formal legal recognition.[9]

Tomuschat also observed that the Commission, both in the processing of individual complaints and in its other efforts, relied on and contributed to the development of human rights standards. The American Declaration on the Rights and Duties of Man was the primary foundation for the Commission's early work. The Commission provided advice and recommendations to the Organization of American States (hereinafter 'the OAS') Member States by interpreting and applying this Declaration. Tomuschat also noted that the Commission was able to rely on other Inter-American legal instruments, including binding conventions on the rights of women and asylum-seekers, as well as other sources of international law, including *jus cogens* and general principles of law, when considering the standards to which States in the Americas should be held.[10] The absence of a treaty that was the equivalent to the European Convention on Human Rights did not signify the absence of a legal framework as the Inter-American Commission could still provide recommendations, as well as rely on international law.[11]

Moreover, Tomuschat observed that the Commission prompted practical implementation of legal standards through the exertion of political and moral pressure.[12] This pressure sometimes resulted from the processing of individual complaints. Tomuschat claimed that 'the far-reaching political significance of the weighed opinion of a panel of respected experts who have formed their

7 Tomuschat (n. 1), 533.

8 Tomuschat (n. 1), 534. Inter-American Court of Human Rights, 'Basic Documents Pertaining to Human Rights in the Inter-American System: Updated to July 2003' (2003), <https://www.corteidh.or.cr/docs/libros/basingl01.pdf>, last access 3 December 2025.

9 Joel Hernandez García, 'Proposals for the Improvement of the Work of the Inter-American Commission on Human Rights' in: Armin von Bogdandy, Flávia Piovesan, Eduardo Ferrer Mac-Gregor and Mariela Morales Antoniazzi (eds), *The Impact of the Inter-American Human Rights System: Transformations on the Ground* (Oxford University Press 2024), 521-536 (523); Claudio Grossman, 'Protecting Human Rights in the Americas: The Continuous Role of the Inter-American Commission on Human Rights' in: Armin von Bogdandy, Flávia Piovesan, Eduardo Ferrer Mac-Gregor and Mariela Morales Antoniazzi (eds), *The Impact of the Inter-American Human Rights System: Transformations on the Ground* (Oxford University Press 2024), 34-48 (34, 62).

10 Tomuschat (n. 1), 538.

11 Tomuschat (n. 1), 538.

12 Tomuschat (n. 1), 547.

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opinion in full independence cannot be ignored'.[13] In this regard, Tomuschat makes an essential point about the efficacy of supranational oversight: Often, the most powerful effects flow from the prestige and credibility of the decisions or actions of a body like the Commission, together with popular, political, and media pressure. This dynamic is often of far greater consequence than the weight of binding legal obligations, which depending on a range of non-legal forces, may be disregarded. To this day, compliance still remains a concern, yet the Inter-American system continues to exert influence on states and other actors across the hemisphere.

Related to this observation, Tomuschat notes that political and moral pressure might also come in other forms.[14] For instance, the Commission has been conducting country visits on an ad hoc basis with the consent of States since 1961,[15] which has led to government action with an occasional backlash due to a given government's fear of a public airing of grievances by civil society and a fact-finding investigation by the Commission.[16] Tomuschat also noted that the Commission's country reports were an effective tool for increasing public knowledge of rights violations, and underscored the importance of annual reports that would further publicise the work of the Commission.[17]

Here, Tomuschat's observations are essential and prescient. The role of the Commission in visiting countries with serious human rights challenges and in

13 Tomuschat (n. 1), 544; See also Armin von Bogdandy, Flávia Piovesan, Eduardo Ferrer Mac-Gregor and Mariela Morales Antoniazzi, 'Introduction' in: Armin von Bogdandy, Flávia Piovesan, Eduardo Ferrer Mac-Gregor and Mariela Morales Antoniazzi (eds), *The Impact of the Inter-American Human Rights System: Transformations on the Ground* (Oxford University Press 2024), 1-14 (5); Marcelo Torelly, 'From Compliance to Engagement: Assessing the Impact of the Inter-American Court of Human Rights on Constitutional Law in Latin America' in: Par Engstrom (ed.), *The Inter-American Human Rights System: Impact Beyond Compliance* (Palgrave Macmillan 2019), 115-141 (116-21).

14 Mayra Ortiz Ocaña and Aníbal Pérez Liñán, 'Transformative Impact: A Framework for Analysis' in: Armin von Bogdandy, Flávia Piovesan, Eduardo Ferrer Mac-Gregor and Mariela Morales Antoniazzi (eds), *The Impact of the Inter-American Human Rights System: Transformations on the Ground* (Oxford University Press 2024), 176-198 (181-84); García (n. 9), 525.

15 See Marisol Blanchard, 'Overview of Regional and Sub-regional Mechanisms: Access and Relationship between Courts and Commissions; Existing Cooperation with Other Mechanisms' (2015), <https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/StrasbourgPresentations/Marisol_Blanchard_IACHR.doc>, last access 3 December 2025.

16 Tomuschat (n. 1), 547.

17 Tomuschat (n. 1), 547, 549. As he noted: On several occasions, 'the CIDH has visited the Dominican Republic […] where there was serious unrest in 1961 after the assassination of the dictator Trujillo and in 1965 after the fall of the ruling military junta. On these occasions, the Commission has always taken the utmost care to obtain an accurate and unbiased picture of the situation by calling on all those involved in any way – official government bodies, all political groups, professional associations and unorganised individuals from the population – as well as by travelling around the country and making site visits.' Tomuschat (n. 1), 546.

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issuing and publishing country reports transformed the Commission from a marginal body to a central force in hemispheric relations. This change would not become evident until the later years of the following decade, when the Commission's visits to Nicaragua and Argentina (discussed below) were decisive in the transformations in both those countries. Other visits by the Commission in the late 1970s and early 1980s were nearly as important. Together, they raised the profile of the Commission, the system as a whole, and of human rights in general. All this was done with relatively little emphasis on individual cases or the American Convention on Human Rights.[18]

However, one of Tomuschat's greatest concerns was the lack of a binding treaty, which he referred to as '[a] serious weakness'.[19]

II. The American Convention, Country Visits, Selection of Commissioners, Financing and the Strengthening of the Inter-American Commission on Human Rights

1. The Impact Through Country Visits: Two Examples

The American Convention was adopted in 1969 and entered into force with the eleventh ratification in 1978. The Convention addressed many of the concerns that Tomuschat had raised back in 1968, such as the lack of the independence of the Commissioners[20] and 'the uncertain nature of the legal bases on which it is at present functioning'.[21] In the years immediately following the Convention's entering into force, the Commission intensified its practice of visiting countries and issuing reports on those visit. The increased profile and impact of the work of the Commission in those years, however, had little to do with the American Convention and everything to do with the political context in the region, the role of the hemisphere's superpower (the United States) and the remarkable courage demonstrated by the Commission. These factors – political context, the positions adopted by the United States, and the actions of the commissioners (and the commission as a body) in response, have continued to be the factors that define the

18 On the importance and impact of the on-site visits and country reports by the Commission in this period, see Tom Farer, 'The Rise of the Inter-American Human Rights System: No Longer a Unicorn, Not Yet an Ox', HRQ 19 (1997), 31-64.

19 Tomuschat (n. 1), 536.

20 Tomuschat (n. 1), 535.

21 Tomuschat (n. 1), 551.

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successes and failures of that institution and the inter-American human rights system in general.

In the late 1970s, Latin America was dominated by vicious, authoritarian regimes who coordinated their abusive policies through Operation Condor, with the support and training of the intelligence and military forces of the United States. This type of security coordination (to a lesser extent) and US intervention had been the practice since the onset of the Cold War and even before. At the same time, on the heels of the disastrous Vietnam war and the Watergate scandal, voters in the United States elected Jimmy Carter to the presidency. Among other changes initiated by Carter was a focus on human rights (and not *only* anti-communism) in the US foreign policy. Carter signed the American Convention and submitted it to the Senate (which, to date, has not advanced the treaty to ratification) and pressed states in the Americas to ratify the binding human rights treaty of the OAS. By mid-1978, with the ratification of eleventh state (Grenada on July 14 of that year), the American Convention entered into force.[22]

It was in this context that the Commission was operating in the late 1970s and in which two vitally important country visits took place: the 1978 visit to Nicaragua and the visit the following year to Argentina. Former Commissioner Tom Farer recounts the role of the Commission in several important country visits in that period. In particular, he relays the details of the visit to Nicaragua, whose date was moved up because of the deteriorating human rights situation in the country, and the final report on which was written in record time.[23] The report was extremely harsh, concluding that violations were endemic. Farer recounts that the 'truly extraordinary features of the report came at its very end'. The report, he notes, supported the call for a change in the regime. Farer observed that, 'the Commission for the first and only time in its history addressed no recommendations to the government'.[24]

Summarising the text of the report, Farer observed two decades later that '[t]hroughout Latin America, those words, written by a body six of whose seven members were conservative representatives of Latin American establishments, were read and were intended to be read as a statement of moral conviction that the entire political order, the whole system of public authority in Nicaragua, was root and branch rotten'. Farer notes the impact of the report in these terms, '[b]efore his death, Anastasio Somoza would cite the Commission report as one of the decisive forces driving him to resign and

22 See, Status of Ratifications of the American Convention on Human Rights, <https://www.cidh.org/Basicos/English/Basic4.Amer.Conv.Ratif.htm>, last access 3 December 2025.

23 Farer (n. 18).

24 Farer (n. 18), 538.

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flee the country even though the [National] Guard was still holding the line in most of the country'.

A second, transformative visit and country report involved Argentina, a country which had been submerged in horrendous rights abuses since the March 1976 coup that brought a vicious junta into power. Having witnessed the pushback to the abuses committed by Augusto Pinochet in neighbouring Chile, the Argentine junta opted to eliminate opponents by making them 'disappear'.[25] Estimates of those disappeared – activists, leftist guerrillas, student leaders, trade union members and many others against whom some vague suspicion had been cast – range from 9,000 to 30,000. Actors within the United States (most notably Assistant Secretary of State Patricia Derian) pressed Argentina to curb the most atrocious forms of rights abuse. Congress cut off military aid to Argentina. The administration then made much-needed multilateral financial support dependent on Argentina inviting the Inter-American Commission to visit.[26]

Margaret Keck and Kathryn Sikkink document the precipitous decline in forced disappearances that coincided with the visit of the Commission. From a high of 4,105 people disappeared in 1976 to 3,098 in 1977, the number dropped to 969 in 1978 and then to 181 in 1979, the year of the Commission's visit, and 83 in 1980.[27] The State Department reported on the press coverage of the Commission's visit in these terms:

> 'A media barrage – The Commission's visit was massively covered by the Argentine press, television and radio. There can hardly be an Argentine alive who is now unaware that human rights are an issue of significance. Everywhere the Commission went and everybody they met with – except for cases where the Commission sought and obtained more confidential meetings – was reported. The dramatic assembly of hundreds of people waiting outside […] to report disappearances drove home the point that many have complaints.'[28]

In Argentina today, it is not uncommon for rights activists and those who lived through the dictatorship to speak of Argentina before and Argentina after the visit of the Inter-American Commission. The Center for Legal and

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25 Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders* (Cornell University Press 1998). See generally Chapter 3, 'Human Rights Networks in Latin America'; Keck and Sikkink (103 f.) write in this regard: 'Even before the military coup of March 1976, international human rights pressures had influenced the Argentine military's decision to cause political opponents to "disappear", rather than imprisoning them or executing them publicly'.

26 Keck and Sikkink (n. 25), 107.

27 Keck and Sikkink (n. 25), graph at 108.

28 U. S. Department of State, 'The IAHRC Visit: Not Much Changed?', 21 September 1979, Doc. 1979BUENOS07875, declassified version D063, paras 3-6, <http://www.cipol.org/colecciones.php#documentos>, last access 3 December 2025.

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Social Studies (CELS), Argentina's leading human rights organisation, refers to the visit of the Commission as 'an inflection point for the construction of the truth about the violations committed during the dictatorship and the struggle for human rights in our country'.[29]

Still, Tomuschat rightly predicted that a binding treaty would strengthen the ability of the Inter-American Commission to ensure the practical implementation of human rights standards. A binding treaty set mutual obligations and has served as a basis for individuals to assert claims against their governments in the inter-American system. As previously mentioned, although the Inter-American Commission had been able to claim implicit powers, explicit authority granted the Commission additional legitimacy among the international community and the States. The role of case-processing became more central to the work of the Commission (and Court) in the 1990s as states transitioned to civilian from authoritarian rule, as we outline below.

2. The Role of the Convention in Institutional Strengthening

The American Convention on Human Rights did strengthen the institutionality of the Inter-American Commission by codifying the functions and powers the Commission had claimed for itself and by granting the Commission additional authority. The American Convention turned the Commission from a charter body (one whose authority was derived from the Charter of the Organization of American States) into a hybrid charter and treaty body (one whose authority is derived from an inter-American treaty other than the OAS Charter). As per OAS Charter Article 106, 'There shall be an Inter-American Commission on Human Rights, whose principal function shall be to promote the observance and protection of human rights and to serve as a consultative organ of the Organization in these matters.'[30] The Article did not include additional details about the operations of the Commission. Instead, it stated, '[a]n inter-American convention on human rights shall determine the structure, competence, and procedure of this Commission'.[31] The American Convention on Human Rights was the treaty anticipated by the OAS Charter in this provision.

29 CELS: Memoria, Verdad y Justicia, 'cidh: 40 años de una visita histórica', <https://www.cels.org.ar/web/2019/09/a-40-anos-de-la-visita-de-la-cidh/>, last access 3 December 2025 (translation by authors).

30 Art. 106 Charter of the Organization of American.

31 Art. 106 Charter of the Organization of American.

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Article 41 of the American Convention officially affirmed the OAS Charter's general assertion of the Commission's purpose, stating that '[t]he main function of the Commission shall be to promote respect for and defense of human rights'.[32] Then, it detailed the functions and powers through which the Commission should achieve this purpose.[33] The Commission's role of informing the public about human rights, including the need to produce an annual report, became official under the Convention.[34] Article 41 also expanded the Commission's consultative role, which the OAS Charter had directed toward the OAS as whole, to be applicable also to individual Member States requesting the Commission's advice.[35] The same provision also affirmed the Commission's authority to, at its own discretion, conduct investigations, draft reports, request information from Member States, and make recommendations to Member States.[36] Relatedly, Article 38 of the American Convention left to the Commission's discretion the preparation of the Commission's Statute and the establishment of its Regulations.[37]

Article 41(f), by way of Articles 44 through 51, formally authorised the Commission to receive complaints from individuals or Non-Governmental Organisations (NGOs) alleging violations of the American Convention on Human Rights and explained the processing of these complaints.[38] The Convention authorised the Commission to assess the admissibility of a complaint, to request information concerning the complaint from all parties, including the State, to hold hearings regarding the complaint, reach friendly settlements or, if not, to produce a report with conclusions and recommendations.[39]

After communicating its report to the State and waiting three months, if the State has not taken adequate measures to comply with the Commission's recommendations, the Commission may publish its decision or, alternatively, the State or the Commission may submit the case to the Inter-American Court of Human Rights,[40] in case the State has accepted the jurisdiction of the Inter-American Court. The Commission also has authority under Article

32 Art. 41 American Convention on Human Rights (ACHR).
33 Art. 41 ACHR.
34 Art. 41 ACHR.
35 Art. 41(e) ACHR.
36 Art. 41(b)-(d) ACHR, Article 43 ACHR additionally provides that 'the State Parties undertake to provide the Commission with such information as it may request of them as to the manner in which their domestic law ensures the effective application of any provisions of this Convention'.
37 Art. 38 ACHR.
38 Arts 41(f), 44-51 ACHR.
39 Arts 46-50 ACHR.
40 Art. 51 ACHR. See also Art. 61 ACHR.

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63(2) of the American Convention to request provisional measures from the Court.[41]

Other provisions of the American Convention on Human Rights also strengthened the institutionality of the Inter-American Commission. For example, Article 71 of the American Convention codified the requirement that Commissioners be independent and impartial, which had been a concern of Tomuschat's.[42] Articles 35 and 36 additionally clarified that the Commissioners serve in their individual capacity and not as a representative of any one State.[43] Article 34 went further, specifying that the Commissioners 'shall be persons of high moral character and recognized competence in the field of human rights'.[44]

3. Limits of the Formal Legal Provisions: Political Appointments, Funding

Notwithstanding the requirements of independence and high moral character, the selection of commissioners (and judges) has been, and continues to be a political process. In the vast majority of countries, the process for selecting candidates to serve on the Commission is shrouded in secrecy. On many occasions, states have chosen candidates with suspect qualifications, likely due more to their alignment with the priorities of the particular administration than their commitment to human rights.

Once in office, Commissioners may be subject to pressures from their home governments, whatever the text of the Convention may assert regarding independence. The authors can attest to their colleagues routinely visiting the Embassy and or the Mission of their home countries on arrival in Washington for sessions. While it is possible that those visits might have pro forma, it is just as likely that discussions turned to state interests and positions regarding the work of the system.

Another vital issue that has plagued the Commission since its inception has been the instability and insufficiency of the budget allocated by the OAS. Tomuschat fails to address this issue. While one cannot expect any analysis to include all possible challenges to a given system, the financial challenges have been too central and crucial to be cast aside. Tomuschat's analysis, which is fundamentally legal and focuses on the texts rather than the practice entirely

41 Art. 63(2) ACHR.
42 Art. 71 ACHR.
43 Arts 35-36 ACHR.
44 Art. 34 ACHR.

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misses what might be termed the main event – the means that states have used to control and limit the impact of the Inter-American human rights system. Article 40 of the American Convention provided that the Secretariat, the specialised unit within the OAS that supports the work of the Commission, 'shall be provided with the resources required to accomplish the tasks assigned to it by the Commission'.[45] Again, while laudable, this statement simply does not comport with the reality of the functioning of the Secretariat, which has been underfunded for decades. As the docket of the system has grown, increases in the budget afforded the Secretariat have not kept pace with demand. Today, despite its broad mandate and expanding docket, the Commission receives from regular funds of the OAS only US $10.4 million.[46] By comparison, the Commission on Human Rights of the City of New York had an operating budget of more than $14 million in Fiscal Year 2025.[47] The European Court had a budget of 85 million euros in 2024,[48] roughly equivalent to US $100 million at this writing.

To understand the role of finances and budget in the Inter-American system, one must understand the political dynamics of the system. A few examples illustrate this principle. The 2015-2016 crisis, initially triggered by the loss of voluntary contributions from European states facing their own migration crisis intensified when Mexico withdrew funding and, some say, worked behind the scenes to ensure that other states not come to the rescue of the Commission. At the time, Mexico was upset by the independence of the expert group on Ayotzinapa (Grupo Interdisciplinario de Expertos Independientes, or GIEI) that it initially supported but whose robust, independent actions threatened the highest authorities in the country. The crisis dragged on for a year. Eventually, the Commission and Secretariat raised enough fundings to hold hearing that had to be cancelled and managed to save the jobs of some 40 staff who were to be released in mid-2016. At that

45 Art. 40 ACHR.

46 See, Inter-American Commission on Human Rights, Annual Report 2024, <https://www.oas.org/en/iachr/docs/annual/2024/IA2024_ENG.pdf>, last access 3 December 2025. The regular fund totalled $10,649,900. Other sources brought the total budget to more than $21 million.

47 New York City Council Hon. Adrienne Adams, Speaker of the Council Hon. Justin Brannan, Chair Finance Committee Hon. Nantasha Williams, Chair, Civil and Human Rights Committee Note on the Fiscal 2025 Executive Plan and the Fiscal 2025 Executive Capital Commitment Plan for the Commission on Human Rights, <https://council.nyc.gov/budget/wp-content/uploads/sites/54/2024/05/CHR.pdf#:~:text=%20of%20Human%20Rights%20%28CHR%20or%20the%20Commission%29.,and%20%2455%2C000%20greater%20than%20its%20Fiscal%202024%20budget>, last access 3 December 2025.

48 European Court of Human Rights website, <https://www.echr.coe.int/budget>, last access 3 December 2025.

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point (in effect, having lost the battle), the Mexican government worked to increase the OAS budget.[49]

The recent financial crisis provoked by the sudden and extreme decision of the United States to suspend funding to the OAS is another example of the politicised nature of the system.[50] While the Permanent Council of the OAS responded to avert the crisis by allowing funds to be reallocated to prevent widespread layoffs,[51] the threat of financial chaos continues. The dependence of the system on its largest donor – the United States – has always been a core, political weakness. None of this, however, can be gleaned from careful, lawyerly review of the legal instruments of the system.

III. The Commission's Contemporary Role and Impact

More than 50 years after 'Die Interamerikanische Menschenrechtskomission', the IACHR remains a significant institution in the protection of human rights in the region. Although Tomuschat anticipated many issues that were addressed at some level with the American Convention, he could not possibly predict, back in the 60's, the complete potential of the Inter-American Commission.[52]

While the adoption of the American Convention constituted a significant factor in strengthening the Inter-American Commission's mandate to protect human rights in the region, the Commission's institutional potential has transcended its legal foundations. This is due to three key factors: (a) addressing the sociopolitical context and institutional resilience; (b) developing innovative mechanisms and institutional incrementalism; and (c) expanding reparations and the victim-centric approach. Each of these three dimensions will be examined in the sub-sections that follow.

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49 This is typical of the transactional nature of the Mexican states' engagement with the Inter-American system. When it became clear that the stick was not beating the Commission into submission, Mexico pivoted to the carrot.

50 See, e. g., Redacción Judicial, 'EE.UU. canceló fondos para la CIDH que, entre otros, afecta programas indígenas', El Espectador on 31 January 2025, <https://www.elespectador.com/judicial/eeuu-cancelo-fondos-para-la-comision-y-corte-idh-afectando-programas-indigenas/#google_vignette>, last access 3 December 2025.

51 OEA, 'Res 1277' of 3 March 2025, CP/RES. 1277/25.

52 Armin von Bogdandy, Flávia Piovesan, Eduardo Ferrer Mac-Gregor and Mariela Morales Antoniazzi (eds), *The Impact of the Inter-American Human Rights System: Transformations on the Ground* (Oxford University Press 2024).

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1. Addressing the Sociopolitical Context and Institutional Resilience

As Christian Tomuschat stated in 'Die Interamerikanische Menschenrechtskomission', when analysing the work of the Commission, one must consider the unstable political context of the Americas, which he described as 'a sociological milieu […] in which the implementation of a human rights program faces far more obstacles than is the case in West Europe in particular […]'.[53] The Commission has been effective in large part because it has successfully adapted its methods to suit the ever-changing political situation.[54]

The concerns raised by Tomuschat regarding implementation are reflected in the response of the Commission over the past five decades: the development of robust toolbox. The different tools reflect the hybrid nature of its mandate, which combines political (such as *in loco* visits, investigations) and quasi-judicial functions (the petition and case system). Historically, the Commission has adapted its methodology to respond to context, choosing tools best suited to each situation. We contend that the Commission has been successful (or not) to the extent it has thoughtfully assessed the political and social context and developed approaches likely to succeed in the particular situation.

To understand the engagement of the Commission, we apply the analytical typology developed by Claudio Grossman who identified three historical phases. During the first phase, which ranged from the 1960s, when the Commission was created, to the early 1980s, the Commission focused on country visits and country reports based on fact-finding investigations. As we note above, these were the most effective tools to face the dictatorships of the time,[55] which had been hiding information from their citizens about gross human rights violations. States also refused to engage honestly and productively in dialogues with or proceedings before the Commission.[56] In this first phase, country visits and country reports informed and facilitated international pressure in the context of the Cold War to move authoritarian Latin American states to curb abuses.

53 Tomuschat (n. 1), 582.

54 Grossman (n. 9), 35; González Morales (n. 6), 35-57; Felipe González, Three Key Aspects of Strengthening the Inter-American Human Rights System (June 2012). Aportes DPLF No. 16, 15, available at: <https://corteidh.or.cr/tablas/r33168.pdf>, last access 3 December 2025.

55 Grossman (n. 9), 34-35.

56 Grossman (n. 9), 37; Huneeus and Madsen (n. 6), 145; Robert K. Goldman, 'History and Action: The Inter-American Human Rights System and the Role of the Inter-American Commission on Human Rights', HRQ 31 (2009), 856-887 (873 f.).

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The second phase ran from the late 1980s into the 1990s, as democratisation spread through the region. Even if democratic, governments inherited 'normative constraints', such as amnesty and contempt laws, as well as military jurisdiction over human rights violations.[57] During this time, the Commission began to rely more on its case system because civil society organisations had sufficient freedom and information to use it. In addition, elected governments were more willing to engage in individual proceedings than they were to cooperate with general investigations, which they argued were appropriate only for dictatorships.[58]

Lastly, the third and current historical phase involves a higher level of inclusion, as well as political participation.[59] During this phase, the Commission has worked to support the expansion of the scope of democracy, as well as to prevent democratic governments from backsliding into authoritarian regimes.[60] The current context is complex, with depleted trust in political institutions and populist authoritarian forces seeking to respond in their (abusive) ways to the challenges of the Americas.[61] In this most recent phase, the Commission has also created eleven Rapporteurships that operate under the Commission and two autonomous Rapporteurships, the Special Rapporteurship for Freedom of Expression and the Special Rapporteurship on Economic, Social, Cultural, and Environmental Rights.[62] The Rapporteurships seek to address the various structural, endemic challenges to the enjoyment of rights in the hemisphere that persist since the transitions to democratic rule. That is, they address primarily groups in situations of vulnerability even in countries in which states are unlikely to target political opponents or dissidents (as was the norm for authoritarian regimes in the 1970s and 1980s).

In this way, the breadth of challenges that the Americas are experiencing has required the Inter-American Commission to use a mix of the tools developed in its three historical phases.[63] Country visits and reports remain apt for combatting a new wave of authoritarianism in the region,[64] while

57 Grossman (n. 9), 37.

58 Grossman (n. 9), 37 f.; Huneeus and Madsen (n. 6), 152; Goldman (n. 56), 874 and 880; González Morales (n. 6), 39 f.

59 Grossman (n. 9), 39.

60 Grossman (n. 9), 39.

61 Grossman (n. 9), 40; See Moisés Naím and Brian Winter, 'Why Latin America Was Primed to Explode', Foreign Affairs on 29 October 2019, <https://www.foreignaffairs.com/articles/central-america-caribbean/2019-10-29/why-latin-america-was-primed-explode>, last access 10 April 2025.

62 Inter-American Commission on Human Rights, 'Thematic Rapporteurships and Units'. <https://www.oas.org/en/iachr/mandate/rapporteurships.asp>, last access 3 December 2025.

63 Grossman (n. 9), 39-44.

64 Grossman (n. 9), 41.

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thematic reports and individual petitions are key for addressing issues of exclusion and discrimination.[65]

2. Developing Innovative Mechanisms and Institutional Incrementalism

The IACHR, with its hybrid mandate,[66] has developed innovative mechanisms to address emerging human rights challenges in the region. Above and beyond the tools discussed in the previous section, this section emphasises the work of the following mechanisms, which may arguably be considered the most high profile and high impact developments of the past dozen years: the Interdisciplinary Group of Independent Experts (GIEI) Mexico; the Interdisciplinary Group of Independent Experts (GIEI) for Bolivia; the Special Monitoring Mechanism for Venezuela (MESEVE); the Special Monitoring Mechanism for Nicaragua (MESENI); the Interdisciplinary Group of Independent Experts (GIEI) for Nicaragua; and the SACROI COVID-19.

The Interdisciplinary Group of Independent Experts (GIEI) in Mexico was formalised on 28 November 2014 through an agreement between the IACHR, the State of Mexico and the representatives of the missing students of Ayotzinapa.[67] The agreement allowed the IACHR to appoint an Interdisciplinary Group of technical cooperation to address the disappearance of 43 students in Ayotzinapa, Mexico.[68] The aim was to address the structural issues underlying forced disappearances in general in Mexico.[69] The Commission developed this innovative mechanism in response to the demands of and in collaboration with civil society organisations that had a close relationship with local social movements.[70] The GIEI reviewed thousands of pages of

65 Grossman (n. 9), 42.

66 Art. 41 ACHR.

67 Inter-American Commission on Human Rights, 'Interdisciplinary Group of Independent Experts (GIEI)', <https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/giei/ayotzinapa/default.asp>, last access 3 December 2025.

68 Inter-American Commission on Human Rights, 'Interdisciplinary Group of Independent Experts (GIEI)', <https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/giei/ayotzinapa/default.asp>, last access 3 December 2025.

69 Inter-American Commission on Human Rights, 'Interdisciplinary Group of Independent Experts (GIEI)', <https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/giei/ayotzinapa/default.asp>, last access 3 December 2025.

70 Gabriela Kletzel, 'Activism Strategies Involving the Inter-American System: Reflections for the Field of Action and Perspectives from National Human Rights Organizations' in: Armin von Bogdandy, Flávia Piovesan, Eduardo Ferrer Mac-Gregor and Mariela Morales Antoniazzi (eds), *The Impact of the Inter-American Human Rights System: Transformations on the Ground* (Oxford University Press 2024), 625-640 (633).

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documents in the official investigation of the case, interviewed scores of witnesses, survivors, and family members. It visited locales, examined evidence and demonstrated grave errors in the domestic proceedings, including systematic torture and a cover-up that led to the highest levels. Its work was covered intensely in Mexican and international media and its impact reverberated through Mexican society. The success of the GIEI depended on both the stakeholders who called for and supported the Commission's intervention and on the institutional resilience of the Commission.[71]

The Commission created another GIEI to address emerging challenges in Bolivia. The Interdisciplinary Group of Independent Experts in Bolivia was established through an agreement signed on 12 December 2019 between Bolivia and the IACHR[72] to assist in the investigations of violent acts, as well as human rights violations that took place in Bolivia between 1 September and 31 December 2019.[73] According to Thomas Becker, expert on Bolivia and co-author of the Coup: A Story of Violence and Resistance in Bolivia, 'The GIEI [for Bolivia] was probably the most important factor in shifting both the public perception of and political response to the egregious rights abuses in 2019 and 2020 in Bolivia. The GIEI was the catalyst for accountability measures and reparations.'[74]

Another example of the Commission's flexible approach is the creation of a special mechanism for Venezuela. The Special Monitoring Mechanism for Venezuela (MESEVE) was created on 21 October 2019 to strengthen the Commission's monitoring activities of the human right crisis in Venezuela.[75] The MESEVE provides support to several IACHR mechanisms, including review of requests for precautionary measures to supporting the litigation of cases before the Inter-American Court of Human Rights.[76] The MESEVE also works with victims and civil society and mechanisms from not only the

71 Kletzel (n. 70), 634 f.

72 Inter-American Commission on Human Rights, 'Acuerdo entre la Comision Interamericana de Derechos Humanos y el Gobierno del Estado Plurinacional de Bolivia para apoyar la Investigación de los actos de violencia y las violaciones a los derechos humanos occuridas en Bolivia entre el 1 de septiembre y el 31 de diciembre de 2019', <https://www.oas.org/es/cidh/giei/Bolivia/acuerdo/default.html>, last access 3 December 2025.

73 GIEI-BOLIVIA, 'Acuerdo de creación y mandato', <https://gieibolivia.org/sobre-giei/>, last access 3 December 2025.

74 Text message from Thomas Becker to James Cavallaro, 31 October 2025 (on file with the authors).

75 Inter-American Commission on Human Rights, 'Special Monitoring Mechanism for Venezuela', <https://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/meseve/default.asp>, last access 3 December 2025.

76 Inter-American Commission on Human Rights, 'Special Monitoring Mechanism for Venezuela', <https://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/meseve/default.asp>, last access 3 December 2025.

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OAS, but also from the United Nations to support the documentation of human rights violations.[77]

The systematic and widespread human rights violations in Nicaragua led the Commission to also establish two new mechanisms: the Special Monitoring Mechanism for Nicaragua (MESENI) and the Interdisciplinary Group of Independent Experts for Nicaragua (GIEI-Nicaragua).

The IACHR created the MESENI in 2018 to monitor the human rights situation in Nicaragua, provide technical assistance to the State, and follow up on recommendations made to Nicaragua after a country visit and in the 'Gross Human Rights Violations in the Context of Social Protests in Nicaragua' report.[78] Although the IACHR's presence in Nicaragua was suspended six months later, MESENI continued its work from IACHR headquarters in Washington, DC.[79] Lastly, the IACHR also created the Interdisciplinary Group of Independent Experts for Nicaragua (GIEI) to support investigations relating to violent acts in Nicaragua between 18 April and 30 May 2018 in the context of social protests.[80] While Ortega government has resisted oversight by these mechanisms, they have no doubt served to raise the visibility of rights abuse in Nicaragua and have served to increase pressures from other international actors.

Finally, in response to the COVID-19 pandemic, the Commission created the 'SACROI COVID-19', a Rapid and Integrated Response Coordination Unit, to provide guidance to States about their human rights obligations in the midst of sickness and uncertainty. The Commission issued statements, resolutions, and guidelines for States, and hosted webinars on the right to health. Many of the recommendations contained in these documents shaped States' decision-making process in response to the pandemic. With SACROI, the Commission demonstrated the capacity to respond quickly, creatively, and effectively in face of evolving challenges. This kind of rapid and integrated response coordination could be a model for the Commission as it

77 Inter-American Commission on Human Rights, 'Special Monitoring Mechanism for Venezuela', <https://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/meseve/default.asp>, last access 3 December 2025.

78 Inter-American Commission on Human Rights, 'Special Monitoring Mechanism for Nicaragua (MESENI)', <https://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/meseni/default.asp>, last access 3 December 2025.

79 Inter-American Commission on Human Rights, 'Special Monitoring Mechanism for Nicaragua (MESENI)', <https://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/meseni/default.asp>, last access 3 December 2025.

80 Inter-American Commission on Human Rights, 'Interdisciplinary Group of Independent Experts for Nicaragua (GIEI)', <https://www.oas.org/en/IACHR/jsForm/?File=/en/iachr/meseni/default.asp>, last access 3 December 2025.

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addresses some of the most pressing challenges of the twenty-first century, including artificial intelligence and climate emergency.

3. Expanding Reparations and the Victim-Centred Approach

In addition to the Inter-American Commission's commendable capacity to adapt and respond to structural and contemporary human rights challenges, the Commission has a unique victim-centred approach and a comprehensive approach to reparations. The IACHR uses a victim-centred approach that places rights-holders as protagonists – 'institutions, standards, and procedures are oriented to recognizing victim's agency and to placing their claims front and center'.[81]

For the IACHR, the victims and their families, as well as civil society, are the oxygen and driving force of the entire system. By incorporating victims and their families in its processes, the Commission has sought to be more inclusive. A structural dimension of the inter-American system is the dialogue between the inter-American system and the victims in its different mechanisms, such as the case system, *in loco* visits,[82] as well as during the IACHR sessions.

When institutions of the Inter-American System determine there has been a human rights violation, they proceed to establish reparations, following a comprehensive approach. Reparations include six kinds of measures: 1) restitution (when it is possible to return to the status quo prior to the violation); 2) rehabilitation (for example, in cases of torture and sexual abuse – measures that require psychological support services); 3) economic reparation; 4) combat against impunity (emphasising the State's duty to adopt due diligence to investigate, prosecute, and punish in cases of serious violation); 5) symbolic measures (for instance, erecting a statute in the name of the victim, ceremonies in which the State recognises its international responsibility); and 6) guarantees of non-repetition (which should foster structural changes, such as legal reforms and new public policies).

81 Armin von Bogdandy, Flavia Piovesan, Eduardo Ferrer Mac-Gregor and Mariela Morales Antoniazzi, 'Conclusion' in: Armin von Bogdandy, Flávia Piovesan, Eduardo Ferrer Mac-Gregor and Mariela Morales Antoniazzi (eds), *The Impact of the Inter-American Human Rights System: Transformations on the Ground* (Oxford University Press 2024), 641-648 (643).

82 Mariela Morales Antoniazzi, Flávia Piovesan and Júlia Cortez da Cunha Cruz, 'Inter-American Human Rights System: Sociopolitical, Institutional, and Cultural Dimensions of Its Transformative Impact' in: Armin von Bogdandy, Flávia Piovesan, Eduardo Ferrer Mac-Gregor and Mariela Morales Antoniazzi (eds), *The Impact of the Inter-American Human Rights System: Transformations on the Ground* (Oxford University Press 2024), 49-75 (63).

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Comprehensive reparations are also implemented in the Inter-American Commission's friendly settlements. These settlements have been employed by both the Commission and the Courts in a range of cases, with generally positive results. The reparations measures in friendly settlements are likely to have greater impact than those in final decisions, given the relatively high degree of compliance with settlements as compared to final reports from the Commission (and even sentences of the Court). Writing in 2011, Ariel Dulitzky observed that while 60 % of recommendations made by the Commission in merits reports are not carried out, approximately 85 % of friendly settlement agreements have been complied with at least partially.[83]

Thus, the Inter-American Commission has evolved and contributed to human rights in ways that 'Die Interamerikanische Menschenrechtskomission' article could not have fully foreseen.

Conclusion

This essay has noted that Tomuschat correctly assessed that the Commission was original and effective in the promotion of protection of human rights at the time of his writing in 1968. Tomuschat believed that a binding treaty would be the key to greater effectiveness. While the development and entry into force of that treaty – the American Convention on Human Rights – established important standards and mechanisms, it was not the essential instrument that catapulted the Commission to relevance in the hemisphere. Instead, it was the practice of country visits and release of reports, in conjunction with other forms of pressure, that made the Commission a dynamic and essential actor in the Western hemisphere in the late 1970s and beyond.

This is not to say that the Convention has not been important. As states in the hemisphere transitioned from authoritarian to more democratic rule, the system has placed greater emphasis on the case system. In this phase of the work of the Commission, the Convention has been more important. In the current phase of the Commission, creative mechanisms, such as the GIEI, have taken centre stage over the case-processing function of the Court. Throughout, the guiding thread in the success and failure of the Commission has been its capacity to respond to the social and political forces at work in the Americas. When the Commission has had the support of key actors (and even when it has not), and when it has leveraged that support or the support

83 Ariel Dulitzky, 'The Inter-American Human Rights System Fifty Years Later: Time for Changes', R. Q. D. I., Special Edition (2011), 127-164 (127, 138).

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of media, social justice activists and other forces, it has been able to produce meaningful advance in human rights. Tomuschat recognised the adaptability of the Commission but could not foresee this – rather than a binding treaty – as the engine that would lead the Commission to play a key role in limiting and challenging abuses in the Americas.

Moving forward, the Commission faces severe threats and challenges. First, the Commission has been and continues to be under-resourced and understaffed.[84] As a result, and in a context of increasing engagement with and interest in the inter-American system,[85] the Commission is facing slow processing and backlog of petitions.[86] Cases before the Commission are estimated to take around six and a half years from beginning (the admissibility of the petition) to end (the merits report).[87] The Commission must be furnished with adequate resources, including a higher budget and additional staff, to be able to work effectively and independently.[88] Additionally, to strengthen the Commission's independence and effectiveness, the process for nominating Commissioners must undergo reforms that include increased transparency and a higher involvement of civil society[89]. These changes would do a great deal to ensure that the system can adjudicate cases fairly

84 Human Rights Clinic of the University of Texas School of Law, 'Maximizando la justicia, minimizando la demora: acelerando los procedimientos de la Comisión Interamericana de Derechos Humanos' (December 2011), 4, <https://www.corteidh.or.cr/tablas/28253.pdf>, last access 3 December 2025; Françoise Hampson, Claudia Martin and Frans Viljoen, 'Inaccessible Apexes: Comparing Access to Regional Human Rights Courts and Commissions in Europe, the Americas, and Africa', I.CON 16 (2018), 161-186 (169); Goldman (n. 56), 882.

85 Par Engstrom, 'The Impact of the Inter-American Human Rights System Beyond Latin America' in: Armin von Bogdandy, Flávia Piovesan, Eduardo Ferrer Mac-Gregor and Mariela Morales Antoniazzi (eds), *The Impact of the Inter-American Human Rights System: Transformations on the Ground* (Oxford University Press 2024), 100-121 (119).

86 Human Rights Clinic of the University of Texas School of Law, 'Maximizando la justicia, minimizando la demora: acelerando los procedimientos de la Comisión Interamericana de Derechos Humanos' (December 2011), <https://www.corteidh.or.cr/tablas/28253.pdf>, last access 3 December 2025; Ariel E. Dulitzky, 'Muy poco, muy tarde: la morosidad procesal de la Comisión Interamericana de Derechos Humanos', JA (12) 2015, 21-75, <https://www.corteidh.or.cr/tablas/r33492.pdf>, last access 3 December 2025.

87 Grossman (n. 9), 45; Human Rights Clinic, University of Texas School of Law, 'Maximizing Justice, Minimizing Delay: Streamlining Procedures of the Inter-American Commission on Human Rights' (2011), <https://law.utexas.edu/wp-content/uploads/sites/11/2015/04/2012-HRC-IACHR-Maximizing-Justice-Report.pdf>, last access 3 December 2025.

88 Santiago A. Canton, 'To Strengthen Human Rights, Change the OAS (Not the Commission)', Human Rights Brief 20 (2013), 5-12 (8, 10-11); Felipe González, 'Three Key Aspects' (n. 54), 17; Dinah Shelton, 'The Rules and the Reality of the Petition Procedure in the Inter-American Human Rights System', Notre Dame J. Int'l. & Comp. L. 5 (2015), 2-28 (26-28).

89 See CEJIL, The Selection Process of the Inter-American Commission and Court of Human Rights: Reflections on Necessary Reforms (2014) Position Paper No. 10-2014, available at: <https://cejil.org/wp-content/uploads/pdfs/Position%20Paper%20No.%2010_3.pdf>, last access 3 December 2025.

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and efficiently. As with most of what makes the system thrive or fail, these measures depend on political will and financial support, rather than the existence or ratification of any treaty.

That said, incomplete ratification of the American Convention and of other inter-American human rights treaties, as well as the denunciation of the American Convention by a few members, such as Trinidad and Tobago and Venezuela pose real challenges to the system. The United States of America, Canada, and several Caribbean countries have also failed to ratify the Convention altogether.[90] Although the Commission is able to process individual complaints against OAS member States that are not party to the American Convention by interpreting and applying the American Declaration,[91] States' failure to ratify and withdrawals from the Convention affect the legitimacy of the inter-American human rights system as a whole, with severe implications to the Commission's effectiveness. Finally, the Commission continues to face low rates of State compliance with its recommendations,[92] and so does the Court.[93] Although it is important to consider the impact of the inter-American system beyond compliance, compliance itself is still a worthwhile aim. All these challenges stem from a greater problem that has afflicted the Americas in varying degrees over the past six decades: the lack of political will and commitment to human rights and the rule of law. Today, the hemisphere faces perhaps the greatest collective threat to human rights since the creation of the Commission in 1959, in no small measure because of the hostile attitude and actions of the United States, the hemispheric and global leader. This crisis will not be resolved by the existence of the system's main binding treaty nor even more complete ratification of the American Convention, although such ratification by powerful states might be a sign of greater hemispheric commitment to human rights. As Tomuschat himself observed in assessing the impact of the Inter-American Commission in its first decade, it would be 'inadequate' to engage in 'a mere legal comparison of systems […] without taking into account the results of practical legal implementation.[94] On this dimension, the system now faces its greatest challenges in decades.

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90 OAS Department of International Law, 'American Convention on Human Rights 'Pact of San José Costa Rica' (B-32): Signatories and Ratifications', <https://www.oas.org/dil/treaties_b-32_american_convention_on_human_rights_sign.htm>, last access 3 December 2025.

91 Thomas Buergenthal, Dinah Shelton, David P. Stewart and Carlos M. Vázquez, *International Human Rights in a Nutshell* (West Academic Publishing 2002), 277.

92 von Bogdandy, Piovesan, Ferrer Mac-Gregor and Morales Antoniazzi (n. 13), 5.

93 Shelom Velasco, *The Inter-American Court of Human Rights: Emerging Patterns in Judgment Compliance* (Indiana University Maurer School of Law J.S.D Dissertation, May 2016).

94 Tomuschat (n. 5), 583.

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While the hurdles before the Commission may seem insurmountable, the IACHR may well be able to face and overcome them if it can harness the support of civil society, friendly state actors, media, and the Commission's inherent creative capacity to adapt and to address an ever-changing world. The Inter-American system's institutional resilience, as seen historically in its innovative and responsive approaches to human rights abuses in the Americas, has not only ensured the Commission's effectiveness thus far, but is its best hope in the future. The Commission is well positioned to identify challenges, adapt its methods, and create mechanisms to address the current sociopolitical context. Whether it will be able to survive the grave threats that it and the entire project of human rights face today, and possibly even thrive, remains to be seen. Given the history of the hemisphere and the record of the Commission over the years, we remain cautiously optimistic.

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