



The Impact of the Inter-American Human Rights System: Current Achievements and Future Challenges

Inter-American Human Rights Network¹

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Policy Briefing

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Executive Summary

This briefing outlines the principal conclusions and policy implications of the inaugural workshop of the Inter-American Human Rights Network, held in Mexico City in October 2014.² The workshop discussions suggest that while impact is shaped by a number of factors, the Inter-American Human Rights System (IAHRS) is likely to be most effective where its various mechanisms are employed in a coordinated fashion; where its decisions attract widespread media attention; and where domestic actors utilise its rulings and precedents to further their own efforts to bring about national-level policy change. In seeking to expand its impact in the future, the IAHRS will need to overcome challenges related to its financing and authority, address shortcomings in the collection of data on its activities, and effectively manage the potentially divergent interests of litigants and victims within the system.

Determinants of Impact

In the absence of effective enforcement mechanisms by the political organs of the Organization of American States (OAS), human rights practitioners and policymakers have been forced to turn their attention elsewhere for ways to strengthen the impact of the Inter-American Human Rights System (IAHRS). A number of factors continue to shape the impact of the IAHRS:

Differences in compliance patterns

Evidence suggests that overall levels of compliance with IAHRS decisions remain fairly low. However, a focus on the system's patchy compliance record neglects the significant differences that exist between various mechanisms. For example, states tend to comply more readily with the provisions of friendly settlements than they do with the rulings of the Inter-American Court. This may be explained by the fact that states have agreed

¹ The **Inter-American Human Rights Network (IAHRN)** is an international research project which seeks to examine the development and impact of the regional human rights system of the Americas. The network is funded by the Leverhulme Trust under its International Networks programme and its membership comprises leading and emerging scholars of the Inter-American system from across the globe. For further information on the IAHRN please contact Dr Par Engstrom (p.engstrom@ucl.ac.uk), or IAHRN network facilitator, Peter Low (p.low@ucl.ac.uk).

² A more detailed summary of the workshop is [available here](#). Please note, the analysis contained in this briefing does not necessarily reflect the views of all workshop participants.

to undertake remedial action during a negotiation process, rather than having it imposed upon them by a court ruling. Greater specificity in rulings and recommendations also appears to have a positive impact on compliance, and may help explain why IAHRs rulings are generally more widely implemented than those from other human rights mechanisms.

Interaction with domestic constituencies

The degree to which IAHRs actions bring about broader structural changes is largely dependent on the manner and extent to which the system's instruments are used by domestic actors and institutions. States are not monolithic entities and there is often a degree of divergence – both within and between the different branches of government – regarding the relative weight institutions ascribe to human rights considerations. Embattled 'pro-rights' constituencies in some contexts have utilised rulings, statements and legal precedents set by the IAHRs to lend international weight to their efforts to bring about domestic policy change. Where utilised effectively, recourse to IAHRs instruments can help shift the balance of power in favour of domestic pro-rights constituencies.

Media attention

The extent of traditional and social media coverage generated by IAHRs activities has a significant influence on the domestic impact of the system. Media attention helps raise awareness of particular rights issues, and has often increased pressure on authorities to comply with IAHRs decisions, or to rectify human rights problems at both the individual and structural level. This tends to be the case for rights issues where the public is already convinced of the need for change; while coverage of more contentious issues, such as prisoners' rights, has done little to persuade more sceptical populations and officials of the need for reform. Media interest has generally been highest for the rulings of the Inter-American Court, with more limited coverage of developments in other areas, such as friendly settlements and precautionary measures. As such, the structural impact of these alternative mechanisms is often more limited in scope than Court rulings, even though compliance rates may indeed be higher.

Complementarity of mechanisms

The potential impact of the IAHRs is at its greatest when various mechanisms are used in a coordinated fashion and as part of a coherent strategy. Specific rulings or awareness-raising activities can generate human rights change in and of themselves, but their impact may be amplified if they occur within the context of a broad and coordinated strategy. A notable example of this has been in the area of women's rights where the IAHRs has used all the various instruments at its disposal – such as treaty-making (the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, "Convention of Belém do Pará"), rapporteurships, in-country visits, the petitioning process and court rulings – to achieve highly significant outcomes. Where used strategically and in tandem, the system's mechanisms can be mutually reinforcing and can amplify the impact of one another. Impact has been more muted, on the other hand, where mechanisms are used in isolation.

Future Challenges

The IAHRs faces a number of challenges in seeking to increase its future impact:

Difficulties of evidence-based reform

The absence of systematised and comprehensive data on many areas of the IAHRs' activities – for example, on the results of precautionary measures and friendly settlements – continues to prevent rigorous analysis of the system. This shortcoming makes it even more challenging for the IAHRs to accurately identify and rectify problematic areas of its activities. It also undermines scholarly efforts to assist such efforts.

Addressing divergent litigant-victim interests

Civil Society Organisations (CSOs) have become the lifeblood of the IAHRs, and play an increasingly important role in nearly all its diverse activities. This is clearly a highly positive development, but stakeholders in the IAHRs should be mindful that the interests of CSO petitioners may not always perfectly coincide with those of victims. While CSOs often pursue actions and reforms which will alter the human rights environment at the structural level, victims may prioritise obtaining remedy for their own suffering. These divergent aims could adversely affect victims' confidence in the ability of CSOs, and the IAHRs more generally, to address their areas of greatest concern.

Financing

Consistent underfunding of the system (the Commission's budget, for example, is only about one tenth of that of its European counterpart) continues to limit the scope for conducting proactive rights work and investigations. Moreover, the limited resources available to the IAHRs and, in particular, the Commission, have contributed to emergence of a several-year long backlog of petitions. Such difficulties are likely to worsen given the consistently increasing caseload of both the Commission and the Court.

Authority and legitimacy

A central factor underpinning the impact of the IAHRs is the popular legitimacy the system has worked to create over the decades. In recent years, a number of states in the region have become increasingly strident in their challenges of the system, particularly where IAHRs decisions have run counter to other geopolitical and economic aims. Moreover, the continued lack of universal ratification of the system's major human rights instruments is likely to remain a source of criticism for those seeking to undermine IAHRs decisions and operations.

Recommendations

On the basis of this analysis, the following recommendations can be identified to help further strengthen the impact of the IAHRs on the human rights environment in the Americas:

- 1) **Strategic coordination between IAHRs mechanisms.** Increased coordinated and complementary efforts between the composite institutions of the IAHRs, as well as with other international human rights mechanisms, could amplify the individual and collective impact of IAHRs activities.
- 2) **Increased specificity of rulings and recommendations based on informed understandings of local political contexts.** This will assist local efforts to monitor and campaign for their implementation and to identify specific levers of domestic political change.
- 3) **Strengthened ties with domestic rights constituencies.** Closer relationships with supportive elements within OAS member states could provide invaluable assistance in areas, such as follow-up and information dissemination, where IAHRs capacity is more limited. In some contexts, e.g. with credible and effective National Human Rights Institutions (NHRI), often known as *Defensorias del Pueblo*, there is ample scope for strategic alliances with domestic institutions.
- 4) **Creation of ongoing collaboration with other human rights systems.** A permanent means of sharing information between regional and universal bodies could allow both to design more effective solutions to current and future human rights challenges. Improved collaboration between the IAHRs and other human rights mechanisms would enable joint evaluation of current and upcoming challenges, as well as the development and dissemination of best practice techniques to address them.
- 5) **Systematisation and publication of the IAHRs' operational information:** This would allow for more detailed scrutiny of the effectiveness of the IAHRs by users of the system, policymakers and scholars. Strategic partnerships with academic institutions with the required expertise would significantly strengthen the capacity of the IAHRs to conduct such assessments. This analysis could then, in turn, be used as to help draw up operational adjustments based on rigorous scholarly analysis. Whilst acknowledging the need to respect the confidentiality of much of the information processed by the IAHRs, the integrity and legitimacy of any institution depends in large part on the degree of transparency of its proceedings.