

HUMAN RIGHTS, PEACE & SECURITY NEXUS

Contributions of the Inter-American Human Rights
System to conflict prevention and peacebuilding

POLICY BRIEF
February 2023



The Inter-American Commission for Human Rights and the Inter-American Court on Human Rights have made tremendous contributions in the field of peace and security, delivering redress for violations of human rights in the context of conflicts and authoritarian rule, and the building of jurisprudence related to armed conflict, peace processes and transitional justice. This body of knowledge and the constant monitoring of the region can be more efficiently fed into and integrated in the work of the Organisation of American States.

The OAS: on a shoestring budget and losing members

Looking at the Charter of the Organisation of American States (OAS), the promotion of peace and security is an integral part of the organisation's purpose and guiding principles. Already article 1 states that the central objective of the OAS is to "achieve an order of peace and justice". However, the principles of non-intervention and state sovereignty have been as central to the region and the OAS as has the promotion of peace and security. In practice, member states often cite the principles of state sovereignty and non-intervention when receiving criticism from the OAS.

The Americas is, in general terms, affected by a common self-image of being a peaceful region – which is true when it comes to international armed conflicts, and a region free from nuclear weapons outside of the USA. However, the Americas

faces a number of bilateral disputes over territory, ongoing- and recent internal armed conflicts, and is the home of a number of illegal armed groups and transnational mafia cartels. Political polarisation, and the regression of democracy and the rule of law, also pose threats to human rights and peace and security. These factors, as well as the deep socio-economic inequality, climate change, the economic crisis, and the effects of the Covid-19-pandemic – which means a major setback in poverty reduction – generate tensions, internally displaced people and refugees.

The OAS and the Inter-American Human Rights System (IAHRS) are also challenged by states in the region as both Venezuela and Nicaragua decided to leave the organisation, and USA and Canada have still not ratified the American Convention on Human Rights. Finally, considering the repeated financial crisis of the OAS – doomed by states to survive on a shoestring budget – the question arises as to what extent states are interested in a potent intergovernmental organisation, or content with a meagre one.

While calling for the Permanent Council to invoke article 20 of the Democratic Charter – meaning the temporary suspension of the states from participating in the OAS – somehow was intended to embarrass Venezuela and Nicaragua, the response by the regimes was to leave the OAS. Seemingly, the threat of being suspended almost served as a welcomed excuse for leaving.

| Tools and interaction

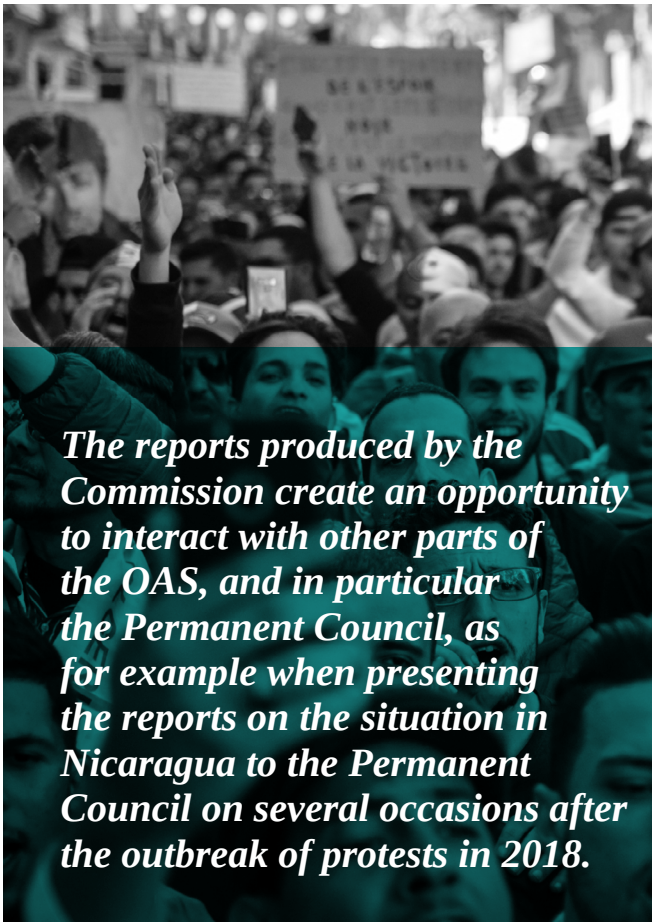
The toolbox available to the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights certainly contain a quite wide array of tools suitable for contributing to peace and security in the region. Although the nature of some work to a certain degree is reactive, as in the case of complaints and country visits, such actions can potentially contribute to avoid further escalation of conflict and human rights abuses, as well as prevention of future events. These more long-term tools can also contribute to peace building and non-recurrence. This while the adoption of precautionary measures and provisional measures as well as press-notes and reports are actions that can respond to on-going situations and contribute to early warning and conflict prevention.

When it comes to the Court, its possibilities to act are limited as it is dependent on the cases presented before it and also on the limited number of states (20) that have agreed to its jurisdiction. The Court can,

as an immediate action, adopt provisional measures in relation to cases. Regarding its advisory function, the Court, at the request of member states and OAS organs, can issue advisory opinions as to the compatibility of internal norms with the American Convention on Human Rights, and on the interpretation of the Convention or other treaties concerning the protection of human rights in the American states. This, in theory, would allow for example the OAS Permanent Council to ask for an advisory opinion regarding a particular issue or situation. Also the Commission has the function of acting as a consultative organ to the OAS and to member states.

Apart from these tools, the OAS Permanent Council can request the Commission to conduct investigations on the human rights situation in member states. In general, the regional human rights system can be used as an expert resource in all matters related to peace and security and in any peace and security effort – as has been the case in the MAPP/OAS-mission in Colombia.

Also the annual reports of the Court and the Commission, presented to the OAS General Assembly, at least in theory offer an opportunity for the IAHRS and the General Assembly to interact.



The reports produced by the Commission create an opportunity to interact with other parts of the OAS, and in particular the Permanent Council, as for example when presenting the reports on the situation in Nicaragua to the Permanent Council on several occasions after the outbreak of protests in 2018.

IAHRS contributions to peace and security

The IAHRS has contributed to accountability in cases when states have been unwilling to investigate and prosecute, advanced the rights of victims to truth, justice and reparations, declared amnesties for gross human rights violations unlawful, and advanced jurisprudence of a wide range of rights and freedoms relevant for conflict prevention and the protection of human rights in conflict situations. It has contributed with analysis regarding the human rights situation in countries facing tension, social unrest and internal armed conflict, and provided protective measures to human rights defenders, social leaders, ethnic groups and others. This work has also included measures contributing to the Women, Peace and Security Agenda.

On balance, the Commission and the Court can be considered successful in their efforts to impact the member states' conduct in some areas. States for example often reach partial compliance with decisions of the Court. They tend to comply with softer aspects of orders, such as provision of psychological and medical support to victims, while orders calling for criminal prosecution of military/security actors responsible for violations are more seldom met. However, the IAHRS has been acknowledged for its impact beyond compliance in individual cases, for example empowering local actors and raising international attention and response to ongoing crises. An area where the IAHRS is recognised to have been particularly successful is transitional justice, including important recommendations, judgements and standards.

Looking at the impact of the IAHRS from another angle – the consequences of non-compliance and non-action might serve as driving forces for conflict and, in transitional contexts, jeopardise non-recurrence.

Effectiveness of the IAHRS

Over the years, criticism and concerns have been raised in relation to the level of compliance with decisions and quantitative research has indicated that non-compliance with measures required by the IAHRS has been notably widespread. However, this pessimistic picture has been challenged by other researchers and practitioners, questioning the methodology, arguing for adding a qualitative

lens to analysis. Moreover, the experience of most stakeholders engaging with the Court seems to suggest otherwise.

There is an evident risk that researchers, practitioners and politicians use quantitative studies as references for the assessment of the impact of the IAHRS. Figures are eye-catching and seemingly easy to use and relate to in comparison to qualitative data. However, while quantitative studies are relevant, they can convey an absolute but wrongful message, if not complemented by qualitative analysis.

Apart from the IAHRS organs themselves, the international community, civil society and the OAS, all have important roles to play in order to increase compliance and ultimately the effectiveness of the Commission and the Court.

When it comes to the General Assembly, voices have been raised advocating for a more active role in supporting and ensuring the implementation of recommendations, decisions and Court rulings, including by the adoption of costly political sanctions. States have, over the years, been reluctant to criticise each other and to adopt sanctions – despite the fact that the Court has invoked article 65 of the Convention, which provides for this possibility – only on a few occasions. Thus, this collective guarantee-system where the General Assembly is supposed to cooperate with the Court in order to ensure that its judgements do not become illusory, has not been delivered on by states. In general, states have been reluctant to adopt measures designed to increase the impact of the IAHRS.

Towards a greater coherence

Inevitably, inserting the IAHRS in the current context of the Americas and the OAS, the question arises as to whether the IAHRS could play a more important role in relation to peace and security and if the OAS could make greater use of its regional human rights system.

In general, studies on the subject find that reports produced by the IAHRS often have not been used by other parts of the OAS and even less been taken into consideration in decision-making. This suggests that the interaction between the IAHRS and the political organs of the OAS mainly exists on an ad-hoc basis. Even though the last few years has seen a seemingly increased interaction, this development is partly dependent on friendly

states and not a result of formalised inter-institutional processes. There is reason to believe that the IAHRs could be of further support to the OAS, formalising the sharing of information and taking into account in its decision-making, the wealth of information produced within the IAHRs. It further suggests that the impact of the IAHRs could be greater, should such interaction be formalised.

Bearing in mind that a number of critical situations that risk evolving into violent conflicts and even internal armed conflicts – potentially threatening hemispheric security – fall into a pattern combining human rights violations, democratic deficit, the abuse of political power and non-separation of powers, as well as the perverse use of rule of law, there seems to be ground for increased cooperation between the IAHRs and the parts of the OAS working on the support of building democratic societies, including electoral support and election observation.

On balance, even though the picture is mixed and complex, there is an opportunity for the IAHRs to play a more important role for peace and security in the Americas. In order to materialise this potential states need to give their active, consistent and universal support to the mandates of the IAHRs, and dedicate resources and adopt measures to increase the impact of the system, including the cooperation of states in implementing its rulings, decisions and recommendations. In relation to the Responsibility to protect, such active support to the development of the IAHRs, and a more coherent OAS, would constitute a most important measure as to fulfil the obligation to protect in the Americas, and as such also enhancing conflict prevention and state sovereignty.

I Selected Recommendations

For a complete list of recommendations, please refer to the full report.

General Assembly

- Provide proper dimensions of financial and human resources for the IAHRs (and the OAS at large).
- Support in words and action the mandates of the Court and the Commission without reservations and ensure and confirm the independence and autonomy of the regional human rights system.
- Take advantage of the rich competencies, knowledge and products characterising the



IAHRs and support the enhanced coordination and cooperation between different parts of the OAS.

- Put into practice the collective guarantee provided by article 65 of the American Convention on Human Rights, cooperating with the Court to ensure the implementation of its judgements.
- Consider the establishment of a Special Envoy for Women, Peace and Security.

Permanent Council

- Institutionalise coordination and interaction with the IAHRs, make use of it as an expert resource and consider it as a key actor for early warning regarding conflicts in the Americas.
- Consider reviving the use of the Women, Peace and Security Agenda as a framework, as it is highly relevant also for the Americas.

General Secretariat

- Encourage actions for the OAS to work as one system, while conserving a respect for the different roles and mandates of its different parts.

OAS Member States

- Recognise the jurisdiction of the Court and accede the different human rights treaties of the Americas and of the UN-system.
- Ensure, respect and protect the mandate and the independence and autonomy of the IAHRs.
- Ensure to put in place the appropriate mechanisms at the national and sub-national levels in order to comply with the recommendations, decisions and rulings of the IAHRs.

Further reading

Policy brief and full report are also available in Spanish.



The contributions of human rights protection to peacebuilding and conflict prevention in the Americas, Swedish Foundation for Human Rights, 2022.

PDF-version available [here](#)