

Legal Framework for Human Rights Protection in Americas

Robert TABASZEWSKI

ABSTRACT

This study presents the development of the legal framework for human rights protection in the Americas. It addresses the historical context of continental integration. Key to this foundation were the Pan-American Congresses and the establishment of the International Union of American Republics at the turn of the 19th and 20th centuries, initiating a framework for human rights protection in the region. The institutionalisation of protective mechanisms for individual rights is traced back to 1948, marking a pivotal development for the OAS. The analysis focuses on key legal instruments, such as Bogotá Charter, American Declaration of the Rights and Duties of Man and American Convention on Human Rights, along with additional Protocols and a set of specialised conventions, including the Inter-American Convention to Prevent and Punish Torture, the Inter-American Convention on Forced Disappearance of Persons and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women and others. This study offers insights into how the OAS integrates new sets of norms and judicial mechanisms, such as the Inter-American Court, to meet contemporary human rights challenges across the continent. It also briefly considers how recent post-pandemic legal and institutional developments have influenced the evolution of human rights protection in the Americas.

KEYWORDS

Inter-American System, Inter-American Court, Human Rights Law, American Convention, Legal Instruments, Human Rights Treaties

1. Introduction

This study aims to present the context and legal framework within the Inter-American system of human rights (excluding institutional and practical aspects, which are addressed in subsequent chapters of this volume). The Inter-American system rests upon historically established principles of cooperation among the American states and the political and legal structures developed by the Organization of American States (OAS), founded in 1948.¹ Therefore, it is pertinent to demonstrate that the Amer-

1 Grossman, 2008, p. 1267.

Robert Tabaszewski (2026) 'Legal Framework for Human Rights Protection in Americas' in Zombory, K. (ed.) *Regional Human Rights Protection Systems Outside Europe*. Miskolc-Budapest: Central European Academic Publishing, pp. 31-59. https://doi.org/10.71009/2026.kz.rhrpsoe_1



ican continent's focus on human rights emerged in the Pan-American movement, a precursor to the OAS. The human rights protection system developed within this organisation is rooted in fundamental documents crafted by the OAS Member States.² This framework created a noteworthy mechanism of legal protection, which afforded each individual within the jurisdiction of American states a means of redress.

To illustrate the functioning of human rights within the Inter-American system, the following research questions have been formulated:

1. Which key historical events have influenced the development of human rights protections within the Inter-American system?
2. How effectively does the Inter-American system uphold human rights, relying on evolving legal instruments, from informal declarations to specialised treaties?
3. How do human rights protection mechanisms in the Inter-American system align with global trends in the evolution of legal instruments and mechanisms?
4. Does the Inter-American system have tools for the protection of human rights?

The study employs research methods typical of legal scholarship, including dogmatic analysis, historical inquiry and legal-comparative analysis, which enable a comprehensive examination of this regional human rights system. The codification process of human rights norms across the Americas was similar to Europe. In addition, the analysis takes into account selected legal and institutional adjustments that emerged in the post-COVID-19 context, which influenced the contemporary functioning of the Inter-American human rights system. Initially, these norms emerged within the constitutions and domestic laws of newly established American states, alongside the creation of treaty-based regulations between nations.³ Institutional developments gradually followed, evolving from Pan-American conferences to enduring organisations, such as the OAS. However, primarily, it was political rather than legal.⁴

2 Organization of American States (OAS). 2024. About the OAS [Online]. Available at: <https://www.oas.org> (Accessed: 26 October 2024).

3 Orzeszyna *et al.*, 2023, p. 2.

4 See: Herz, 2011, pp. 5–27; Shelton and Carozza, 2013, pp. 52–53.

2. The Role of the Pan-American Union in the Development of the Inter-American System of Human Rights

On the American continent, the idea of political integration gained traction as early as 1826, when Simón Bolívar convened the Panama Congress.⁵ The alliance's main goal was to protect the integrity and independence of Latin American states, which feared the intervention by colonial powers.⁶ The outcome of the Panama Congress, convened without the participation of the US, was the signing of the Treaty of Union, League and Perpetual Confederation on 15 June 1826, among the Republics of Colombia, Central America, Peru and the United Mexican States.⁷ This treaty provided for joint defensive actions in the event of external aggression and fostered unity and cooperation among the American states.⁸ It marked the first document directly addressing human rights, wherein the American states committed to combating and preventing slave trade. It imposed a duty of cooperation to use 'all their forces and means towards the total abolition and eradication of the African slave trade, whilst maintaining the current prohibitions of such commerce'.⁹ Although the Treaty did not fully enter into force due to political differences among the states, civil rights were embedded in the constitutions of individual American countries. References to civil rights can be found in Pan-American documents enacted before the Panama Congress.¹⁰

5 In his renowned letter to Henry Cullen, a British merchant based in Jamaica, Bolívar emphasised the need for solidarity and unity in the face of threats from European powers. Bolívar aimed to mitigate conflicts among the newly independent Latin American states and create an alliance that would ensure harmony and cooperation across the region. See: Bolívar, 1815. Available at: <https://www.bolivarpensador.com/carta-de-jamaica> (Accessed: 26 Oct. 2024); Carozza, 2003, p. 284.

6 González, 2020; Orzeszyna *et al.*, 2023, p. 92.

7 Tratado de Unión, Liga y Confederación Perpetua (1826), Signed in Panama City, June 15.

8 Dobrzycki, 2002, p. 175.

9 Additionally, the states agreed that 'slave traders and vessels carrying slaves from Africa under the flag of the Contracting States shall be deemed to commit the crime of piracy, under conditions specified in a special agreement'. See: Article 27 of the Treaty.

10 The Constitution of Gran Colombia of 30 August 1821, for instance, guaranteed personal freedom, equality before the law, the right to property and freedom of speech and the press. Similarly, as early as the Mexican Constitution of 4 October 1824, civil liberties were guaranteed, including the recognition of human rights, the abolition of slavery and the guarantee of personal liberty. This constitution protected freedoms such as speech, the press, assembly and the right to a fair trial, while safeguarding private property and prohibiting monopolies. References to human rights appeared in subsequent documents as well, such as the Constitution of Bolivia on 19 November 1826, the Constitution of Peru on 12 November 1823 and the Constitution of Chile on 25 May 1833. The idea of civil rights permeated later constitutions, including the Argentine Constitution of 1 May 1853, one of the most progressive of its time. See: Constitución de la República de Colombia, Rosario de Cúcuta: B. Espinosa, Impresor de Gob. Gral. Available at: <https://hdl.loc.gov/loc.law/llscd.78341644> (Accessed 26 October 2024); Constitución de la República de Bolivia, 19 November 1826; Constitución de la República del Perú, 12 November 1823; Constitución Política de la República de Chile. 25 May 1833; Constitución de la Nación Argentina. Available at: <https://bcn.gob.ar/> (Accessed: 26 October 2024). See: Moses, 1891, pp. 1–47; Carozza, 2003, p. 284.

By the late 19th century, the idea of political and economic rapprochement among Latin American states and the establishment of a shared system grounded in respect for individual rights emerged through the Pan-American movement and periodic international Congresses of Latin American states.¹¹ The acceleration of integration processes has been attributed to a shift in US policy towards the region.¹² At the time, the US aimed to assume the role of guardian of the area, extending President James Monroe's 1823 doctrine,¹³ to protect American interests from the rising European influence on the Western Hemisphere.¹⁴ This policy shift was primarily driven by expanding economic and geopolitical interests and concerns regarding the threat posed by European powers.¹⁵

In 1881, US Secretary of State James G. Blaine initiated an invitation to all independent states of the Americas for a special Congress to discuss methods of preventing conflicts between nations in the Western Hemisphere.¹⁶ Blaine's concept, founded on two pillars – peace preservation and the promotion of intercontinental trade – was not realised due to political instability in Latin American countries. However, at the initiative of the subsequent US Secretary of State, Thomas F. Bayard, the First International Conference of American States was held in Washington from 1889 to 1890, with Blaine in attendance. Representatives from the US and 17 states (except the Dominican Republic) attended, with the conference opening on 2 October 1889 and concluding on 19 April 1890.¹⁷ All the sessions were conducted behind closed doors, where delegates discussed the maintenance of peace across the Americas and the prohibition of conquest.¹⁸ A notable achievement for the US was the acceptance of the American treaty law as a model for relations among American states, as had been

11 Following the success of the Panama Congress, further Congresses were organised, including those in Tacubaya in 1840 and two in Lima, the first held between 1847 and 1848 and the second between 1864 and 1865. The 1870s and 1880s saw two specialised Congresses: The Congress of Jurists in Lima (1877–1879) and the South American Congress of Private International Law in Montevideo (1888–1889). These Spanish-speaking conferences created complex networks of multilateral negotiations in which Latin American countries demonstrated their solidarity and commitment to protecting shared values, aiming to safeguard sovereignty against foreign influence. However, they did not result in the creation of lasting legal institutions to guarantee individual rights protection and regional stability. Dobrzycki, 2002, p. 50; Llorens, 2016, pp. 149–151.

12 See: Gutiérrez, 2010, pp. 87–108.

13 Orszczyzna *et al.*, 2023, p. 92.

14 Mace 1999, pp. 21–22; Smith, 1996; Schoultz, 1998; Buzan and Wæver, 2009, p. 308.

15 Buzan and Wæver, 2009, p. 308; LaFeber 1993, p. 60.

16 Byrne Lockey, 1939, p. 4; Dobrzycki, 2002, p. 51.

17 International Institute of International Legal Studies, 1966, p. XXI; Dobrzycki, 2002, p. 52.

18 Numerous recommendations were adopted, covering the standardisation of weights and measures, the construction of an intercontinental railway, commercial regulations and patent and trademark law. Dobrzycki, 2002, p. 53.

agreed upon earlier at the Montevideo Congress.¹⁹ However, the establishment of an International American Bank, despite the Congress's formal recommendation, did not come to fruition.²⁰

The most tangible outcome of the First International Conference of American States was the establishment of the International Union of American Republics (*Unión de las Repúblicas Americanas*) on 14 April 1890, which became the world's largest regional organisation.²¹ From a formal-legal perspective, the Union constituted an association of Member States from the Americas, founded by the resolution of the First International American Conference.²² The Union encompassed nearly the entire Western Hemisphere, excluding European colonies and Canada as a dominion.²³ The executive body of the Union was the Information Bureau, known as the Secretariat.²⁴ According to the resolutions of the Conference, the Union's duration was set for 10 years, with the possibility of extension for another term. During this period, no Member State of the Union was permitted to withdraw. Furthermore, a significant achievement was the establishment of a forum for the exchange of views and cooperation between the states of the Americas, a unique accomplishment in contrast to other world regions. In 1900, steps were taken to organise a second conference, with Mexico, then seen as a symbol of success and a model for other countries in the region, as the venue.²⁵ The primary objective was to sustain the spirit of cooperation among the American states, particularly by building regional ties and creating a shared legal space.²⁶

Among the key achievements of the Second Conference was the agreement of the American states to accede to the Hague Convention and be included in the arbitration procedure established by the Permanent Court of Arbitration in The Hague.²⁷

19 The recommendations adopted at the Washington Conference in 1890 include the following: Adaptation of a uniform system of weights and measures, Communication on the Atlantic, Communication on the Gulf of Mexico and the Caribbean Sea, Communication on the Pacific, Inter-continental railway, International American Bank, International law, International Monetary Union, Nomenclature of merchandise, Sanitary regulations and Treaties for the protection of patents and trademarks.

20 Dobrzycki, 2002, p. 54.

21 Meyer, 2014; Orzeszyna *et al.*, 2023, p. 92.

22 Battaglia, 2004, p. 12.

23 Dobrzycki, 2002, p. 55.

24 Washington, D.C., in the US, was chosen as the Bureau's headquarters. Initially, the Secretariat served informational functions, focusing on the collection and distribution of data that could facilitate cooperation between the countries of the region. The Bureau published the Bulletin of the International Bureau of the American Republics alongside annual reports and periodicals on various countries within the region. An annual budget of \$36,000 was allocated to start the operations of the Bureau. See: Cordero Torres, 1955, pp. 67–68; Labourdet, 1980, pp. 147–164.

25 The proceedings of the Second International Conference of American States took place from 22 October 1901 to 31 January 1902. Orzeszyna *et al.*, 2023, p. 92.

26 Dobrzycki, 2002, p. 55.

27 Permanent Court of Arbitration (1899) Hague Convention for the Pacific Settlement of International Disputes, The Hague, July 29. Available at: <https://pca-cpa.org/en/documents/hague-conventions> (Accessed: 26 October 2024).

The states joined the treaty on the extradition of criminal offenders and committed to protect against international anarchism.²⁸ However, due to opposition from the US, not all states adopted the proposed treaty on the rights of foreigners and consensus was not reached on a shared arbitration procedure for American states.²⁹ Nonetheless, the Mexico Conference confirmed the potential for consensus among the region's states and underscored that Latin American countries shared common values.³⁰ Another outcome was the renaming of the existing Commercial Bureau to the International Bureau of the American Republics.³¹

The strengthening of ties among Pan-American states continued during successive periodic conferences and was crucial for establishing stable relations between the American nations. The Third Pan-American Conference was held from 23 July to 27 August 1906 in Rio de Janeiro, resulting in the adoption of 19 resolutions and conventions that advanced previous agreements.³² During this meeting, the decision was made to construct a permanent headquarters for the Pan-American movement.³³ Significant organisational changes to the institutional structure of the Pan-American movement were introduced at the Fourth Conference, held from 12 July to 30 August 1910. The former International Union of American Republics was renamed the Union of American Republics and the Secretariat was reconstituted as the Pan-American Union, set to operate permanently.³⁴ The fifth meeting of American states was held in Santiago, Chile, from 25 March to 3 May 1923, delayed due to World War I. At this conference, the states adopted the Gondry Treaty, aimed at avoiding conflicts among American states,³⁵ condemning 'armed peace' (excessive armament) and introducing the 'cooling off' principle to prevent the escalation of tensions.³⁶ Furthermore, it was agreed to continue work on the codification of the Inter-American law based on Alejandro Alvarez's draft.³⁷

28 Pan-American Union (1901) Treaty on the Extradition of Criminal Offenders and Protection Against International Anarchism, adopted at the Second Pan-American Conference, Mexico City.

29 A concrete outcome of the Conference was the creation of a permanent platform for negotiating and aligning the shared interests of the American states, which played a crucial role in furthering relations across the Western Hemisphere. See: Dobrzycki, 2002, p. 60.

30 This was so, even though, at the time, some countries, including Mexico as the host of the conference, opposed US proposals, viewing them as a display of dominance in line with the American Monroe Doctrine.

31 Dobrzycki, 2002, p. 60.

32 Orszyszyna *et al.*, 2023, p. 92; Dobrzycki, 2002, p. 61.

33 Brown Scott, 1931, pp. 113–122.

34 Pan-American Union (1910) IV International Conference of American States.

35 Gondra Treaty (1923) "Treaty to Avoid or Prevent Conflicts between the American States," Organization of American States.

36 Orszyszyna *et al.*, 2023, p. 92; Dobrzycki, 2002, p. 65.

37 Divergences between the American states and the US emerged during the Sixth Inter-American Conference in Havana, held from 16 January to 20 February 1928, where US President Calvin Coolidge attended in person for the first time. Burr and Hussey, 1955, pp. 81–82.

During the sessions, the Code of Private International Law³⁸ was adopted, along with the Convention on Asylum³⁹ and the Convention on the Rights and Duties of States in the Event of Civil Wars.⁴⁰ The Inter-American Commission of Women was established as well, an institution that exists to this day.⁴¹ The primary point of contention was the principle of non-interference in the internal affairs of states and the outcomes of the Pan-American Congress of Jurists report from 1927. These conflicts were resolved at a special conference convened between December 1929 and January 1930,⁴² where the General Inter-American Conciliation Convention⁴³ and the General Inter-American Arbitration Treaty were adopted.⁴⁴

The 1930s marked a period during which American states emphasised issues of security and peace. The Seventh Pan-American Conference in Montevideo, held from 3 to 26 December 1933, was dominated by discussions on economic and political threats to regional stability.⁴⁵ Among the conference's successes were the drafting of the Convention on Political Asylum⁴⁶ and the Convention on the Rights and Duties of States.⁴⁷ However, the proposed Code of Peace by the Mexican delegation, which envisioned the establishment of a supervisory body in the form of an Inter-American tribunal, did not secure sufficient support.⁴⁸ In 1936, a special conference dedicated to the reinforcement of peace was convened in Buenos Aires from 1 to 23 December at the initiative of US President, Franklin D. Roosevelt. Roosevelt proposed the creation of an American League of Nations, the first regional organisation for fostering an atmosphere of understanding and cooperation among the states of the Western Hemisphere.⁴⁹

The conference resulted in the adoption of the Convention on the Preservation and Protection of Peace,⁵⁰ introducing the principle of consultation, and the Conven-

38 Pan-American Union (1928) Código de Derecho Internacional Privado (Bustamante Code). Available at: https://www.oas.org/juridico/spanish/mesicic3_ven_anexo3.pdf (Accessed: 26 October 2024).

39 Pan-American Union (1928) Convention on Asylum. Available at: <https://www.oas.org> (Accessed: 27 October 2024).

40 Pan-American Union (1928) Convención sobre Derechos y Deberes de los Estados en Caso de Luchas Civiles. Available at: <https://www.oas.org> (Accessed 26 October 2024).

41 Orszyszyna *et al.*, 2023, p. 92; Dobrzycki, 2002, pp. 66, 175.

42 Dobrzycki, 2002, p. 67.

43 Convención General de Conciliación Interamericana (1929) Conferencia Internacional Americana de Conciliación y Arbitraje, Washington, D.C., Organization of American States.

44 Tratado General de Arbitraje Interamericano (1929) Conferencia Internacional Americana sobre Conciliación y Arbitraje, Washington, D.C., Organization of American States.

45 Orszyszyna *et al.*, 2023, p. 92.

46 Pan-American Union (1933) Convención sobre Asilo Político.

47 Pan-American Union (1933) Convention on the Rights and Duties of States.

48 Dobrzycki, 2002, pp. 69–70, 175; Orszyszyna *et al.*, 2023, p. 92.

49 Dobrzycki, 2002, p. 71.

50 Pan-American Union (1936) Convention for the Maintenance, Preservation and Re-establishment of Peace. Available at: <https://www.oas.org> (Accessed: 26 October 2024).

tion on Peace Education through Public Institutions,⁵¹ which contained the first significant provisions related to human rights.⁵² Before the outbreak of World War II, the Eighth Conference took place in Lima from 9 to 27 December 1938, with resolutions reflecting concerns over escalating international tensions, including the influence of Germany, Italy and Japan in the region.⁵³ A significant outcome of this conference was the adoption of the Declaration of Lima, affirming the region's shared values of peace, security, territorial integrity and the sovereign equality of states.⁵⁴ During World War II, Pan-American cooperation intensified at the level of foreign ministers, with consultative meetings aimed at ensuring regional security. A special conference in 1945 in Mexico City-Chapultepec focused on the role of the region within the emerging global security framework.⁵⁵

3. Institutionalising the Inter-American System

Following the end of World War II and the development of the international human rights protection system under the United Nations (UN), the opportunity arose to establish new structures for regional organisations, including within the Inter-American system. Latin American states viewed this as an opportunity, particularly given that none of them had participated in the meetings of the four great powers deciding on the post-war global order.⁵⁶ Latin American states had expressed their desire to transform the Pan-American movement into a new organisational framework during the Mexico-Chapultepec Conference.⁵⁷

However, the legal foundations of the new regional system emerged under Article 52 of the UN Charter,⁵⁸ adopted in 1945 at the San Francisco Peace Conference.⁵⁹ This provision, supported by the states of the Inter-American movement, permits the establishment of regional arrangements for maintaining peace and security, provided they align with the UN's objectives and principles.⁶⁰ Latin American states considered the outcomes of the San Francisco Conference a great success, as they allowed a

51 Pan-American Union (1936) Declaration of Principles of Inter-American Solidarity and Cooperation. Available at: <https://www.oas.org> (Accessed: 26 October 2024).

52 Dobrzycki, 2002, p. 175.

53 Orzeszyna *et al.*, 2023, p. 92; Dobrzycki, pp. 73–74.

54 Whitaker, 1986, pp. 148–149; Engstrom, 2024, p. 102.

55 An important document adopted during this conference was the Declaration of Reciprocal Assistance and American Solidarity, signed in Mexico on 3 March 1945. See: Orzeszyna *et al.*, 2023, p. 92; Kunz, 1945, pp. 527–533; Burke-White, 2004, p. 36; Glendon, 2003, p. 28.

56 Burke-White, 2004, p. 34; Sikkink, 2014, pp. 174–179.

57 Engstrom, 2024, pp. 102–103.

58 UN (1945) Charter of the United Nations and Statute of the International Court of Justice, San Francisco. Available at: <https://www.un.org/en/about-us/un-charter/full-text> (Accessed: 27 October 2024).

59 Carozza, 2003, pp. 284–286.

60 Glendon, 2003, p. 31.

considerably broader scope of action within international law than before.⁶¹ In the spirit of developing Article 52 of the UN Charter, the Inter-American Conference on the Maintenance of Peace and Security was held from 15 August to 2 September 1947 in Rio de Janeiro, the then capital of Brazil.⁶² The conference culminated in the signing of the Inter-American Treaty of Reciprocal Assistance, known as the Rio Treaty, by 21 American states, including the US. This foundational document of the Inter-American system came into force on 3 December 1948, following ratification by Colombia as the twelfth state, securing the required two-thirds majority of signatories. Hence, a system of mutual defence was established, forming the foundation of the security arrangement among the American states. Acknowledging the principles of the UN Charter, the Treaty obligated American states to take collective action in the event of armed aggression against any of them⁶³ and uphold the principle of peaceful resolution of disputes among states in the region.⁶⁴

Two further foundational documents, establishing the basis for the first regional organisation in the Americas, were adopted during the Ninth International Conference of American States in Bogotá, Colombia, from 30 March to 2 May 1948.⁶⁵ These documents were the Charter of the Organization of American States⁶⁶ (Bogotá Charter) and the Pact of Bogotá⁶⁷ (American Treaty on Pacific Settlement).⁶⁸ The Pact commits its signatory states to resolve international disputes exclusively through peaceful means, such as negotiation, good offices, mediation, arbitration and judicial settlement. Additionally, it obliges states to unconditionally recognise the rulings of the International Court of Justice and accept its compulsory jurisdiction in cases where the parties cannot agree on venue.⁶⁹ To date, 15 states have ratified the Pact, although it was signed by 21. One of the signatory countries that has not ratified the Pact is the US, which has raised concerns regarding the provision limiting diplomatic protection of its citizens when they have the option to pursue proceedings before the courts of another American state.⁷⁰ Furthermore, several other states have submitted reserva-

61 Engstrom, 2024, p. 103.

62 Orzeszyna *et al.*, 2023, p. 92; Kunz, 1945, pp. 527–533.

63 Article 3 of the Treaty.

64 The Rio Treaty has been repeatedly applied in the OAS operations to support regional security and mutual defence efforts. This has been especially true during critical historical moments, such as the Cold War and the Cuban Missile Crisis in 1962, and following the September 11, 2001, attacks on the US. Recently, the treaty was invoked in response to the political crisis in Venezuela in 2019, highlighting its ongoing relevance in addressing significant security concerns within the Americas.

65 Llorens, 2016, p. 520; Villalta Vizcarra, 2006, p. 63.

66 OAS (1948) Charter of the Organization of American States. Available at: <https://www.oas.org/juridico/english/treaties/a-41.html> (Accessed: 19 October 2024).

67 OAS (1948) American Treaty on Pacific Settlement (Pact of Bogotá). Available at: <https://www.oas.org/juridico/english/treaties/a-42.html> (Accessed 26 October 2024).

68 Orzeszyna *et al.*, 2023, p. 92; Burke-White, 2004, p. 36.

69 Article 6 of the Bogota Charter.

70 Article 7 of the Bogota Charter.

tions to the Pact. Moreover, due to adverse rulings from the International Court of Justice, Colombia withdrew from the Pact in 2012, followed by Venezuela in 2013.

The adoption of the Bogotá Charter had significant legal ramifications for the institutionalisation of the Pan-American movement, as it laid the foundation for the operation of the first intergovernmental international organisation in the Americas: the OAS. Formally and legally, the Bogotá Charter constitutes the statute of the OAS, signed on 30 April 1948 in Bogotá, the capital of Colombia.⁷¹ During deliberations, it was determined that the Charter would serve as the organisation's constitution, comprehensively regulating its competencies. The Charter came into force on 13 December 1951, after ratification by Colombia, and has since been revised four times: by the Protocol of Buenos Aires in 1967, the Protocol of Cartagena de Indias in 1985, the Protocol of Washington in 1992 and the Protocol of Managua in 1993.⁷² It consists of 21 chapters, preceded by a preamble emphasising the historical significance of the Americas as a realm of freedom, conducive to the development of human personality and the fulfilment of legitimate aspirations. It notes:

‘The true significance of American solidarity and good neighborliness can only mean the consolidation on this continent, within the framework of democratic institutions, of a system of individual liberty and social justice based on respect for the essential rights of man (...).’

The Bogotá Charter established the OAS as a new regional organisation with a democratic character, serving as a continuation of the former Union of American Republics.⁷³ Hence, the OAS did not replace the previous organisation but transformed it, continuing its mission in a modified form. The name change, involving the removal of the term ‘republics’, reflected a shift, as Latin American states had previously used the term to underscore their distinction from European states.⁷⁴ The objectives of the OAS were significantly broadened in comparison to the functions of the Union of American Republics. While the key goal remained to strengthen cooperation among the American states, the scope and structure of the organisation's activities expanded substantially, particularly in the realms of politics, security and socio-economic development. This inclusive approach resulted from a compromise between US policymakers, such as Edward Stettinius Jr., James F. Byrnes and George C. Marshall, who emphasised the political-military dimensions of the organisation, and representatives of social and economic movements from Latin American countries, notably Argentina, Brazil and Mexico, who advocated for a platform to support the region's socio-economic development.⁷⁵

71 Llorens, 2016, p. 514; Orzeszyna *et al.*, 2023, p. 92.

72 Orzeszyna *et al.*, 2023, pp. 92–93.

73 Engstrom, 2024, p. 104.

74 Orzeszyna *et al.*, 2023, p. 93; Dobrzycki, 2002, p. 84.

75 Dobrzycki, 2002, pp. 77–80.

The original version of the OAS Charter explicitly delineated the organisation's aims, which included strengthening peace and security in the Americas, preventing conflicts and resolving disputes peacefully, collective defence in the event of aggression and addressing political, legal and economic issues.⁷⁶ Additionally, the OAS was tasked with promoting cooperation for economic, social and cultural development. These objectives reflect the organisation's expanded mission, which evolved from earlier integration initiatives to place greater emphasis on multilateral cooperation, regional development and human rights protection. The original Charter addressed these concerns, asserting that American states proclaim the fundamental rights of individuals, irrespective of race, nationality, creed or gender.⁷⁷ Notably, Chapter Seven of the Charter, titled 'Social Standards', established principles for cooperation among Member States to ensure dignified living conditions, the advancement of social legislation, protection of labour rights, welfare and the promotion of universal education and cultural exchange.⁷⁸

The OAS, operating under its Charter, commenced its activities on 30 April 1948. Since its inception, it has undergone numerous organisational and programmatic transformations, reflecting shifts in international relations throughout the 20th and 21st centuries, particularly during the Cold War. Initially comprising 21 founding states, the OAS currently includes 34 members.⁷⁹ Structurally and in terms of location, the OAS inherited elements of the former Pan-American Union, notably its transformation into the General Secretariat, the primary administrative body of the organisation. Additionally, the Inter-American Defense Board and the Inter-American Development Bank were retained.

The current structure of the OAS results from significant institutional reforms, particularly in the 1970s, while the headquarters remain in Washington, D.C., continuing the tradition of the Pan-American Union. Apart from the General Secretariat, the principal bodies of the OAS include the General Assembly, the supreme decision-making authority of the OAS, the Permanent Council, overseeing the organisation's day-to-day activities, the Meeting of Consultation of Ministers of Foreign Affairs, convened in exceptional circumstances, and various councils addressing socio-economic matters.⁸⁰ Furthermore, the OAS has established specialised bodies, such as the Inter-American Commission on Human Rights (IACmHR), founded in 1959, and the Inter-American Council for Integral Development, established in 1993, expanding its competencies and operational scope.

The OAS Charter specifies that the organisation fulfils its objectives through specialised entities, including the Pan-American Health Organization (PAHO) (1902), the Inter-American Commission of Women (CIM) (1928), the Inter-American Children's

76 See Article 1 of the original 1948 Charter of Bogotá.

77 Article 5 (j) of the Charter.

78 Articles. 28–31 of the Charter.

79 Burke-White, 2004, p. 35. In November 2023, Nicaragua formally withdrew from the OAS, following the condemnation of the country's 2021 presidential election results.

80 Connell-Smith 1974, p. 202; Mace, 2017, p. 1.

Institute (IACI) (1927), the Pan-American Institute of Geography and History (1928), the Inter-American Indian Institute (IAII) (1940) and the Inter-American Institute for Cooperation on Agriculture (IICA) (1942). Additionally, the OAS Council maintains a special registry of other specialised agencies and commissions, such as the IACmHR and the Inter-American Peace Committee. An additional means of OAS operation includes specialised conferences, with their principles and scope defined in a dedicated report.⁸¹

The first conference organised in accordance with the principles of the OAS Charter was the Tenth American Conference, from 1 to 28 March 1954 in Caracas, Venezuela. This conference led to the adoption of various Inter-American conventions, including the Convention on Diplomatic Asylum, the Convention on Territorial Asylum and the Protocol on the Duties and Rights of States in the Event of Armed Aggression. Of the 117 resolutions passed during this conference, the most significant was the resolution of 28 March 1954, the Declaration of Solidarity for the Preservation of the Political Integrity of the American States Against the Intervention of International Communism. This document expressly condemned the activities of the international communist movement, deeming it an attempt to interfere in American affairs and a threat to national institutions, peace and security in the region.⁸² The conference established fundamental Inter-American principles regarding the obligations of states towards individuals in the public and civil spheres.⁸³ The landmark Tenth Conference in Caracas was the last in the series of traditional Inter-American conferences, which, under the Buenos Aires Protocol of 1967, were replaced by annual meetings of the OAS General Assembly.

4. Main Human Rights Instrument in the Inter-American Human Rights System

Drawing from the experiences of successive Pan-American conferences, the Inter-American system has developed numerous innovative legal solutions that have become the cornerstone for human rights protection in the region. Scholarly literature emphasises that, after World War II, in the Americas, the OAS emerged as the first organisation to address human rights and freedoms comprehensively.⁸⁴ Several documents adopted by the Union of American Republics addressed specific aspects of protection, such as the right to life, liberty and personal security, the right to equal treatment and non-discrimination, the right to dignified working conditions and the right to education. These documents considered the rights of specially protected groups, including children and women, whose social and legal status was discussed

81 See: OAS Permanent Council, 1962.

82 Quintana, 2024, pp. 12–13.

83 Orzeszyna *et al.*, 2023, pp. 92–93.

84 Burke-White, 2004, p. 35; Romano, 2021, p. 33.

by the CIM. Regarding human rights, additional focus was placed on the right to free expression, assembly and association. Given that the OAS Charter and Bogotá Charter contained relatively few binding provisions regarding human rights *sensu stricto*, the development of a separate document became essential. As early as 1945, at the Mexico-Chapultepec conference, the Inter-American Juridical Committee was tasked with drafting a document concerning human rights and freedoms.

Currently, the *corpus juris* of the Inter-American system, in addition to the Bogotá Charter, includes three types of instruments: the American Declaration of the Rights and Duties of Man (IADRDM; 1948),⁸⁵ American Convention on Human Rights (ACHR),⁸⁶ known as the San José Pact (1969), along with additional Protocols (the 1988 Protocol of San Salvador on economic, social and cultural rights⁸⁷ and the 1990 Protocol to Abolish the Death Penalty)⁸⁸ and a set of specialised conventions. The primary ‘special’ conventions include:

1. Inter-American Convention to Prevent and Punish Torture
2. Inter-American Convention on Forced Disappearance of Persons
3. Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (known as the Convention of Belém do Pará)
4. Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities
5. Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance⁸⁹
6. Inter-American Convention Against All Forms of Discrimination and Intolerance⁹⁰
7. Inter-American Convention on Protecting the Human Rights of Older Persons⁹¹

These conventions are ‘special’, as they comprehensively regulate specific areas of human rights or pertain to vulnerable groups. A common feature of these documents

85 OAS (1948) American Declaration of the Rights and Duties of Man, Ninth International Conference of American States, OAS Res XXX, reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser L V/II.82 Doc 6 Rev 1, p. 17 (1992).

86 OAS (1969) American Convention on Human Rights, OAS Treaty Series No. 36, reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser L V/II.82 Doc 6 Rev 1, p. 25 (1992).

87 OAS (1988) Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights (Protocol of San Salvador), OASTS No. 69.

88 OAS (1990) Protocol to the American Convention on Human Rights to Abolish the Death Penalty, OASTS No. 73.

89 OAS (2013) Inter-American Convention Against Racism, Racial Discrimination, and Related Forms of Intolerance, Antigua, Guatemala, entry into force November 11, 2017.

90 OAS (2013) Inter-American Convention Against All Forms of Discrimination and Intolerance, Antigua, Guatemala, entry into force February 20, 2020.

91 Antkowiak and Gonza, 2017, p. 8.

is that they creatively extend the scope of protection afforded by the ACHR. The level of ratification among OAS members varies across these instruments.⁹²

4.1. The American Declaration of the Rights and Duties of Man

On 2 May 1948, the Ninth International Conference of American States adopted the ADRDM, the world's first document to comprehensively set out human rights.⁹³ The work on the Declaration had been ongoing since 1945.⁹⁴ This was the first general document in the history of international law to exert significant influence on the drafting of the Universal Declaration of Human Rights (UDHR), which was adopted eight months later.⁹⁵ The Declaration was accepted by all 21 states participating in the Conference as a non-binding Resolution (OAS Res. XXX) as an annexe to the Conference's proceedings.⁹⁶ The document contains 38 articles divided into two chapters and was drafted in the four official languages of the OAS: Spanish, English, Portuguese and French, ensuring its consistency and accessibility for OAS Member States.

The Declaration is preceded by an introductory clause and a preamble, which clarify the context, motives and objectives behind its adoption. Following the model of the American Constitution, it recognises human dignity as the foundation of human rights.⁹⁷ It affirms that all people, by virtue of their dignity, are equal and free, with rights and duties inextricably linked; rights express individual liberty, while duties reflect human dignity.⁹⁸ It emphasises spiritual development as the ultimate aim of human existence and enshrines the individual's duty to promote culture and morality as essential facets of this development.

The first chapter, titled 'Rights', encompasses 28 articles proclaiming civil rights, such as the right to life, liberty, security and personal integrity (Article 1), equality before the law (Article 2), freedom of religion and worship (Article 3), freedom of thought, opinion, expression and dissemination (Article 4), protection of one's reputation, dignity and private and family life (Article 5), form and protect a family (Article 6), protection of motherhood and childhood (Article 7), residence and movement (Article 8), inviolability of one's home (Article 9), inviolability and confidentiality of correspondence (Article 10), health and welfare (Article 11), education (Article 12),

92 Notably, the Inter-American Convention to Prevent and Punish Torture and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women have received the highest number of ratifications.

93 Orzeszyna *et al.*, 2023, p. 93.

94 The Inter-American Juridical Committee began work on the ADRDM in 1945, when it was tasked with drafting the initial document. By the end of December of that year, the draft was complete and subsequently published in March 1946. See: Paúl, 2017, pp. 47–55.

95 Notably, the Inter-American Juridical Committee adopted the draft of the ADRDM in late December 1945 and published it in March 1946, preceding the first meeting of the UN Preparatory Committee tasked with drafting the UDHR. See: Burke-White, 2004, p. 35; Romano, 2021, p. 33; Glendon, 2003, p. 27; Engstrom, 2024, p. 101.

96 Glendon, 2003, p. 31.

97 Tabaszewski, 2017, p. 192.

98 Orzeszyna *et al.*, 2023, p. 93–94; Glendon, 2003, pp. 34–35.

enjoy cultural assets (Article 13), work and fair remuneration (Article 14), rest (Article 15), social security benefits (Article 16), legal recognition and civil rights (Article 17), access judicial remedies (Article 18), nationality (Article 19), vote and participate in government (Article 20), assemble (Article 21), associate (Article 22), property (Article 23), petition (Article 24), protection against arbitrary detention (Article 25), a fair trial (Article 26) and asylum (Article 27). Article 28 stipulates that human rights may be restricted in the interests of the rights of others, security, public welfare and democratic principles.

Human duties are outlined in Chapter II, which include the duty to society (Article 29), of parents and children (Article 30), of education (Article 31), to vote (Article 32), to obey the law (Article 33), to society and the law (Article 34), to participate in social security systems (Article 35), to pay taxes (Article 36), to work (Article 37) and to abstain from political activity within another state's territory (Article 38).⁹⁹ A clear shortcoming of the Declaration is the absence of enforcement mechanisms and institutions through which individuals seek redress for their rights.¹⁰⁰

The document's legal status is particularly interesting. Initially, the 1948 Declaration was a resolution without legally binding force. It was a political document of a declaratory and programmatic nature.¹⁰¹ Although not a treaty, it gradually acquired the status of a source of obligations for OAS Member States.¹⁰² This status was affirmed in documents from the IACmHR, which, when reviewing individual complaints, referenced the provisions of the Declaration.¹⁰³ This special character was recognised by the Inter-American Court of Human Rights (IACtHR) as well, which classified that '(...) certain provisions of the American Declaration represent customary norms or general principles of international law'.¹⁰⁴ However, this applies only to the provisions reiterated in the case law and not the entire Declaration.¹⁰⁵ Notably, the Declaration holds particular significance as it is the only international human rights standard formally applicable to states, such as the US and Cuba, which have not ratified the ACHR or the International Covenant on Economic, Social and Cultural Rights (ICESCR).¹⁰⁶ Therefore, it sets the minimum standard of human rights protection on the

99 Quintana, 2024, p. 24.

100 The only body authorised to evaluate Member States' compliance with the ADRDM is the IACmHR, p. 34; Burke-White, 2004, pp. 34–35.

101 Orzeszyna *et al.*, 2023, pp. 93–94.

102 See: IACtHR, Advisory Opinion OC-10/89 of July 14, 1989: Interpretation of the American Declaration of the Rights and Duties of Man within the Framework of Article 64 of the American Convention on Human Rights. Requested by the Government of the Republic of Colombia, paras. 41 and 43–47.

103 Farer, 1998, p. 520.

104 IACtHR, Advisory Opinion OC-26/20 of November 9, 2020: The Obligations in Matters of Human Rights of a State That Has Denounced the American Convention on Human Rights and the Charter of the Organization of American States, paras. 96 and 137.

105 *Ibidem*, paras. 94–99.

106 Carozza, 2003, p. 312; Burke-White, 2004, p. 34.

continent.¹⁰⁷ The Court in San José used the Declaration as an instrument to enable an authentic interpretation of the Charter, in which fundamental individual rights are proclaimed.¹⁰⁸ Hence, it serves a moral role and acts as a specific document influencing human rights doctrine and development on the international stage.¹⁰⁹

Several other documents adopted within the OAS framework correspond to the ADRDM. These include the Declaration of Caracas of 1954, condemning communism and other forms of totalitarianism. Equally important is the Declaration of San José of 1960, addressing respect for representative democracy and aiming to strengthen the rule of law in Latin American countries. The political advancement of the economic and social rights set forth in the 1948 Declaration, often referred to as second-generation rights, was represented by the Declaration Establishing the Alliance for Progress under the Pan-American Operation (Declaration of Punta del Este). The Declaration of Punta del Este was adopted on 17 August 1961 during a special session of the OAS Economic and Social Council, held from 5–17 August 1961 in Punta del Este, southern Uruguay.¹¹⁰ It consisted of a preamble, followed by four sections: Title I (Objectives of the Alliance for Progress), Title II (Action Program), Title III (Principles of Financing) and Title IV (Cooperation Initiatives). The Declaration formalised regional cooperation for progress and stability, providing for US financial support to promote the economic, social and political development of Latin American countries.

4.2. The American Convention on Human Rights

Both the OAS Charter, which recognised fundamental rights as a core principle, and the ADRDM predated the European Convention on the Protection of Human Rights and Fundamental Freedoms concerning timing and proposed frameworks. However, appropriate institutional mechanisms were not developed at the time and the provisions of these documents were not effectively implemented, resulting in a human rights protection system in the Americas that existed solely on paper.¹¹¹ Due to these shortcomings, particularly the absence of bodies to which individuals could appeal in cases of rights violations, and the emergence of several dictatorships in the region during the 1950s, it became necessary to draft a treaty that would proclaim human rights and establish mechanisms for their enforcement, including the ability to lodge individual complaints. The process of institutionalising human rights in the region was influenced by the ongoing work on the UN International Covenants on Human Rights (ICHR), initiated in the early 1950s, and the Strasbourg mechanism for individual and interstate complaints, already in operation.¹¹²

107 IACHR, *Coard et al. v. United States*, Case 10.951, Report No. 109/99, 29 September 1999, paras. 37–39.

108 Romano, 2021, p. 33; Tabaszewski, 2010, p. 83; Quintana, 2024, pp. 22–25.

109 Burke-White, 2004, p. 34; Morsink, 1999, p. 130; Ghidirmic, 2018, pp. 50–60.

110 Carta de Punta del Este (1961) dipublico.org. Available at: <https://www.dipublico.org/135236/carta-de-punta-del-este-1961/> (Accessed: 26 October 2024).

111 Tabaszewski, 2010, p. 83.

112 Machowicz and Tabaszewski, 2023, p. 192.

The idea of drafting a new treaty emerged and gained support at the Fifth Meeting of Consultation of Ministers of Foreign Affairs of American States, leading to the initiation of work on a draft of the new Convention in 1959.¹¹³ At the Third Special Inter-American Conference in Buenos Aires in 1967, where the inclusion of more comprehensive standards on economic, social and educational rights was approved for the OAS Charter, it was decided that the new Inter-American human rights convention should define the structure, competencies and procedures of bodies responsible for these issues. Hence, a draft Convention on Human Rights was prepared, recognising the need for a distinct regional system of human rights protection, aligned with international standards, yet tailored to the specific challenges and needs of the Americas.

The final version of the ACHR was opened for signature at a special conference in San José, Costa Rica, on 22 November 1969.¹¹⁴ However, this document remained ineffective as a protective instrument for several years, as the Convention only came into force on 18 July 1978, following ratification by 11 OAS Member States.¹¹⁵ Colombia, as the last of the 11 states, ratified the Convention on 31 July 1973, enabling its formal entry into force. Currently, 24 states are parties to the Convention, meaning that not all OAS members have ratified it.¹¹⁶ The ACHR is currently one of the most significant and fundamental instruments of public international law.¹¹⁷ Drafted in the four official OAS languages – Spanish, English, Portuguese and French – the Convention comprises 11 chapters divided into three parts: I. State Obligations and Protected Rights, II. Means of Protection and III. General and Final Provisions. It is preceded by a preamble, which explicitly recognises that fundamental human rights do not derive from nationality but from inherent qualities of the human personality.¹¹⁸ These qualities justify international protection in the form of a convention that reinforces or supplements the protections provided by the national laws of American states.

Although the Convention is an original solution, comparison with European documents reveals that it was inspired, in part, by provisions in the European Convention on Human Rights (ECHR), particularly concerning procedural guarantees for human rights protection. Similar to the ECHR, the ACHR establishes mechanisms

113 Burke-White, 2004, p. 35.

114 Dobrzycki, 2002, pp. 177–178.

115 On how different states of the region have approached the ratification of the ACHR, see: Carozza, pp. 52–55.

116 The states that have ratified the ACHR include Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominica, the Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Uruguay and Venezuela (which re-ratified the Convention in 2019). Initially, 25 states ratified the ACHR; however, Trinidad and Tobago and Venezuela subsequently withdrew from it. Venezuela exited in 2012 but rejoined in 2019, thereby restoring its status as a party. Trinidad and Tobago withdrew from the Convention in 1999, which remains in effect. Nicaragua, despite having withdrawn from the OAS, remains a signatory to the ACHR.

117 On the potential norm conflicts between the universal system and the Inter-American system, see: Domínguez, 2017, pp. 717–748.

118 Tabaszewski, 2010, p. 83.

for protecting human rights, such as the IACtHR (described in Chapter VII)¹¹⁹ and the IACmHR (described in Chapter VIII), which serve roles comparable to the European Court of Human Rights and the former European Commission on Human Rights, examining both individual and state complaints regarding violations of rights enshrined in the Convention.

A distinctive feature of the Americas is that certain OAS Member States, and other states in the region, are not parties to the Convention. In contrast to the ECHR, where ratification is a condition of membership in the Council of Europe (CoE), the ACHR does not require ratification by OAS Member States.¹²⁰ This means that states can be members of the OAS without being parties to the Convention, complicating the pursuit of redress for human rights violations in other states, especially through individual complaints submitted by the victims. Moreover, compared to the ECHR, the ACHR includes fewer additional protocols, making it less extensive concerning formal modifications. The ECHR contains a wide range of additional protocols, introducing new rights and obligations, resulting in a more elaborate framework.

However, unlike the European system, the ACHR refers to economic, social and cultural rights in Article 26, although their detailed regulation was introduced later in the Protocol of San Salvador. According to the Convention, state parties commit to adopting, following their constitutional procedures, all necessary legislative measures to ensure the fulfilment of the rights and freedoms expressed in the Pact of San José. In line with the principle of non-discrimination, states pledge to respect the rights and freedoms recognised in this Convention and ensure that all persons under their jurisdiction fully enjoy these rights and freedoms, irrespective of race, colour, sex, language, religion, political or other opinions, national or social origin, economic status, birth or any other social conditions.¹²¹

In Chapter II, titled ‘Civil and Political Rights’, Articles 3–25 of the ACHR encompass both civil and political rights and freedoms. These provisions address fundamental existential and civil rights, such as the right to life (Article 4), personal integrity (Article 5), prohibition of slavery and servitude (Article 6), personal liberty (Article 7), *habeas corpus* (Article 8), the principle of legality and prohibition of *ex post facto* laws (Article 9), compensation for wrongful conviction (Article 10), freedom of conscience and religion (Article 12), freedom of thought and expression (Article 13), assembly (Article 15) and association (Article 16). These articles impose specific obligations on state parties to protect these rights and ensure their effective realisation following democratic principles and international human rights standards.

The range of rights included in the ACHR is considerably broader than in other regional human rights conventions. It introduces additional rights and freedoms, absent in the ECHR, such as the right to nationality (Article 20), of the child to

119 See: Arts. 34–73.

120 The American region countries that are not parties to the ACHR include the US, Cuba, the Bahamas, Belize, Guyana, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines and Antigua and Barbuda.

121 Article 1 of the ACHR.

protection (Article 19) and to a name and nationality (Articles 18–20). An innovative provision is the right to reply and correction in the media (Article 14). Furthermore, the right to honour and dignity (Article 11) and private and family life (Article 17), which exist in the ECHR, are more comprehensively elaborated in the ACHR.¹²² However, the content of the right to private property (Article 21), freedom of movement and residence (Article 22), which emphasises the right to return (Article 23), and political rights (Article 24) is formulated somewhat differently. Moreover, the principles of equality before the law and the scope of judicial protection, as defined in Article 25, differ from those outlined in European conventions.

Member States are obligated to implement rights derived from the social, educational, scientific and cultural norms enshrined in the OAS Charter, as revised by the Protocol of Buenos Aires in 1967. This Protocol introduced the concept of ‘integral development’, which encompasses second-generation human rights. Specifically, the OAS Charter sets out Member States’ commitments to ensuring equal opportunities, eliminating extreme poverty and achieving equitable distribution of wealth and income. It outlines specific objectives, such as fair remuneration, adequate working conditions, access to education, combating illiteracy and providing proper nutrition and housing. The ACHR initially did not detail specific obligations due to their progressive nature, confining itself to a referral clause in Article 26, the sole article in Part III of the Convention.¹²³ Additionally, scholarly literature highlights that American states did not intend to grant the Court jurisdiction over claims of violations concerning economic, social and cultural rights under Article 26. Consequently, the ability to pursue social rights claims before the Court in San José, solely based on the ACHR, remains highly limited.¹²⁴

The adoption and entry into force of the Protocol of San Salvador in 1988, as a detailed legal instrument on social rights, partially altered the previous situation.¹²⁵ The Protocol was opened for signature on 17 November 1988 and entered into force on 16 November 1999 after ratification by 11 states.¹²⁶ As of 2025, the Protocol has been ratified by 16 OAS Member States.¹²⁷ It organises and expands the scope of social rights established in the Charter and Declaration and incorporates into the obligations of Member States all second-generation human rights, including those not included in Part III of the ACHR. It guarantees several fundamental rights, including the right to work (Article 6), fair working conditions (Article 7), trade union rights (Article 8), social security (Article 9), health (Article 10), a healthy environment (Article 11),

122 Orzeszyna *et al.*, 2023, p. 40.

123 Ruiz-Chiriboga, 2013, pp. 164–165.

124 Zombory, 2023, pp. 171–191; LeBlanc, 1992, pp. 130–145.

125 Melish, 2003, pp. 225, 234; Ruiz-Chiriboga, 2013, p. 163.

126 The eleventh country to ratify the Protocol of San Salvador, enabling its entry into force, was Uruguay.

127 Those states are Argentina, Bolivia, Brazil, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname and Uruguay. See: Antkowiak and Gonza, 2017, p. 7.

food (Article 12), education (Article 13), cultural benefits (Article 14), family protection (Article 15), children's rights (Article 16), protection of the elderly (Article 17) and the protection of persons with disabilities (Article 18).¹²⁸ Despite this extensive catalogue, in cases where a state violates certain rights, only the right to unionise (Article 8) and education (Article 13) may be subject to individual complaint before the IACmHR and potentially before the IACtHR.¹²⁹ For the remaining rights, protection is mainly pursued through a periodic reporting mechanism, with reports reviewed by the relevant organs of the Inter-American system: the Inter-American Economic and Social Council and the Inter-American Council for Education, Science, and Culture.¹³⁰ Consequently, for states that have ratified the Protocol, the ACHR and the Protocol create a comprehensive system of norms protecting social rights.¹³¹ This benefits individuals, who gain additional protections, and Member States, which no longer need to interpret the OAS Charter to incorporate social rights under Article 26 of the Convention, as the rights explicitly protected are those enumerated in the Protocol.¹³²

The Pact of San José was supplemented by the Second Additional Protocol concerning the abolition of the death penalty (Protocol of Asunción), approved by the Twentieth OAS General Assembly. The Protocol was signed on 8 June 1990 and entered into force on 28 August 1991, following ratification by Nicaragua. As of 2025, it has been ratified by 13 OAS Member States.¹³³ It complements Article 4 of the ACHR (right to life) and aims for the complete abolition of the death penalty in the Americas. It consists of four articles, preceded by a preamble, affirming the inalienable right of every person to life, a right that cannot be suspended under any circumstances. The preamble highlights that abolishing the death penalty strengthens the right to life and the Protocol's adoption reflects the prevailing regional trend favouring its elimination.

Emphasis is placed on the irreversibility of the death penalty, which precludes correction of judicial errors and denies the possibility of rehabilitation for the condemned. Following the wishes of OAS Member States, the Protocol commits each ratifying state to refrain from using the death penalty in peacetime. However, it does not impose an absolute obligation to remove it from their legal system, a point of critique.¹³⁴ The Protocol permits states to apply the death penalty during wartime, provided they declare this reservation at the time of ratification.¹³⁵ Notably, to date,

128 Ruiz-Chiriboga, 2013, p. 160.

129 Cavallaro and Schaffer, 2005, p. 227.

130 The Protocol of San Salvador, as part of the Inter-American human rights framework, is supported and evaluated through a mechanism of periodic national reports, analysed by the Working Group for the Protocol of San Salvador.

131 See: OAS, 2024; Cavallaro and Schaffer, 2007.

132 OAS (2012) Social Charter of the Americas, Forty-Second Regular Session, AG/doc.5242/12 rev. 2, Cochabamba, Bolivia, June 3–5.

133 Those states are Argentina, Brazil, Chile, Costa Rica, Ecuador, Honduras, Mexico, Nicaragua, Panama, Paraguay, Dominican Republic, Uruguay and Venezuela.

134 Orzeszyna *et al.*, 2023, p. 95.

135 See: Article 2(1) of the Protocol.

only Brazil has made such a reservation, allowing for the death penalty under specific wartime conditions outlined in the national law. Due to the Protocol's adoption, the number of countries in the Americas retaining capital punishment has gradually declined to just 13.¹³⁶ This reflects a broader commitment across the region to reduce and ultimately eliminate the death penalty.

The IACtHR has made a significant contribution to the interpretation and implementation of the provisions of the Convention.¹³⁷ Particularly, following the collapse of authoritarian regimes, its role in consolidating and expanding human rights has been duly acknowledged.¹³⁸ The most important cases that have altered or had a substantial impact on the domestic legal orders of American states include *Velásquez Rodríguez v. Honduras* (1988), *Barrios Altos v. Peru* (2001), *Gelman v. Uruguay* (2011), *Lagos del Campo v. Peru* (2017), *González et al. (Campo Algodonero) v. Mexico* (2009), *Radilla Pacheco v. Mexico* (2009), *Atala Riffo and Daughters v. Chile* (2012) and *Duque v. Colombia* (2016). The number of states that have accepted its jurisdiction has increased markedly, which, at least on a declaratory and symbolic level, demonstrates a growing commitment of states to comply with its judgments. This extends to economic, social and cultural rights. The recognition of this category of rights has gradually emerged in the jurisprudence of the IACtHR, particularly since the landmark case of *Lagos del Campo v. Peru* (2017),¹³⁹ where the Court interpreted Article 26 of the ACHR as a basis for the judicial enforceability of economic, social and cultural rights. The role of the Court in securing compliance with the Convention's provisions, especially through the expansion and clarification of state obligations, continues to grow, notwithstanding the existing conflicts of norms with domestic legal orders and constitutional courts.¹⁴⁰

5. Other Human Rights Instruments in the Inter-American System

Within the Inter-American system, several key instruments protect human rights, particularly those that address specific groups or violations.¹⁴¹ The Inter-American Convention to Prevent and Punish Torture (IACPT), adopted on 9 September 1985, known as the Convention of Cartagena de Indias, is one of the key specialised instruments in regional international law, regulating the prohibition of torture and other forms of cruel, inhuman or degrading treatment or punishment.¹⁴² It entered into force on 28 February 1987, after ratification by the required two-thirds majority of

136 Antkowiak and Gonza, 2017, p. 76.

137 On the important role of the IACtHR's jurisprudence in expanding and clarifying state obligations, see Alfonso Santiago, ed., *La Corte Interamericana de Derechos Humanos: Su historia, contribución e impacto* (Buenos Aires: Editorial La Ley, 2020).

138 Tabaszewski, 2010, p. 97.

139 I/A Court H.R., 2017. *Case of Lagos del Campo v. Peru*, Judgment of August 31, 2017 (Preliminary Objections, Merits, Reparations and Costs), Series C No. 340.

140 Urueña, 2013, pp. 17–46.

141 Orzeszyna et al., 2023, p. 93.

142 See: Cakal, 2023, pp. 1–19; Mujuzi, 2007, pp. 156–165.

signatory states.¹⁴³ Article 2 of the Convention defines torture¹⁴⁴ that is considerably more precise than that in the UN Convention.¹⁴⁵

The IACPT affirms the binding and absolute prohibition of torture, a rule that cannot be overridden by national legislators. It specifies that under no exceptional circumstances, whether during war, threat of conflict, siege, national emergency, internal disturbance, suspension of constitutional rights, political instability or any other urgent situation, may national authorities justify the use of torture as a lawful measure.¹⁴⁶ Significantly, the 1985 Convention's provisions establish a broad range of entities accountable for acts of torture. This includes state officials and individuals who were aware of or could have easily learned of such acts.¹⁴⁷ The Convention obligates OAS Member States to take preventive measures, introduce effective criminal sanctions against perpetrators and ensure protection for torture victims.¹⁴⁸ However, the Convention does not establish institutionalised protective mechanisms akin to those in the CoE system, limiting itself to the obligation imposed on state parties to report to the IACmHR.¹⁴⁹

The Inter-American Convention on Forced Disappearance of Persons (IACFDP) is another significant instrument of Inter-American law, representing an original approach in American legal thought.¹⁵⁰ It was signed on 9 June 1994 and came into force on 28 March 1996.¹⁵¹ The Convention was developed in response to a wave of forced or involuntary disappearances across the Americas, particularly in the 1970s and 1980s.¹⁵² It defines forced disappearance as:

‘An act of depriving a person or persons of their freedom, in whatever way, perpetrated by agents of the state or by persons or groups of persons acting with the authorisation, support, or acquiescence of the state, followed by an absence of information or a refusal to acknowledge that deprivation of

143 OAS (1985) Inter-American Convention to Prevent and Punish Torture, Cartagena, Colombia, entry into force February 28, 1987. Available at: <https://www.oas.org> (Accessed 26 October 2024).

144 Torture is defined as any act deliberately committed to inflict physical or mental suffering on a person, typically for purposes such as criminal investigation, intimidation, personal punishment, preventive measures or as a penalty, among other objectives. This definition includes methods used on a person that aim to erase their personality or reduce their physical or mental capacities, regardless of whether they cause direct physical pain or mental suffering.

145 United Nations (1984) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, General Assembly resolution 39/46, December 10, entry into force June 26, 1987. Available at <https://www.oas.org> (Accessed 26 October 2024).

146 Orzeszyna *et al.*, 2023, pp. 370–371.

147 See: Article 3 of the IACPT.

148 Cakal, 2023, pp. 1–19; Mujuzi, 2007, pp. 156–165.

149 UN, 2003, p. 91.

150 OAS (1999) Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities, Guatemala City, entry into force September 14, 2001. Available at: <https://www.oas.org> (Accessed 26 October 2024).

151 Antkowiak and Gonza, 2017, p. 8.

152 UN, 2003, p. 91.

freedom or to give information on the whereabouts of that person, thereby impeding his or her recourse to the applicable legal remedies and procedural guarantees.¹⁵³

The Convention imposes a duty on national authorities not to practise, tolerate or permit forced disappearances, even in extraordinary situations or during suspensions of individual guarantees.¹⁵⁴ Unlike the IACPT, the IACFDP addresses oversight by establishing a reporting mechanism. The Convention allows cases involving forced disappearances to be reported directly to the IACmHR, ensuring that a designated body is responsible for reviewing and addressing such cases.

Particular attention should be given to conventions dedicated to the protection of vulnerable groups within the Inter-American system. The first conventions concerning women's rights were adopted within the American system as early as 1948.¹⁵⁵ As the only international treaty solely focused on eliminating gender-based violence, the Convention is available in the official OAS languages, with Greek and Italian translations. The Convention comprises five parts, preceded by a preamble, and covers all forms of violence, whether private or public. Violence is defined as 'physical, sexual, and psychological violence against women', which may occur in domestic or family settings, in community spaces by individuals in workplaces and institutions or be perpetrated or tolerated by the state, regardless of location.¹⁵⁶

The catalogue of rights entitled to women is outlined in Article 4, which has an open character, with corresponding positive obligations of states outlined in Articles 7–9. To realise women's rights, the Convention provides a comprehensive implementation mechanism, including a reporting procedure, advisory opinions by the IACtHR, the ability to file petitions with the IACmHR, particularly concerning allegations under Article 7, which mandates state obligations to prevent, punish and eliminate violence against women, and information submissions to the special MESECVI mechanism.¹⁵⁷

Inspired by the positive reception of the Convention of Belém do Pará within the international community, work commenced on new specialised conventions focusing on the protection of the rights of persons with disabilities and the protection of the

153 Article II of the IACFDP.

154 UN, 2003, pp. 91–93.

155 OAS (1948) Inter-American Convention on the Granting of Civil Rights to Women; Inter-American Convention on the Granting of Political Rights to Women, Ninth International Conference of American States, Bogotá, Colombia. Available at: <https://www.oas.org> (Accessed 26 October 2024).

156 See: Article 2 of the Convention.

157 The Mechanism to Follow Up on the Implementation of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (MESECVI) was established by the OAS in 2004. It serves as a supervisory and support system for Member States that have ratified the Convention, aiming to provide oversight and ensure compliance with measures to combat violence against women. By 2024, MESECVI has convened 20 annual meetings to assess and support progress in this area across the Americas. UN, 2003, p. 94.

rights of older persons.¹⁵⁸ The Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities (CIADDIS), known as the Guatemala City Convention, was signed on 8 June 1999 and entered into force on 14 September 2001. Panama, as the sixth country to ratify the convention, enabled its enactment.¹⁵⁹ The CIADDIS comprises 14 articles and commits Member States to the full integration of persons with disabilities into society through legislative measures, social initiatives and educational programs. The CIADDIS affirms that individuals with disabilities possess the same human rights and freedoms as others, rooted in the inherent dignity and equality of every person. This includes protection from discrimination based on disability.¹⁶⁰ The Convention provides a monitoring mechanism in the form of a reporting system by Member States, with 19 countries currently party to the Convention.

The Inter-American Convention on Protecting the Human Rights of Older Persons focuses on ensuring the rights and dignity of older adults, promoting their social integration, protection from discrimination and access to healthcare and social security.¹⁶¹ The Convention was adopted on 15 June 2015 during the 45th OAS General Assembly in Washington, D.C. and entered into force on 11 January 2017, following the second required ratification submitted by Costa Rica. It is the first document of its kind worldwide, guaranteeing the protection and safeguarding of the rights of older persons.¹⁶²

6. Conclusion

The above analysis has demonstrated that the Inter-American system has developed a substantial set of norms for protecting human rights, reflecting contemporary legal trends that individuals can benefit from. Some of these norms derive directly from the Pan-American movement, while others implement universal solutions (e.g., the ADRDM) or are inspired by European legal thought (e.g., ACHR monitoring mechanisms). Additionally, a range of original solutions has been established, such as the 2015 Convention. The COVID-19 pandemic posed a significant test for the system's coherence, during which the OAS proved capable of responding effectively and supporting human rights in the face of a global health crisis. Guidelines issued by the

158 Antkowiak and Gonza, 2017, p. 8; Mikołajczyk, 2018, pp. 18–19.

159 OAS (2015) Inter-American Convention on Protecting the Human Rights of Older Persons, Washington, D.C., entry into force January 11, 2017. Available at: <https://www.oas.org> (Accessed 26 October 2024).

160 Caballero and Rincón, 2021, p. 48.

161 OAS (2015) Inter-American Convention on Protecting the Human Rights of Older Persons. Adopted in Washington, D.C., entry into force 11 January 2017.

162 Kucharska and Tabaszewski, 2023, p. 180.

IACHR, as declarations, assisted Member States in ensuring access to healthcare, the right to information, privacy protection and access to justice during the pandemic.¹⁶³

The American Declaration on the Rights of Indigenous Peoples is another notable, though non-binding, legal instrument adopted within the Inter-American system.¹⁶⁴ This document, adopted on 15 June 2016 after years of negotiations, establishes standards for protecting the rights of indigenous communities across the Americas. It includes key rights for indigenous peoples, such as rights to land, cultural identity, language, autonomy, traditional practices and self-governance. Other significant documents include the Declaration of Principles on Freedom of Expression, adopted in 2000,¹⁶⁵ and the Inter-American Democratic Charter of 2001, adopted in Lima, which proclaims the right to democracy throughout the region.¹⁶⁶

The Inter-American system has remained highly active in creating new documents in the post-pandemic period. In recent years, the OAS has adopted several key declarations, reflecting current trends in human rights protection. Notably, the Declaration on International Law in Cyberspace from 2022¹⁶⁷ aims to define principles for applying international law in cyber operations, focusing on state responsibility, cybersecurity measures and the protection of human rights online. The Declaration on Inter-American Principles Regarding Neuroscience, Neurotechnology, and Human Rights from 2023¹⁶⁸ introduces intriguing solutions. These and other declarations represent important steps in advancing the Inter-American human rights protection system. While not legally binding, they significantly influence standard-setting and provide direction for OAS Member States.¹⁶⁹

163 OAS (2020) Inter-American Guidelines for Protecting the Human Rights of Persons with COVID-19, adopted by IACHR, April 2020.

164 AG/RES. 2888 (XLVI-O/16).

165 CIDH/RES. 1/00.

166 AG/RES. 1 (XXVIII-E/01).

167 CJI/DEC. 02 (C-O/22).

168 CJI/DEC. 01 (XCIX-O/21).

169 This work was prepared during the implementation of the grant no. 2021/43/D/HS5/01094.

Bibliography

- Antkowiak, T. and Gonza, A. (2017) *The American Convention on Human Rights: Essential Rights*. Oxford: Oxford University Press.
- Battaglia, P.F. (2004) *The OAS in the 21st Century: How Must It Change*. Washington, D.C.: Inter-American Defense College.
- Bolívar, S. (1815) *Carta de Jamaica*. [Online]. Available at: <https://www.bolivarpensador.com/carta-de-jamaica> (Accessed: 20 October 2024).
- Brown Scott, J. (ed.) (1931) *The International Conference of American States 1889-1928: A Collection of Conventions, Recommendations, Resolutions*. New York.
- Burke-White, W.W. (2004) 'Human Rights in the Inter-American System', *International Studies Journal*, 1(2).
- Burr, R.N., Hussey, R.D. (eds.) (1955) *Documents on Inter-American Cooperation*, 2, pp. 1881-1948. Philadelphia: University of Pennsylvania Press.
- Buzan, B., Wæver, O. (2009) *Regions and Powers: The Structure of International Security*. Cambridge: Cambridge University Press.
- Caballero Pérez, A., Guzmán Rincón, A.M. (2021) 'The Inter-American System for the Protection of Human Rights and Persons with Disabilities: Challenges and Perspectives Beyond the Non-Discrimination Rule', *Jurídicas*, 18(2).
- Cakal, E., 2023. 'Torture and progress, past and promised: problematising torture's evolving interpretation', *International Journal of Law in Context*, 19(2).
- Carozza, P., 2003. 'From Conquest to Constitutions: Retrieving a Latin American Tradition of the Idea of Human Rights', *Human Rights Quarterly*, 25.
- Carozza P. (2015) 'The Anglo-Latin Divide and the Future of the Inter-American System of Human Rights', *Notre Dame Journal of International & Comparative Law*, 153.
- Cavallaro, J.L., Schaffer, E. (2006-2007) 'Rejoinder: Justice before Justiciability: Inter-American Litigation and Social Change', *New York University Journal of International Law and Politics*.
- Cordero Torres, J.M. (1955) 'Union Internacional de las Repúblicas Americanas' in *Textos básicos de América, seleccionados y anotados*. Madrid: Consejo de la Hispanidad.
- Dobrzycki, W. (2002) *System międzyamerykański*. Warszawa: Wydawnictwo Scholar.
- Domínguez, P.G. (2017) 'Reconfiguración de la relación entre el derecho internacional de los derechos humanos y el derecho nacional sobre la base del principio de subsidiariedad', *Anuario Mexicano de Derecho Internacional*, 17, pp. 717-748.
- Engstrom, P. (2024) 'The Impact of the Inter-American Human Rights System beyond Latin America' in Bogdandy, A. von, Piovesan, F., Ferrer Mac-Gregor, E., Morales Antoniazzi, M. (eds.) *The Impact of the Inter-American Human Rights System: Transformations on the Ground*. Oxford: Oxford University Press.
- Farer, T. (1997) 'The Rise of the Inter-American Human Rights Regime: No Longer a Unicorn, Not Yet an Ox', *Human Rights Quarterly*, 19(3).

- Ghidirmic, B. (2018) 'The American Declaration of the Rights and Duties of Man: An Underrated Gem of International Human Rights Law', *Journal of Law and Public Administration*, IV(7).
- Glendon, M.A. (2003) 'The Forgotten Crucible: The Latin American Influence on the Universal Human Rights Idea', *Harvard Human Rights Journal*, 16.
- González, A.P. (2020) *Estudios Ibero-Americanos*, 46(3).
- Grossman, C. (2008) 'The Inter-American System of Human Rights: Challenges for the Future', *Indiana Law Journal*, 83(4).
- Gutiérrez Espada, C. (2010) '¿Existe el derecho internacional latinoamericano?' in Gamarra Chopo, Y. (Coord.) *La idea de América en el pensamiento iusinternacionalista del siglo XXI: Estudios a propósito de la conmemoración de los bicentenarios de las independencias de las repúblicas latinoamericanas*. Zaragoza: Institución "Fernando el Católico."
- Herz, M. (2011) *The Organization of American States (OAS): Global Governance Away From the Media*. 1st ed. Taylor & Francis.
- International Institute of International Legal Studies (1966) *The Inter-American System: Its Development and Strengthening*. New York: Oceana Publications.
- Kucharska, K., Tabaszewski, R. (2023) 'Long-Term and Institutional Care: A Global Perspective and Imperative', *Review of European and Comparative Law*, 55(4).
- Kunz, J. (1945) 'The Inter-American Conference on the Problems of War and Peace at Mexico City and the Problem of the Reorganization of the Inter-American System', *American Journal of International Law*, 39(3).
- Labourdet, M.C.S. (1980) *Sobre la Primera Conferencia Internacional Americana*. Universidad de la Habana.
- LaFeber, W. (1989) *The American Age: United States Foreign Policy at Home and Abroad Since 1750*. New York and London: W. W. Norton.
- LeBlanc, L. (1992) 'The Economic, Social and Cultural Rights Protocol to the American Convention and Its Background', *Netherlands Quarterly of Human Rights*, 10.
- Llorens, M.P. (2016) 'Special Characters of the Duty of Peaceful Settlement of Disputes in the Inter-American System', *Revista de la Facultad*, 7(1).
- Lockey, J.B. (1939) *Essays in Panamericanism*. Berkeley: University of California Press.
- Mace, G. (1999) 'The Origins, Nature, and Scope of the Hemispheric Project' in Mace, G., Bélanger, L. (eds.) *The Americas in Transition: The Contours of Regionalism*. Boulder: Lynne Rienner.
- Mace, G. (2017) *Organization of American States (OAS)* in Ritzer, G. (ed.) *The Wiley-Blackwell Encyclopedia of Globalization*. 1st ed. Wiley-Blackwell.
- Melish, T. (2003) *The Protection of Economic, Social, and Cultural Rights in the Inter-American System of Human Rights: A Handbook for Bringing Cases*. Quito: Yale Law School/CDES.
- Meyer, P.J. (2014) *Organization of American States: Background and Issues for Congress*. Washington D.C.: Congressional Research Service.
- Mikołajczyk, B. (2018) 'Older Persons' Right to Health – A Challenge to International Law', *Ageing and Society*, 39(8).

- Morsink, J. (1999) *The Universal Declaration of Human Rights: Origins, Drafting, and Intent*. Philadelphia: University of Pennsylvania Press.
- Moses, B. (1891) 'Constitution of the United States of Mexico. Antecedents', *The Annals of the American Academy of Political and Social Science*, 2 (Jul.).
- Mujuzi, J.D. (2007) 'The history of torture jurisprudence in the inter-American regional human rights system: 1948–2005', *East African Journal of Peace and Human Rights*, 13(1).
- OAS Permanent Council (1962) *Report on the Standards of Inter-American Conferences*.
- Orzeszyna, K., Skwarzyński, M., Tabaszewski, R. (2023) *International Human Rights Law*. Warsaw: C.H. Beck.
- Quintana, F.-J. (2024) 'The (Latin) American Dream? Human Rights and the Construction of Inter-American Regional Organisation (1945–1948)', *Journal of the History of International Law / Revue d'histoire du droit international*, 25(4).
- Paúl, Á. (2017) *Los trabajos preparatorios de la Declaración Americana de los Derechos y Deberes del Hombre y el origen remoto de la Corte Interamericana*. Mexico: Instituto de Investigaciones Jurídicas UNAM.
- Romano, C.P.R. (2020) 'The Origins of the Right to Science: the American Declaration on the Rights and Duties of Man' in Porsdam, H., Porsdam Mann, S. (eds.) *The Right to Science: Then and Now*. Forthcoming 2021. Cambridge: Cambridge University Press.
- Romano, C.P.R. (2021) 'The Origins of the Right to Science: The American Declaration on the Rights and Duties of Man' in Porsdam, H. and Porsdam Mann, S. (eds.) *The Right to Science, Then*. Cambridge: Cambridge University Press.
- Ruiz-Chiriboga, O. (2013) 'The American Convention and the Protocol of San Salvador: Two Intertwined Treaties – Non-Enforceability of Economic, Social and Cultural Rights in the Inter-American System', *Netherlands Quarterly of Human Rights*, 31(2).
- Santiago, A (ed.) (2014) *La Corte Interamericana de Derechos Humanos: Su historia, contribución e impacto*. Buenos Aires: Editorial La Ley.
- Schoultz, L. (1998) *Beneath the United States: A History of US Policy Towards Latin America*. Cambridge, MA: Harvard University Press.
- Shelton, D., Carozza, P. G. (eds.) (2013) *Regional Protection of Human Rights*. 2nd ed. Oxford: Oxford University Press.
- Sikkink, K. (2014) 'Latin American Countries as Norm Protagonists of the Idea of International Human Rights', *Global Governance*, 20.
- Simón Bolívar y la constitución de la unión americana: textos esenciales*, 1983. Mexico City: Instituto Panamericano de Geografía e Historia.
- Smith, G. (1994) *The Last Years of the Monroe Doctrine, 1945–1993*. New York: Hill and Wang.
- Tabaszewski, R. (2010) 'Międzymerykański Trybunał Praw Człowieka jako panamerykański organ sądowniczy' in Krzywicka, K., Kaczyńska, J. (eds.) *Oblicza Ameryki Łacińskiej*. Lublin: Wydawnictwo UMCS.

- Tabaszewski, R. (2017) 'Human rights and freedoms in systems of human rights protection' in Koziół, K. (ed.) *Wolność człowieka i jej granice*. Lublin: Wydawnictwo Regis.
- United Nations (2003) *Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers, Chapter 3: "The Major Regional Human Rights Instruments and the Mechanisms for Their Implementation."* New York and Geneva: United Nations.
- Urueña, R. (2013) '¿Protección multinivel de los derechos humanos en América Latina? Oportunidades, desafíos y riesgos' in Bandeira Galindo, G.R., Urueña, R., Torres Pérez, A. (eds.) *Protección multinivel de derechos humanos. Guía de prácticas*. Barcelona: Red de Derechos Humanos y Educación Superior.
- Villalta Vizcarra, A.E. (2006) 'La Contribución de América al Derecho Internacional' in *Organización de los Estados Americanos, XXXIII Curso de Derecho Internacional: El Derecho Internacional en las Américas: 100 años del Comité Jurídico Interamericano*.
- Whitaker, A.P. (1986) *The Western Hemisphere Idea: Its Rise and Decline: Implications for U.S. Foreign Policy*. Boulder, CO: Westview Press.
- Zombory, K. (2023) 'The Right to Cultural Identity in the Case Law of the Inter-American Court of Human Rights: A New Global Standard for the Protection of Indigenous Rights and Future Generations?', *Journal of Agricultural and Environmental Law*, 18(34). [Online]. Available at: <https://doi.org/10.21029/JAEL.2023.34.171>.