The Impact of the Inter-American Human Rights System

Transformations on the Ground

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III.5

Strategies of the Due Process of Law Foundation for the Promotion of New Standards and Expansion of the Impact of the Inter-American Human Rights System

By Katya Salazar and Daniel Cerqueira

1. Introduction

This chapter describes certain strategies of the Due Process of Law Foundation (DPLF) that aim to expand the impact of legal standards from the decisions of the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights (IACtHR). Based on DPLF's experience as a regional civil society organization engaging with the noncontentious mechanisms of the Inter-American Human Rights System (IAHRS), such as monitoring and promotion activities (which excludes the system of petitions, cases, and precautionary measures), this chapter provides a detailed account, through some examples, of the joint action among DPLF, local and/or national organizations aimed at achieving and enhancing the impact of inter-American standards in the Americas.

The first section deals with the conceptual difference between compliance with the decisions of the organs of the IAHRS and the impact of inter-American standards as parameters for State action based on the decisions of these organs. The section stresses the fact that in spite of the low level of compliance with decisions pertaining to contentious cases, the impact of such decisions upon legislative processes, the design of public policy, and judicial practice in Latin America is irrefutable. The second section describes the institutional mission, strategies, and working methods developed by DPLF with the objective of raising awareness and disseminating information about the IAHRS's standards

Katya Salazar and Daniel Cerqueira, *Strategies of the Due Process of Law Foundation for the Promotion of New Standards and Expansion of the Impact of the Inter-American Human Rights System* In: *The Impact of the Inter-American Human Rights System*. Edited by: Armin von Bogdandy, Flávia Piovesan, Eduardo Ferrer Mac-Gregor, and Mariela Morales Antoniazzi, Oxford University Press.
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to ensure that these are properly used by State agents dedicated to the administration of justice in particular and legal agents more generally.

The third section explains how DPLF has tried to translate the demands of local and national civil society organizations into the development of new inter-American standards. To this end, we explain certain advocacy activities toward the IACHR prior to the development of new standards with regard to two specific topics: the extraterritorial responsibility of the countries of origin of transnational corporations involved in human rights violations, and the link between corruption and human rights. In our concluding remarks, we underline the role of civil society in the process of the creation of new standards and narratives by the organs of the IAHRS and in seeking to enhance the impact of IAHRS's decisions.

2. Impact of the IAHRS, beyond Compliance with Decisions Pertaining to Contentious Cases

One of the main challenges concerning the effectiveness of the IAHRS is State parties' low level of compliance with the decisions of its bodies. This challenge has been highlighted by the IACHR and the IACtHR. For example, the first Strategic Plan adopted by the IACHR for 2011–2015 established "promoting full compliance with its decisions and recommendations" as one of its strategic objectives.[1] In the same way, the Strategic Plan for 2017–2022 sets out twenty programs of work linked to five strategic objectives[2] that are integrated into a multidisciplinary "Special Program to Monitor IACHR Recommendations." In the words of the IACHR:

> While progress has been made and some States have, for example, introduced legislative reforms to enforce international decisions, the challenge of reaching

[1] IACHR, "Strategic Plan 2011–2015," 40, <https://www.oas.org/en/iachr/docs/pdf/iachrstrategicplan20112015.pdf> (accessed February 5, 2022).

[2] According to the Strategic Plan of the IACHR, these objectives are: 1. contribute to the development of a more effective and accessible system of inter-American justice in order to overcome practices of impunity in the region and achieve comprehensive reparations for victims through decisive measures for the strengthening of the petition and case system, friendly settlements, and precautionary measures; 2. have an impact on prevention measures and the factors that lead to human rights violations through the coordinated use of IACHR mechanisms and functions to achieve improved capacity for monitoring and coordinating relevant, timely, and appropriate responses; 3. promote democracy, human dignity, equality, justice, and fundamental freedoms based on an active contribution to the strengthening of State institutions and public policies with a human rights approach in accordance with inter-American norms and standards and to the development of the capacities of social and academic organizations and networks to act in defense of human rights; 4. promote the universalization of the Inter-American Human Rights System through coordinated initiatives with the Inter-American Court and to cooperate with other international, regional, and subregional human rights agencies and mechanisms; and 5. guarantee the human resources, infrastructure, technology, and budget necessary for full implementation of the Inter-American Commission on Human Rights' mandate and functions by means of results-based institutional management.

> a level of implementation that ensures the effectiveness of the IASHR remains. Therefore, and as a central component of the Plan's strategy, the IACHR intends to develop a cross-cutting program in which it expects to initiate coordinated actions to follow up on recommendations using all available mechanisms (case reports, resolutions on precautionary measures, thematic and country reports, hearings, and monitoring of friendly settlement agreements).[3]

For several years now, the IACtHR has adopted the practice of issuing resolutions and convening hearings on compliance with the reparation measures contained in its judgments. This practice is regulated by Article 69 of its Rules of Procedure. In its annual reports, the Court has highlighted the necessity of overcoming the challenges linked to the low level of compliance with its judgments. In this regard, it has stressed the importance of the involvement of national human rights institutions, domestic courts, academia, and civil society organizations with the aim of contributing to the realization of the reparation measures contained in the judgments of the Inter-American Court.[4]

Expert studies have shown the low level of State compliance with reparation measures stipulated by the IACHR in its merits reports and by the IACtHR in its judgments. Based on a quantitative analysis, some of these studies indicate a particularly low level of compliance regarding reparation measures on the obligation to investigate and punish human rights violations. On the other hand, civil society organizations have participated in processes of dialogue with the IAHRS organs aiming at perfecting the mechanisms for monitoring compliance with its decisions.[5]

In the light of the extensively documented claim[6] about the low level of compliance with decisions, it is important to clarify certain concepts that will shape

[3] IACHR, "Strategic Plan 2017–2022," 62, <https://www.oas.org/en/iachr/mandate/StrategicPlan2017/docs/StrategicPlan2017-2021.pdf> (accessed February 5, 2022).

[4] IACtHR, "Annual Report 2018," 76–78, <https://www.corteidh.or.cr/sitios/informes/docs/ENG/eng_2018.pdf> (accessed February 5, 2022).

[5] For example, see the working document compiled by members of the International Network for Economic, Social and Cultural Rights (ESCR-Net) who are urging the IAHRS to adopt certain measures to bring about the improved monitoring of recommendations made in its final merits reports. ESCR-Net, "Implementation of decisions of the Inter-American Commission on Human Rights—discussion paper of ESCR-Net's Strategic Litigation Working Group" (2018), <https://www.escr-net.org/sites/default/files/201802-discussion-paper-of-escr-nets-strategic-litigation-working-group.pdf> (accessed February 5, 2022).

[6] For a more detailed paper on this topic, see Fernando Basch et al., "La Efectividad del Sistema Interamericano de Protección de Derechos Humanos: Un Enfoque Cuantitativo sobre su Funcionamiento y sobre el Cumplimiento de sus Decisiones" [2010] 7 *Sur*, <http://www.conectas.org/Arquivos/edicao/publicacoes/publicacao-201424165630161-76428001.pdf>, and Open Society Justice Initiative, "From Judgment to Justice: Implementing International and Regional Human Rights Decisions, Chapter II. The Inter-American Human Rights System" (2010), <http://www.opensocietyfoundations.org/sites/default/files/from-judgment-to-justice-20101122.pdf> (accessed February 5, 2022).

subsequent sections of this chapter. First, we need to make a distinction between the notions of "compliance with decisions of the IASHR" on the one hand, and the "impact of Inter-American standards" on the other. The first concept relates to the fulfillment of the reparation measures stipulated in final decisions on contentious cases. The second relates to the IAHRS's ability to create parameters for State action and to ensure that users of the IAHRS observe these parameters, especially State agents and institutions.

It is also important to clarify what we mean by the term "inter-American standards." The word *standard* denotes a behavior model required when complying with a certain obligation. Doctrine defines "Inter-American standards" as "behavioural guidelines for the State Parties to the Convention to be used as behavioural evaluation criteria and as legal rules whose content implies the establishment of specific obligations upon the States, whereby failure to comply shall bring about consequences relating to international responsibility."[7]

Another conceptual explanation necessary to enable a proper understanding of the inter-American standards' creation process is related to the IAHRS's protection, promotion, and monitoring pillars. For the purposes of this chapter, "protection" encompasses the ability of the IAHRS organs to recognize and pronounce judgment on petitions, cases, and requests for urgent (precautionary and provisional) measures. "Monitoring" refers to the supervision activities performed by the IACHR through its country and thematic reports, press releases, thematic hearings, and annual reports. Lastly, the pillar of "promotion" covers the thematic reports, training, professional development programs, and other initiatives of the IACHR for disseminating inter-American standards.[8]

Primarily, the inter-American standards emanate from the obligations contained in the American Convention on Human Rights (American Convention, or ACHR) and in the other instruments that form the normative framework of the IAHRS.[9] In Kelsenian terms, we could say that these

[7] Translation of quote by Manuel Quinche Ramírez, *Los estándares de la Corte Interamericana y la Ley de Justicia y Paz* (Editorial Universidad del Rosario 2009), 28.

[8] The responsibilities conferred upon the IACHR in its first Statute, adopted during the Fifth Meeting of Consultation of Ministers of Foreign Affairs in 1959, were restricted to the functions of monitoring and promotion, with no recognition of the power to receive petitions and contentious cases and to pronounce judgment upon them. In the light of the consolidation of mechanisms for individual petitions in the European and universal human rights context, the member States of the OAS decided to modify the Statute of the Commission during the Second Extraordinary Inter-American Conference, in 1965, which led to the IACHR beginning to pronounce judgment upon petitions and cases from 1967. For an explanation of the development of how the IACHR has prioritized the various working pillars since its creation in 1959 until 2015, see Daniel Cerqueira and Katya Salazar, "Las atribuciones de la Comisión Interamericana de Derechos Humanos antes, durante y después del proceso de fortalecimiento: por un balance entre lo deseable y lo possible," in Camila Barretto Maia et al., *Desafíos del Sistema Interamericano de Derechos Humanos—nuevos tiempos, viejos retos* (Due Process of Law Foundation 2016), 144–189.

[9] See IACHR, "Basic Documents in the Inter-American System," <http://www.oas.org/en/iachr/mandate/basic_documents.asp> (accessed February 5, 2022).

instruments establish rules of conduct for the State parties, whereby the failure to comply with these rules generates legal sanctions. We do not intend to delve into Hans Kelsen's account of international law in his *Pure Theory of Law*,[10] but to reinforce the premises upon which this chapter is based, we will employ the terminology used by Kelsen and the discrepancies between the two main theorists of legal positivism on the defining criteria of the effectiveness of law.

Kelsen distinguishes between the concepts of validity and efficacy of a legal norm, maintaining that while the former means that individuals must follow the conduct prescribed in the mentioned norm, the second refers to actual compliance of behavior with what has been established in the norm. To sum up, validity relates to the existence of obligations established in law and efficacy relates to the compliance of the behavior of the addressees of the obligations prescribed by law with the obligations themselves.[11]

Contrary to Kelsen, Herbert L.A. Hart moves away from the methodological dependence of the so-called primary norms that aim to prescribe behaviors and penalize their violation. Hart emphasizes what he terms secondary norms, which include the rules of change (creation of law), rules of adjudication (application of law), and rules of recognition (parameters for determining whether or not a norm belongs to a given legal system). For Hart, even if the compliance of individuals with the behaviors described in the primary rules is one of the essential objectives of any legal system, the efficacy of the system is based on the existence of a minimum level of agreement about the content of the secondary norms on the part of the operators of the law, that is, the persons upon whose conduct the very existence of the secondary rules depends.[12]

Without trivializing the theoretical depth of the two main authors of legal positivism, we draw upon their work in order to highlight the difference between compliance with decisions and the implementation of the standards of the IAHRS. Compliance requires State observance of the obligations prescribed in "inter-American law," defined here as the norms derived from the inter-American instruments and their interpretation by the organs of the IAHRS.

[10] According to Kelsen, law—in the sense of a legal system—comprises a coercive order of human conduct, supposed to be sovereign, that connects together certain facts determined by it as conditions of coercive acts determined by it. For the author, international law is in line with this definition in that it establishes specific sanctions for behavior that deviates from the prescribed norms. In the absence of a supranational entity authorized to impose sanctions on the States, in international law sanctions take the form of reprisals and wars, exercised by the States themselves, if they feel that their interests are affected by the failure of another State to comply with a rule established in a treaty or in another source of international law. See Hans Kelsen, *Pure Theory of Law* (University of California Press 1967), ch. VII.

[11] In accordance with the descriptive epistemology that characterizes legal positivism, Kelsen stresses that while the object of study of the philosophy of law is the validity of law, the efficacy of law is the object of the study of legal sociology.

[12] H.L.A. Hart, *The Concept of Law* (Oxford University Press 1961).

Above all, the analysis of compliance proceeds with an evaluation of the compliance of the actions of the denounced State with the specific reparation obligations prescribed by the adjudicatory organs of the IAHRS—the IACHR and the IACtHR. In Kelsenian terms, the analysis of compliance concerns the efficacy of the primary norms that make up "inter-American law" and whether the sanctions provided by the adjudicatory organs of the IAHRS are effectively respected by State parties, the addressees of the System's norms.

In turn, the impact of the standards of the IAHRS includes the existence of a minimum level of agreement about what "inter-American law" actually is, not only with regard to the content of the primary rules but also with regard to the integration between the norms (rules and principles) that make up "inter-American law" and the various domestic laws of States. In the current constitutional paradigm in most of this continent's countries, particularly in Latin America, the law applicable to a certain legal dispute encompasses both domestic and international rules, binding State authorities to base their decision on the rules that ensure the human rights at stake to the greatest extent possible. In light of this premise, the efficacy of the IAHRS depends on the integration of inter-American and domestic law via the minimum level of agreement on the part of legal professionals in the domestic sphere that lead them to base their decisions on inter-American standards.

One of the indicators of such agreement is, of course, the existence of fundamental judicial decisions in the inter-American jurisprudence. However, the efficacy of the IAHRS is not limited to respect or disrespect of the IACtHR's judgments and IACHR's recommendations. With regard to the rule of adjudication of "inter-American law," the dissemination of the doctrine of "conventionality control" among the domestic courts, the transconstitutionalism,[13] and the consolidation of a *ius constitutionale commune*[14] are expressions of the efficacy of the IAHRS. From our point of view, as an adjudicatory system that intends to adjudicate specific cases, the IAHRS has not been efficacious, given its inability to provide timely responses to the victims of human rights violations and the high level of noncompliance with the reparations stipulated in IAHRS decisions.[15] Nevertheless, as a source of legal standards that are capable of influencing the creation and interpretation of rules by the States parties of the IAHRS, its efficacy is demonstrable.

[13] Marcelo Neves, *Transconstitucionalismo* (WMF Martins Fontes 2009).

[14] Armin von Bogdandy et al., "Ius Constitutionale Commune En América Latina: A Regional Approach to Transformative Constitutionalism" (2016) MPIL Research Paper Series No. 2016-21.

[15] In this respect, see The Center for Justice and International Law (CEJIL), "Implementación de las Decisiones del Sistema Interamericano de Derechos Humanos—aportes para la administración de la justiciar" (2017), <https://cejil.org/en/publications/implementation-of-the-inter-american-human-rights-systems-decisions-only-in-spanish/> (accessed February 5, 2022).

There are various examples of cases in which, despite the fact that reparation measures arising from the judgments of the IACtHR are disrespected, these measures have influenced the actions of the denounced States and of other States parties of the IAHRS. This dualism can be verified on the basis of legal reforms, public policy design, and legal interpretations that are oriented toward the inter-American standards. Among others, we can mention two cases relating to the application of amnesty laws in the face of serious human rights violations. The judgment that opened up the jurisprudential development of the IACtHR in this matter—the *Case of Barrios Altos v. Peru* in 2001—is still in the compliance phase, and the IACtHR has periodically been called upon to decide upon measures adopted by the various bodies of the Peruvian State, which blatantly fail to comply with the reparation measures.[16]

The judgment in the *Barrios Altos* case is just one of the various judgments in which the IACtHR has ordered a State to revoke amnesty laws and in which the reparation measures remain in the compliance stage. Despite this, the impact that the rule derived from this judgment has had upon legislative and jurisprudential creation in the region is undeniable.[17] Various academic papers detail the impact that the rule on the prohibition of amnesty laws in the face of serious human rights violations has had on legislative and jurisdictional actions in the region.[18] Another matter addressed in judgments that are still in the compliance stage but whose rules have had a notable impact in different countries relates to the restriction upon the use of military proceedings to hear cases pertaining to violations of human rights and to try civilians. Since the first verdict dealing with this matter—the *Case of Castillo Petruzzi et al. v. Peru*[19]—the IACtHR has pronounced several judgments[20] reiterating the obligation to restrict the jurisdiction of military courts to the protection of legal interests linked to the actual functions

[16] See, e.g., *Case of Barrios Altos and Case of La Cantuta v. Peru* [2018] IACtHR.

[17] This rule establishes the obligation of the States to "refrain from resorting to amnesty, pardon, statute of limitations and from enacting provisions to exclude liability, as well as measures, aimed at preventing criminal prosecution or at voiding the effects of a conviction" in the case of serious violations of human rights. See, among other judgments, *Gutiérrez Soler v. Colombia* [2005] IACtHR, Ser. C No. 132, para. 97.

[18] See, e.g., Oscar Parra, "La jurisprudencia de la Corte Interamericana respecto a la lucha contra la impunidad: algunos avances y debates" [2012] 13 *Revista Jurídica de la Universidad de Palermo*, <https://www.palermo.edu/derecho/revista_juridica/pub-13/13JURIDICA_01PARRAVERA.pdf> (accessed February 5, 2022); and DPLF, "Digest of Latin American jurisprudence on international crimes" (2009) Vol. I, Chapter VI, Section 2, <http://www.dplf.org/sites/default/files/digestenglishs.pdf> (accessed February 5, 2022).

[19] IACtHR, *Case of Castillo Petruzzi et al. v. Peru,* Merits, Reparations and Costs*,* Judgment of May 30, 1999, Ser. C No. 52, para. 128.

[20] For a more detailed analysis of the matter, see Juan Carlos Gutiérrez y Silvano Cantú, "The Restriction of Military Jurisdiction in International Human Rights Protection Systems" [2010] 13 *Sur*, <https://sur.conectas.org/en/the-restriction-of-military-jurisdiction-in-international-human-rights-protection-systems/>.

of the armed forces.[21] Again, although most of the verdicts pronounced by the IACtHR are still in the compliance stage, there are many examples of reforms to military codes of procedure, laws, and jurisprudence relating to this matter, brought about through the implementation of inter-American standards.

We would like to stress the fact that in the two examples mentioned, the judgments of the IACtHR are part of a process in which the IACHR has played a fundamental role. For instance, since the start of the 1990s, the Commission has referred to the incompatibility of amnesty laws approved in Argentina[22] and Uruguay[23] with the obligations to investigate and to sanction serious violations of human rights as established in the American Convention. In its Annual Report 1996, the IACHR reiterated this stance in relation to the amnesty law enacted by Guatemala[24] and did the same in relation to every single one of the countries that has adopted amnesty laws in the region.

Thus, the rule established in the judgment in the *Case of Barrios Altos v. Peru* in 2001 was preceded by a decade of IACHR pronouncements based on final reports on the merits of cases and by pronouncements made in the context of monitoring and promotion activities.[25] It is worthy of note that, in the case of the amnesty law of El Salvador, the IACHR declared this law incompatible with the inter-American standards for the first time through a letter sent to the government of El Salvador on March 26, 1993, six days after the enactment of the said law. The concern shown in that case has been reiterated in the Report on the Situation of Human Rights in El Salvador in 1994[26] and in final reports on the merits of cases.[27]

Other examples of the development of standards on the basis of pronouncements upon cases, thematic reports, or country reports on the part of the IACHR that would subsequently be superimposed by jurisprudential

[21] The IACtHR has concluded that, under penalty of the violation of the "principle of the natural judge" and the guarantees of due process, ordinary justice is always competent to investigate, try, and punish the perpetrators of violations of human rights.

[22] IACHR, Cases 10.147, 10.181, 10.240, 10.262, 10.309, and 10.311 v. Argentina, Report No. 28/92 of October 2, 1992.

[23] IACHR, Cases 10.029, 10.036, 10.145, 10.305, 10.372, 10.373, 10.374, and 10.375 v. Uruguay, Report No. 29/92 of October 2, 1992.

[24] IACHR, "Annual Report 1996," Chapter V, Human Rights Developments in the Region—section on Guatemala.

[25] For an analysis of precedents in this matter on the part of the IACHR and of the obligation to leave without effect any domestic laws contrary to the obligation to investigate and sanctions serious violations of human rights, see the Chapter IV a) Par. 72 to 86 of the Annual Report of the IACHR of 2013, <http://www.cidh.org/countryrep/ElSalvador94eng/II.4.htm> (accessed February 5, 2022).

[26] IACHR, "Report on the Situation of Human Rights in El Salvador," Sec. I, OAS/Ser.L/II.85, Doc. 28 Rev., February 11, 1994, which quotes the letter sent by the IACHR to the Government of El Salvador on March 26, 1993.

[27] See, e.g., IACHR, "Report 1/99, Case 10.480, Lucio Parada Cea et al.," January 27, 1999, paras. 111–16; "Report 136/99, Case 10.480, Ignacio Ellacuría, S.J, Segundo Montes, S.J., Armando López, S.J., Ignacio Martín Baró, S.J., Joaquín López y López, S.J., Juan Ramón Moreno, S.J., Julia Elba Ramos, and Celina Mariceth Ramos, El Salvador," December 22, 1999, paras. 197–232.

rules of the IACtHR can be seen in relation to the incompatibility of contempt laws with the right to freedom of expression,[28] the legal definition as "torture" of sexual violence exercised during police or military operations,[29] and the protection of the lands of Indigenous people in the context of the right to collective property,[30] among others.

Beyond the endogenous process of the development of standards inside the organs of the IAHRS, we would also like to explain the exogenous process and, in this context, the role that a regional civil society organization (CSO) such as DPLF can play here. In the following we will address certain strategies with this objective, and we will explain the more relevant outcomes for the creation and impact of the inter-American standards, with a focus on two topics that DPLF has recently worked on: the extraterritorial responsibility of the countries of origin of transnational companies involved in violations of human rights, and the link between corruption and human rights.

3. DPLF's Strategies for Increasing the Impact of the IAHRS Decisions

DPLF is a regional, nongovernmental organization, whose mandate is to promote the rule of law and respect for human rights in Latin America. Founded in 1996 by former members of the Truth Commission of El Salvador, the organization was created following the peace accords that brought an end to the civil war in El Salvador between 1980 and 1992.[31] One of the main topics dealt with

[28] In 1995, the IACHR published a thematic report on this subject, ahead both in terms of time and depth of analysis of the first judgment of the IACtHR relating to a conflict between the criminal offense of contempt of court and the right to freedom of expression, viz., the *Case of Palamara Iribarne v. Chile*. See IACHR, "Report on the Compatibility of "Desacato" laws with the American Convention of Human Rights," OAS/Ser.L/V/II.88, Doc. 9 Rev., February 17, 1995, and *Case of Palamara Iribarne v. Chile* [2005] IACtHR, Ser. C No. 135.

[29] IACHR, "Report No. 5/96, Case 10.970, Raquel Martín de Mejía, Peru," March 1, 1996, Section B, Considerations on the substance of the case; this precedes the first case in which the IACtHR considered the legal status of sexual violence as a category of torture by several years. In this regard, see *Case of the Miguel Castro-Castro Prison v. Peru* [2006] IACtHR, Ser. C No. 160.

[30] IACHR, "Resolution 12/85, Yanomami Indians, Brazil," March 5, 1985, dealing with the obligation of the State of Brazil to demarcate, define, and protect the territory of the indigenous Yanomami people, this obligation being broadened with more detail decades later in the *Case of the Mayagna (Sumo) Awas Tingni v. Nicaragua* [2001] IACtHR, Ser. C No. 79.

[31] The Truth Commission for El Salvador was created in the light of the peace accords signed in 1991 between the government of El Salvador and the Farabundo Martí National Liberation Front, putting an end to the civil war. The Commission was headed by Thomas Buergenthal, former President of the Inter-American Court of Human Rights and the International Court of Justice, other members including Belisario Betancur, former President of Colombia, and Reinaldo Figueredo, former Minister of Foreign Affairs of Venezuela. See United States Institute of Peace, "From Madness to Hope: The 12-Year War in El Salvador: Report of the Commission on the Truth for El Salvador" (2001), <https://www.usip.org/files/file/ElSalvador-Report.pdf> (accessed February 5, 2022).

in the final report of this Commission was the role of the El Salvador judicial system during the war. Its lack of efficacy and independence enabled violence in the country to progress with complete impunity. Due to the need to make this situation visible and prevent similar events in the region, the members of the Truth Commission decided to create an organization aimed at strengthening the judiciaries of Latin American to make them more efficient and democratic.[32]

Over the years, the mandate of DPLF has adjusted to challenges in the way of the enjoyment of human rights and democratic governance throughout the hemisphere. At present, DPLF is a regional organization made up of professionals of various nationalities based in Washington, DC, with permanent personnel in Mexico, El Salvador, Peru, and Bolivia. The organization's strategy is based on the creation of knowledge, exchange of experiences and lessons learned, lobbying at national and international levels in coordination with its allies in the region, and the strategic dissemination of information.

During its twenty-three years of existence, DPLF has focused its work on countries with chronic situations of impunity and ineffective justice systems. In recent years, DPLF has also focused on countries that are moving toward a democratic transition, such as Venezuela, Nicaragua, and—most recently—Bolivia. At present, DPLF's programs are: (i) *Judicial independence*, which includes initiatives on the role of district attorneys in a democracy, transparent and meritocratic elections of high judicial authorities, elements of a democratic public security policy, and accountability and reparations for serious violations of human rights; (ii) *Impunity and Serious Human Rights Violations*, where DPLF looks in more detail at standards relevant for the reconstruction of judicial institutions in countries in transition and promote the exchange of experiences in order to address these challenges; (iii) *Human rights and natural resources*, where DPLF promotes the use of international law to defend the territory and natural resources of Indigenous peoples and rural communities; and (iv) *Strengthening the IAHRS*, where DPLF monitors and promotes reforms and transparent and participatory processes in the nomination and selection of members of the IACHR and IACtHR as well as other inter-American authorities.

The initiatives of DPLF deal with social phenomena with significance for the enforcement of the rule of law and human rights in matters where it feels that international law can make relevant contributions to the processes of political deliberation, the design of public policy, and the imparting of justice. Although

[32] "In time, our experience in El Salvador caused us to reflect upon the situation in other countries in the region and to understand that while the case of El Salvador was unique in many aspects, other countries in our region have suffered, to a greater or lesser extent, the effects of justice administration systems that are archaic, ineffective, oppressive, corrupt, and largely undemocratic, and which needed to be reformed . . ."—translation of the words of Thomas Buergenthal upon the formal inauguration of the activities of the DPLF. In *Reformas a la Justicia Penal en las Américas* (Fundacion para el Debido Proceso Legal 1999).

DPLF does not litigate before the IAHRS in the sense of submitting petitions or requests for protection measures directly to IAHRS organs, it is a user of its various mechanisms of monitoring and promotion.[33] Through the compilation of specialist studies, training activities, the observation of criminal trials,[34] and *amici curiae*[35] presentations to the organs of the IAHRS and domestic tribunals, DPLF hopes to encourage judges in the region to use inter-American standards in their decisions and to engage with the IACtHR and IACHR to develop new standards through their pronouncements. The mechanisms for monitoring and promotion, which include thematic hearings at the IACHR, allow DPLF to make the problems with which it is dealing visible at national and regional level and to require the States to comply with inter-American rules and standards in a multilateral and public forum.

In addition to case law, the advisory opinions, country reports, and thematic reports of the IACHR, which generally address more current and regional problems, are particularly useful for the work of DPLF. For this reason, the standards included in this document and those arising from the case system allow DPLF to disseminate and raise awareness of the Inter-American standards that are vital to its work. In this sense, DPLF has coordinated efforts with organs of the IAHRS and has compiled summary infographics of judgments,[36] advisory opinions, and instrumental thematic reports with the aim of bringing about a greater impact.

Another aspect of DPLF's work relates to the production of toolkits and reports that aim to more solidly define inter-American standards. By nature, these standards tend to establish general obligations for the States and lack the required effective force for direct implementation on the part of State operators. In the different programs and lines of work of DPLF, it has attempted to provide the various State organs and agents with clearer guidelines on how they should apply inter-American standards.[37] In order to contribute to the improved

[33] The DPLF has advised civil society organizations on the formulation of petitions and requests for precautionary measures before the IACHR, but, due to institutional policy, the DPLF has not directly pursued or invoked the system of petitions and cases or the protection mechanisms made available by the IACHR and the IACtHR (precautionary and provisional measures, respectively).

[34] For an example of the observation of an archetypal criminal trial by the DPLF, see Daniel Cerqueira and Katya Salazar, *La Sentencia sobre los Hechos de Violencia en la Curva del Diablo: comentarios a la luz de los estándares internacionales de derechos humanos* (March 7, 2017), <http://www.dplf.org/sites/default/files/bagua_v2.pdf> (accessed February 5, 2022).

[35] See the website of the DPLF, page on amicus curiae briefs presented in recent years, available at <http://www.dplf.org/en/resources/amicus_curiae> (accessed February 5, 2022).

[36] DPLF, *Folleto sobre la Sentencia de la Corte IDH en el Caso Ruano Torres y otros v. El Salvador*, <http://www.dplf.org/sites/default/files/folleto_agapito_web_v1.pdf> (accessed February 5, 2022).

[37] With regard to the inter-American standards on the right to prior, free, and informed consultation, for example, whereas the first regional report of DPLF aimed to state the applicable inter-American right and compare it with the regulatory framework of four Andean countries, the other publications on the matter deal with certain operational problems in the implementation of these standards on the part of the governments; problems derived from inadequate consultation processes and more concrete discussions on the pros and cons of adopting a regulatory framework with a

awareness of and use of inter-American standards, DPLF carries out applied research and disseminates it in shorter, more accessible versions through its institutional blog[38] and social networks. DPLF shares the latest developments of the IAHRS on the topics it works on and, if the case so deserves, it formulates opinions on current topics through press releases or public letters.

Having explained the institutional mission of DPLF and its way of working as a user of the IAHRS, we will now look at two examples of coordinated advocacy with partner organizations that aim at bringing about new narratives and the development of new standards on the part of the IACHR with regard to certain social phenomena and patterns of behavior by public and private actors that endanger the enjoyment of human rights in the region.

4. Specific Strategies for the Development of Standards on the Part of the IAHRS

4.1. Extraterritorial Responsibility of Countries of Origin of Companies Involved in Violations of Human Rights

Since the creation of a program dedicated to the study of the impact of extractive industries on human rights, in 2010, DPLF[39] has worked with CSOs, collectives, and other social movements that work with victims of human rights violations resulting from the intensive extraction of natural resources. A significant number

general scope as a model of the implementation of the right to prior consultation. Several of these reports were compiled along with other national and local organizations, allowing us to analyze the use and knowledge of the Inter-American standards in the light of the demands and needs of local groups. For more information about the publications of DPLF on the right to prior, free, and informed consultation, see <http://www.dplf.org/en/resources-topics/right-consultation> (accessed February 5, 2022).

[38] Entitled "Justicia en las Américas," this Spanish-language blog (BlogDPLF) is provided by the Due Process of Law Foundation as a space where staff and members of the board of directors of the organization, along with other persons and organizations dedicated to the enforcement of human rights in the Americas, can collaborate. The blog periodically publishes information and analyzes the main debates and events relating to the promotion of the rule of law, human rights, judicial independence, and the consolidation of democracy in Latin American. One important part of the articles published on the blog comprises analyses of decisions of the organs of the IAHRS and of draft laws or judicial decisions that are relevant because they conflict with or make progress toward the implementation of the inter-American standards. For more information on the BlogDPLF, see <https://dplfblog.com/> (accessed February 5, 2022).

[39] Some of the text contained in this section is an adaptation of a chapter originally published in a manual on holding States accountable for extraterritorial violations of human rights. See FIAN International and ETOS Consortium, *For Human Rights Beyond Borders: Handbook on How to Hold States Accountable for Extraterritorial Violations* (2017), 42–43, <https://www.etoconsortium.org/nc/en/main-navigation/library/documents/detail/?tx_drblob_pi1%5BdownloadUid%5D=204> (accessed February 5, 2022).

of these violations occur in contexts where transnational mining companies act with the political, diplomatic, financial, or other support from the countries where their parent company is registered or domiciled, so of their country of origin.

In Latin America, mining companies that are headquartered or registered in Canada and mining companies from other countries that are listed on the Toronto Stock Exchange account for more than 70 percent of all investment in mining projects from Mexico to Chile. In several of these projects, there have been reports of disputes over the lands of Indigenous and peasant communities, the criminalization of socio-environmental advocates, and a growing number of murders of people who oppose the presence of mining activities in their lands.

This reality is directly linked to the signing of investment and free trade agreements between Canada and certain countries in the region that include clauses facilitating mining concessions and that weaken socioeconomic safeguards. Particularly under the Stephen Harper administration (2006–2015), Canadian cooperation has been used as an agent for promoting Canadian companies' foreign investment in countries with which Canada has signed cooperation agreements.[40] Further, financial subsidies, fiscal extensions, and diplomatic support abroad have been expanded for Canadian mining companies without any proportionate advances in the creation of an institutional framework for accountability for human rights violations committed or tolerated by these companies in third countries.[41]

In this context, since 2011, DPLF has participated in initiatives with other CSOs, academic bodies, and social movements to increase visibility for the international responsibility of Canada. Based on the conclusion that the general standards of the IAHRS relating to the obligation to respect and protect human rights in the light of actions of private individuals are applicable to the States of origin of transnational companies,[42] DPLF coordinated a series of advocacy activities with the aim of causing the IACHR to issue specific pronouncements on the extraterritorial responsibility of the countries of origin of companies involved in violations of human rights.

In October 2013, a group of CSOs from various Latin American companies participated in a thematic hearing before the IACHR entitled *Situación de los*

[40] See MiningWatch Canada, *New Federally Funded Academic Institute a Tool to Support Mining Industry* (2014) at <http://www.miningwatch.ca/news/new-federally-funded-academic-institute-tool-su-pport-mining-industry> (accessed February 5, 2022).

[41] See, e.g., <http://www.dplf.org/en/news/over-180-organizations-urge-canadian-prime-minister-promote-effective-regulation-canadian> (accessed February 5, 2022).

[42] Daniel Cerqueira, "The Attribution of Extraterritorial Liability for the Acts of Private Parties in the Inter-American System: Contributions to the debate on corporations and human rights" (*BlogDPLF*, October 1, 2015), <https://dplfblog.com/2015/10/14/the-attribution-of-extraterritorial-liability-for-the-acts-of-private-parties-in-the-inter-american-system-contributions-to-the-debate-on-corporations-and-human-right/> (accessed February 5, 2022).

derechos humanos de las personas afectadas por la minería en las Américas y la responsabilidad de los Estados huéspedes y de origen de las empresas ("Human rights situation of persons affected by mining in the Americas and the responsibility of the host states and countries of origin of the companies").[43] In April 2014, after three years of research, organizations from Chile, Colombia, Honduras, Mexico, and Peru, along with academic centers from Canada and the United States, published a report on the impact of Canadian mining in Latin America and the responsibility of Canada.[44] The report examines twenty-two mining projects located in nine countries in the region and identifies a pattern of human rights violations and their underlying causes, above all in Canada, as the country of origin of the companies involved in the abuses.

The report was presented to the IACHR in April 2014 and played a part in the latter's statement in its end-of-session press release about "emerging issues such as corporate responsibility as regards the impact of extractive industries on the observance of human rights, especially the impact on certain groups such as Afro-descendants and indigenous peoples."[45] Eight months later, twenty-nine CSOs and Canadian academic entities participated in another thematic hearing before the IACHR dealing expressly with the role of Canada in abuses committed by mining companies in Latin America.[46] In the press release published a few days after this hearing, the IACHR urged the States to "adopt measures to prevent the multiple human rights violations that can result from the implementation of development projects, both in countries in which the projects are located as well as in the corporations' home countries, such as Canada."[47]

During the IACHR's 154th session, in March 2015, the extraterritorial obligations of the States were again addressed in a hearing coordinated by the DPLF on "Corporations, Human Rights, and Prior Consultation in the Americas."[48] At the end of the session, the IACHR stressed that it is "essential

[43] For more information about the hearing, see <dplf.org/es/news/nota-de-prensa-mineria-y-derechos-humanos-en-america-latina-los-estados-de-origen-de-las> (accessed February 5, 2022).

[44] Working Group on Mining and Human Rights in Latin America, "The impact of Canadian Mining in Latin America and Canada's Responsibility. Executive Summary of the Report submitted to the Inter-American Commission on Human Rights" (2014), <http://www.dplf.org/sites/default/files/report_canadian_mining_executive_summary.pdf> (accessed February 5, 2022).

[45] *IACHR Wraps Up its 150th Session*. Press release (Washington DC, April 4, 2014), <https://www.oas.org/en/iachr/media_center/PReleases/2014/035.asp> (accessed February 5, 2022).

[46] Available at <https://www.youtube.com/watch?v=OWYue8FP9ZY&feature=youtu.be> (accessed February 5, 2022). For a more detailed explanation of the effects of this hearing in Canada, see Shin Imai and Natalie Bolton, "El gobierno de Canadá no hace lo suficiente para abordar los problemas de las empresas mineras canadienses en América" [2015] 20 *Aportes DPLF* 24–26, <https://www.dplf.org/sites/default/files/aportes2020_web_final_0.pdf> (accessed February 5, 2022).

[47] *IACHR Wraps Up its 153rd Session*. Press release (Washington DC, November 7, 2014), >https://www.oas.org/en/iachr/media_center/PReleases/2014/131.asp> (accessed February 5, 2022).

[48] The video of the hearing is available at <https://www.youtube.com/watch?v=wFqc7ccS7Mw> (accessed February 5, 2022).

that any development project is carried out in keeping with the human rights standards of the Inter-American system."[49]

After four years of research, exchange of experiences and information, advocacy, and lobbying aimed at placing the extraterritorial obligations of the States on the agenda of the IAHRS,[50] in April 2016 the IACHR published its thematic report, *Indigenous Peoples, Afro-Descendent Communities, and Natural Resources: Human Rights Protection in the Context of Extraction, Exploitation, and Development Activities*.[51] One of the sections of this report deals with the obligation of the countries of origin of the companies to harmonize their domestic laws and public policies in order to prevent and mitigate human rights violations and to offer reparations for such violations. For the first time, the IACHR formulated specific rules on the obligations of the countries of origin of the companies in relation to human rights abuses committed abroad. The report finished with a list of recommendations for States to monitor, control, and supervise the activities carried out in other countries by companies headquartered or registered in their jurisdiction.[52]

With the aim of increasing the impact of the said report and disseminating its content, DPLF published an infographic summary in the four official languages of the Organization of American States (OAS), allowing more legal operators to become familiar with key standards concerning the obligations of the countries of origin of companies.[53]

The publication of the mentioned thematic report on the part of the IACHR was only a first step toward the incorporation of the extraterritorial obligation of the countries of origin of companies into the IAHRS's agenda, inspiring other future pronouncements of the Inter-American Commission itself and the approach of the IACtHR in its Advisory Opinion 23/17,[54] entitled "The Environment and

[49] *IACHR Wraps Up its 154th Session*. Press release (Washington DC, March 27, 2015), <https://www.oas.org/en/iachr/media_center/PReleases/2015/037.asp> (accessed February 5, 2022).

[50] For more information on the impact of the advocacy relating to the extraterritorial obligations of Canada in Canada and relating to the impact of Canadian mining in third countries, see Shin Imai, *Canadian Government Promises Stronger Monitoring of Canadian Companies Operating Abroad*, January 30, 2018, <https://dplfblog.com/2018/01/30/canadian-government-promises-stronger-monitoring-of-canadian-companies-operating-abroad/> (accessed February 5, 2022).

[51] IACHR, "Indigenous Peoples, Afro-Descendent Communities, and Natural Resources: Human Rights Protection in the Context of Extraction, Exploitation, and Development Activities," OAS/Ser.L/V/II. Doc. 47/15, December 31, 2015, <https://www.oas.org/en/iachr/reports/pdfs/ExtractiveIndustries2016.pdf> (accessed February 5, 2022).

[52] Ibid., 185. For a more detailed evaluation of the report of the IACHR, see D. Cerqueira and C. Blanco, *IACHR Takes Important Step in the Debate on Extraterritorial Responsibility and States' Obligations regarding Extractive Companies* (May 2016), <https://dplfblog.com/2016/05/11/iachr-takes-important-step-in-the-debate-on-extraterritorial-responsibility-and-states-obligations-regarding-extractive-companies/> (accessed February 5, 2022).

[53] DPLF, "Infographic summary of the report of the IACHR on 'Indigenous Peoples, Afro-Descendent Communities, and Natural Resources: Human Rights Protection in the Context of Extraction, Exploitation, and Development Activities,'" (March 30, 2017), <http://www.dplf.org/sites/default/files/ddhh_extractivas_digital_en_v1_0.pdf> (accessed February 5, 2022).

[54] IACtHR, "The Environment and Human Rights," OC 23/17 of November 15, 2017, Ser. A No. 23.

Human Rights." Adopted on November 15, 2017, this advisory opinion broadens the parameters developed by the IACHR in the aforementioned report, setting out clearer principles and rules on the attribution of State responsibility in the light of actions by private entities and the obligation of the countries of origin of companies that commit environmental harm abroad. Further, it establishes parameters for compliance with prevention and guarantee obligations relating to cross-border damage and enshrines—for the first time in the context of the IAHRS—the principles of precaution and prevention in relation to environmental damage. In accordance with these principles, the States must act if there are plausible indicators that an activity might bring about irreversible damage to the environment, even in the absence of scientific certainty.

The Inter-American Court of Human Rights clarified the circumstances in which the conduct of a State constitutes an exercise of jurisdiction, stressing that a State is internationally responsible for the violation of the right to a healthy environment and other associated rights, even if the environmental damage takes place on the territory of another country, if the State authorities concerned do not meet their prevention and guarantee obligations in relation to companies headquartered or domiciled in their jurisdiction.[55]

Again, due to the importance of the standards on the responsibility of countries of origin of companies contained in the advisory opinion, DPLF worked with the IACtHR and partner organizations to coordinate the compilation of an infographic on the fundamental principles and conclusions of the IACtHR's pronouncement.[56] This summary was published in the four official languages of the OAS and facilitated access to the content of the advisory opinion not only by users of the IAHRS but also by operators of law called upon to decide on disputes or to adopt decisions in the diverse spheres of State action in their respective countries.

Finally, in November 2019, the IACHR published the report "Business and Human Rights: Inter-American Standards," which expands the parameters relating to the obligations of countries of origin of companies beyond the context of extractive activities and environmental damage. Although the standards contained in this report are largely based on pronouncements of the United Nations' Human Rights Council, Special Rapporteurs, independent experts, and thematic committees, this is the most detailed document of the IAHRS in which parameters of State action toward the corporate sector are set out.[57]

[55] Ibid., para. 97.

[56] DPLF, "Infographic summary of Advisory Opinion 23/17 on the Environment and Human Rights" (September 2018), <http://www.dplf.org/sites/default/files/oc23_english.pdf> (accessed February 5, 2022).

[57] IACHR, "Thematic Report on "Business and Human Rights: Inter-American Standards," OAS/Ser.L/V/II, November 1, 2019.

4.2. Corruption and Human Rights

The connection between corruption and human rights in the narrative of the organs of the IAHRS is evolving, but the IAHRS organs have focused on identifying corruption as a direct or indirect cause of human rights violations that are not necessarily planned or foreseen. Nevertheless, the current reality in the region shows a much more complex scenario in which violations of human rights can be a key part of strategies designed by criminal networks comprising State and private agents who wish to fully or partly co-opt State institutional entities in order to take advantage of their resources to benefit the criminal network. To achieve their aims, these networks use increasingly deploying sophisticated strategies which, in many cases, include committing human rights violations in order to facilitate their objectives and ensure the impunity of the network.

In this context, the co-optation of justice institutions stands out. This can take the form of undue interference in and manipulation of selection processes—especially those of the highest authorities—in order to ensure the election of persons close to the criminal network, thereby ensuring impunity for illegal actions. This symbiosis between State institutional entities controlled by *de facto* powers (and therefore corrupt institutions) and manipulated judicial elections (which violate the inter-American standards governing them) also occurs with other human rights violations. Let's not forget paradigmatic cases such as the murder of the Indigenous leader and environmental activist Berta Cáceres in Honduras, whose activism brought to light a network of corruption operating in Honduras that then planned her murder in order to avoid the visibility caused by her demands and to ensure success in their activities with total impunity. Another case concerned the murder of defenders of territory in the Peruvian rainforest, whose defensive action and visibility work were obstacles to the lucrative illegal logging industry. There are also thousands of cases of missing persons in Mexico, many of them committed through organized crime networks, but many others linked to the activities of criminal networks fed by the authorities.

These are the new realities that have caused us to include a much broader contextual analysis in our work, including the role of large-scale corruption and the control of institutions by *de facto* powers, with the aim of better understanding the current patterns and trends in the violations of human rights committed on the continent. These aspects have also led us to ask ourselves if and how we could contribute to the fight against corruption through the promotion of human rights and the international justice systems. Was it possible to identify a "human rights perspective" in the fight against major corruption? Were new standards necessary for this objective, or were the existing standards sufficient? How can the various mechanisms of the IAHRS be used in this area?

For DPLF, this new type of analysis involves the tasks of learning and deepening knowledge of concepts, since at the international level, the fight against corruption and the defense of human rights have followed separate paths, with different audiences, narratives, and strategies, and attempts to connect them are relatively recent.

Within the United Nations, the treaty bodies and special procedures have indicated that when corruption is widespread, the States cannot meet their obligations relating to human rights.[58] Similarly, the Special Rapporteur of the United Nations on the Independence of Judges and Lawyers, in a report on corruption and judicial independence presented in 2017 to the UN Human Rights Council, indicated that the UN Convention against Corruption "should be also be seen as a fundamental international instrument for the protection of human rights, and it therefore warrants continued attention from the relevant competent bodies," since corruption has a devastating effect on the justice systems as a whole.[59]

At the inter-American level, in March 1996, the General Assembly of the OAS adopted the Inter-American Convention against Corruption, whose implementation is based on a process of scrutiny exercised by the States parties themselves, but neither the text nor the documents produced by the OAS Secretariat contain an approach to the impact of corruption upon the enjoyment of human rights in the region.[60] The narrative in the IAHRS on the links between human rights and corruption has developed primarily from the momentum arising from civil society organizations, which has been received with interest and concern by the IACHR. DPLF has actively participated in this process in the past years.

The IACHR made the relationship between corruption and human rights evident with the approval of Resolution 1/17 on Human Rights and the Fight against Impunity and Corruption, in which it indicated that "the establishment of effective mechanisms to eradicate corruption is an urgent obligation in order to achieve effective access to an independent and impartial justice and to guarantee human rights." One year later, it broadened its criteria with Resolution 1/18 on Corruption and Human Rights, stating that corruption is a complex phenomenon that often establishes structures that capture State entities, through different criminal schemes, and affects human rights in their entirety—civil,

[58] Committee on Economic, Social and Cultural Rights, "Consideration of reports submitted by States Parties under Articles 16 and 17 of the Covenant, Concluding Observations, Republic of Moldova," E/C.12/1/ADD.91, December 12, 2003, para. 12; and Committee on Rights of the Child, "Consideration of reports submitted by States Parties under Article 44 of the Convention, Concluding Observations, The Republic of the Congo," CRC/C/COG/CO/1, October 20, 2006, para. 14.

[59] Human Rights Council, "Report of the Special Rapporteur on the Independence of Judges and Lawyers," A/72/140, July 25, 2017.

[60] OAS, "Inter-American Convention against Corruption" (March 29, 1996), <http://www.oas.org/en/sla/dil/docs/inter_american_treaties_B-58_against_Corruption.pdf> (accessed February 5, 2022).

political, economic, social, cultural, and environmental—as well as the right to development, and weakens governance and democratic institutions, promotes impunity, undermines the rule of law, and exacerbates inequality. In this resolution, the IACHR emphasizes certain fundamental concepts and formulates recommendations that address the phenomenon with a human rights focus.

Subsequently, the IACHR addressed the topic in several country and thematic reports, stressing corruption as an aggravating factor in situations of exclusion and discrimination and as a direct or indirect cause of human rights violations—in particular ESCER, but also the right to access to justice and freedom of expression in cases where options for reporting acts of corruption are limited.[61] In the same way, in its most recent country reports on the situation of human rights in Honduras, Guatemala, and Mexico, the IACHR identified corruption as one of the factors having a bearing on impunity in cases of human rights violations in these countries.

In its turn, in the case of *Escobar v. Guatemala*, of 2018, the IACtHR stressed the negative consequences of corruption and the obstacles that it poses for the effective enjoyment of human rights along with the fact that the corruption of State authorities or private providers of public services affects vulnerable groups in a particular way.[62] The IACtHR indicated in its judgment that the impact of corruption (in this case, a network of illegal adoptions) reduces the confidence of the people in the government and, in time, in democratic order and the rule of law.[63]

The strategy established by DPLF for responding to initial questions and promoting a greater involvement on the part of the IAHRS in this field included an initial analysis, discussions, and the exchange of experience and information with other CSOs in the region with the same concerns, as well as disseminating information and lobbying the IACHR. These actions influenced the growing interest of the IACHR in the further development of the standards included in Resolutions 1/17 and 1/18 and, in line with the conclusions and recommendations of the heads of State of the continent at the 2018 Summit of the Americas,[64] in making a significant contribution in this field.

In this context, DPLF participated in various preparation meetings for the thematic report on the matter, during which it conveyed many of the concerns of its partners. In December 2017, DPLF participated in a closed discussion on corruption and human rights organized by the IACHR and the Office of the UN High Commissioner for Human Rights during the First Forum of the

[61] IACHR, "Democratic Institutions, the Rule of Law and Human Rights in Venezuela," OAS/Ser.L/V/II. December 31, 2017, para. 146.
[62] *Case of Ramírez Escobar et al. v. Guatemala* [2018] IACtHR, Ser. C No. 351, para. 241.
[63] Ibid., para. 242.
[64] 2018 Summit of the Americas, focusing on democratic governance against corruption.

Inter-American Human Rights System in Washington, DC.[65] Subsequently, in March 2018, it participated in a consultation meeting in Colombia during the 167th Extraordinary Period of Sessions in the presence of other experts on the matter.[66] In December 2018, DPLF organized a meeting in Washington, DC, with experts and colleagues from the region in order to discuss the advances of the IAHRS in this field and to make certain recommendations, which were also shared with the IACHR.

When the IACHR agreed to formulate a report on corruption and human rights, DPLF expressly supported this initiative and, in collaboration with groups with which it had been pondering this matter,[67] it organized meetings in six cities in the Americas with the aim of ensuring that the technical team of the IACHR, which was in charge of preparing the report, could gather relevant information. These meetings were attended by at least 150 organizations and took place in Argentina, Chile, Colombia, Peru, El Salvador, and Mexico.[68]

Subsequently, DPLF requested a IACHR thematic hearing on "Corruption and Human Rights: The role of justice systems in Latin America," which took place in Sucre, Bolivia, on February 15, 2019, with twenty-one organizations and experts in the field participating in the initiative.[69] During this hearing, DPLF provided relevant information on at least ten countries in the region and the role of their justice systems both as protagonists in acts of corruption and as the entities responsible for the criminal prosecution of this crime. Also, and more importantly, DPLF demonstrated regional patterns and made a series of recommendations for regional implementation.

At the same time, DPLF maintained a constant dialogue with its partners in the region, and whilst awaiting the IACHR thematic report, it established a strategy for the dissemination and—above all—the implementation of the new standards that the report would contain. The report was finally published on December 31, 2019, and DPLF planned presentations during 2020 in various capitals of the region. The report contains important advances, positioning the IAHRS as a relevant actor in the efforts of States and civil society to confront corruption and the violations of human rights that are usually derived from this phenomenon.

[65] IACHR, "Annual Report 2017," Chapter 1, at 43, <https://www.oas.org/en/iachr/docs/annual/2017/TOC.asp> (accessed February 5, 2022).

[66] Ibid.

[67] The events were mainly organized in collaboration with the Rule of Law Program of the Konrad Adenauer Foundation (KAS), the Latin American and Caribbean Network for Democracy (REDLAD), and Fundar.

[68] See IACHR, "Report on Corruption and Human Rights" (December 2019), 14.

[69] See <https://www.youtube.com/watch?v=ekAnMhacV3s&list=PL5QlapyOGhXuSrrN5AMHWWfm36AsMzrq0&index=14> and <http://www.oea.org/en/iachr/media_center/PReleases/2019/038A-EN.pdf> (accessed February 5, 2022).

Again, with the aim of contributing to the socialization of the content of the report and promoting the addressing of the phenomenon of serious corruption from the perspective of the human rights obligations of States, DPLF published an infographic summary on the main findings and conclusions relating to the justice systems.[70]

5. Concluding Remarks

The ideas expressed in this chapter intend to support the following hypothesis which, to a certain extent, guides the strategies, working methods, and initiatives of DPLF as a user organization of the Inter-American System. Despite the low degree of compliance with decisions issued by its organs, the standards of the IAHRS have guided the actions of State agents and operators of the law throughout the continent. Rather than proposing a methodology for proving this hypothesis, this chapter attempts to point out the way in which the DPLF and its partner organizations have tried to influence the development and dissemination of certain inter-American standards. Naturally, the experiences described here may well be different from those of civil society organizations engaged in activities of litigation and activism with a local or national scope of action or with institutional missions and strategies that differ from DPLF's own.

The use of two specific examples of the development of standards on the part of the IAHRS in order to consolidate the stated conceptual hypothesis is not intended to be an inductive demonstration in which the general premises can be shown through *specific* premises. Indeed, the examples cited in the last section of this chapter aim to support reflections on the role of civil society in the creation of standards in two processes of advocacy and lobbying in which DPLF was directly involved. The conclusion relating to the impact of the standards recently developed by the organs of the IAHRS requires a more specific evaluation of the way State actors and operators of the law on a domestic scale are shaping their actions on the basis of the standards, rules, and principles derived from the pronouncements of the mentioned supranational organs.

Although this chapter could be read as a self-referential exercise, our intention is to justify the premise that the impact of the IAHRS is directly correlated to the capability of the organs of the IAHRS to develop standards that respond to the demands of CSOs, as well as to their ability to ensure that these standards are better known and applied by operators of law and State agents at

[70] DPLF, "Independencia judicial y corrupción: Síntesis de los principales contenidos sobre justicia del informe 'Corrupción y Derechos Humanos' de la CIDH," <http://www.dplf.org/sites/default/files/info_corrupcion_digital_vf.pdf> (accessed February 5, 2022).

the national level. In the examples contained in this chapter, the development of new standards transcends the creation of legal rules in matters upon which the IAHRS has not previously made pronouncements, requiring the incorporation of new narratives about social phenomena which, in themselves, do not imply a violation of human rights but which nonetheless may be affecting the enjoyment of human rights and the normal functioning of the rule of law in the region.