The Most Important Cases of the Inter-American Commission on Human Rights

Richard J. Wilson

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While the United Nations wrestles with peace efforts in Syria and the International Court of Justice resolves maritime border disputes between Peru and Chile, another regional institution quietly goes about its business. In spite of the relative lack of attention this institution receives, its decisions have shaped the political landscape in modern Latin America unlike any other organization in the history of the Western Hemisphere. As a result, a region with a sordid history of military governments and systemic human rights abuses has made immense strides toward democratic governance and individual freedoms.

The Inter-American Commission of Human Rights (IACHR), together with its companion body, the Inter-American Court of Human Rights (IACtHR), are autonomous organs of the Organization of American States (OAS). The IACHR promotes and protects human rights in the Western Hemisphere. Created by the OAS in 1959, the Commission has its headquarters in Washington, D.C. Together with the Court, established in 1979 in San Jose, Costa Rica, the Commission has emerged as a model of international human rights and humanitarian law, as well as of individual rights.

Since its inception, the Commission has made extraordinary progress. Through its 55-year history, it has processed over 12,000 cases. The Commission has held almost 140 sessions, some of them at its headquarters, others in different countries of the Americas. In the opinion of former Commission President Robert Goldman, no regional human rights body has had to confront more crises and endemic problems in more countries than the Inter-American Commission on Human Rights.

For a special report on the Commission, the Perry Center Publications Editor-in-Chief Pat Paterson met with Professor Richard Wilson, Director of the International Human Rights Law Clinic at the Washington College of Law, to discuss the most important cases or reports in the history of the Commission. Professor Wilson, a frequent lecturer at the Perry Center, is a longtime observer of the Commission and Court, where he and his students have presented more than 30 cases. Of the thousands of cases and reports of the Commission, Professor Wilson selected a few that he thought were especially important or influential.

IACHR Visit to Dominican Republic, 1965

The Commission’s visit to the Dominican Republic in 1965 came at an especially precarious time. President Trujillo had been assassinated on May 30, 1961. In February of 1963, a new government was democratically elected under Juan Bosch. However, Bosch’s proposed reforms were particularly unpopular with the military and landowners in the country. He was overthrown in a military coup in September 1963 after only seven months in office. A year and a half of turmoil followed. When another military rebellion occurred in April 1965, chaos ensued.
Those loyal to deposed President Juan Bosch fought against rebel military units. Other armed groups roamed the country. The United States responded by sending 42,000 U.S. Marines to the island to restore order.

At the behest of the Foreign Minister of the country, the Secretary General of the OAS asked the Inter-American Commission of Human Rights to visit Santo Domingo to investigate allegations of human rights violations by rival factions, including those against defenseless civilians. The Commission’s delegation arrived on June 1, 1965, in Santo Domingo. The representatives investigated cases of torture, political prisoners, prison conditions, extrajudicial killings, arbitrary arrest, and disappearances. In addition, the Commission negotiated prisoner releases and secured the release and safe-passage from the country of various political leaders. The Commission, at the invitation of the Provisional Government of the Dominican Republic, remained in the country to observe and report on the presidential election held in June of 1966.

The Commission’s actions in the Dominican Republic in 1965 are an example of a special report produced after an on-site visit by its delegation. If requested by the host nation, the IACHR can carry out on-site visits to observe the general human rights situation in a country or to investigate specific situations. Such visits normally result in a report that details the human rights conditions observed by the members of the delegation. The report is published and presented to the Permanent Council and General Assembly of the OAS. Since 1961, the Commission has carried out 69 visits to 23 member States and published 44 special country reports. In the case of the visit to the Dominican Republic, the Commission produced two reports of its investigation and made numerous recommendations to the provisional government.

**IACHR Visit to Argentina, 1979**

Another important and precedent-setting site visit occurred in Argentina in 1979. The country was in the middle of an internal conflict against leftist insurgents. Insurgents launched a violent campaign fought against military forces in the country that had been in and out of power since the 1950s. In the early 1970s, the violence escalated as leftist guerillas bombed public sites such as hotels and theaters. Kidnapping and assassinations of high-ranking military and police officers occurred almost weekly. In 1976, President Isabel Perón was overthrown in a military coup. The military junta that seized power carried out a brutal campaign of repression that included illegal arrests, tortures, killings, and forced disappearances of thousands of people. Thousands of others were jailed in secret prisons throughout the country. Many others became desaparecidos because security forces disposed of their bodies, in some cases, by tossing live prisoners out of airplanes over the ocean.

The Argentine military government was very concerned about its reputation as a human rights violator. At first, its leaders denied that violations had occurred or claimed they were necessary tactics against a subversive and violent opponent. When that failed to work, they tried to cooperate with some human rights organizations. In 1976, for example, the Argentine military invited Amnesty Interna-
tional for an on-site visit. In March 1977, the group published its report, a very critical account of a government doctrine that used political prisoners, torture, execution, and disappearances as tactics.

In 1979, the Inter-American Commission conducted a site visit to Argentina at the request of the central government. The military junta hoped to relieve some of the international pressure on it by showing its reforms. During two weeks in September 1979, the Commission received the testimonies of thousands of persons, including relatives of the disappeared and other victims. The subsequent report, published in April 1980, further revealed the systematic nature of the human rights violations by the military government. According to one account, the report was credited with having helped halt the practice of disappearing victims. The final report also included numerous recommendations on how to improve the human rights practices in the country.

**Velásquez Rodriguez vs. Honduras: June 26, 1987**

In 1987, the Inter-American Court of Human Rights decided its first contentious case, an important one involving the disappearance of a student at the National Autonomous University of Honduras. The case involved the illegal detention, torture, and disappearance of Angel Manfredo Velásquez Rodriguez.

Members of the intelligence branch of the Honduran military reportedly arrested Velásquez Rodriguez on September 12, 1981. He was accused of a number of political crimes, taken to jail, and subsequently subjected to violent interrogations and torture. There were few witnesses to his abduction and little evidence of him after his disappearance. Much of the evidence was circumstantial, including testimony by eyewitnesses who saw Manfredo Velásquez kidnapped by men in civilian clothes in broad daylight. Attempts to locate him through official channels like police records turned up nothing.

The Velásquez Rodríguez case had significant consequences for instances of disappearances, a common tactic of security forces in the region. As part of the decision process, the Court recognized that in cases of forced disappearances the government involved likely would “attempt to suppress all information about the kidnapping or the whereabouts and fate of the victim.” Consequently, the government’s concealment or destruction of direct evidence, often the body of the person disappeared, makes it difficult to prove a violation of the right to life. As a result, the Court presumed Velásquez disappeared at the “hands of or with the acquiescence of those officials.” Additionally, the Court recognized that the fact that the government failed to investigate or make any inquiry into his disappearance, and thwarted attempts by the victim’s family to do so, implicated the government’s involvement in his disappearance. Furthermore, because Velásquez had not been seen for more than seven years, the Court concluded that Velásquez could be presumed dead and that the state could be held responsible for this as well. This lifted the requirement to provide conclusive evidence. Instead, the Court accepted circumstantial evidence—for example, testimony from victims of arbitrary detention or country reports produced by independent, nongovernmental organizations—as sufficient to judge the case. From this evidence, the Court concluded that the Hon-
The judges concluded that forced disappearances of people is a crime involving multiple violations of the most fundamental rights established in the American Convention of Human Rights. In the case of Manfredo Velásquez, the Court found the government of Honduras responsible for his disappearance, a violation of his right to liberty, and his death. The case established a precedent of international law in the cases of disappearances and represented the beginning of the Court’s judicial history. The Inter-American Convention on Forced Disappearance of Persons, the first of its kind, was adopted a few years later.

**Barrios Altos vs. Peru**

One of the most significant cases of both the Commission and the Court occurred in Peru during the country’s violent struggle between leftist insurgent groups like Sendero Luminoso and state security forces. The government of President Alberto Fujimori responded with considerable force and, in some cases, with extralegal actions. In one such instance, members of a secret death squad of the Peruvian Armed Forces, the Colina Group, burst into a home in the Barrios Altos neighborhood in Lima, Peru, on the night of November 3, 1991. Intelligence had indicated that a group of Sendero Luminoso rebels were meeting in the house. Instead, the eight masked soldiers found a community fund-raiser on the first floor. (It was later alleged that the group was meeting on the second floor.) The soldiers opened fire on the group of civilians with machine guns equipped with silencers, killing 15 people, including an 8-year old boy, and wounding 4 others.

The Peruvian government under President Fujimori had a number of legal confrontations with the Inter-American Commission of Human Rights. In numerous cases, Peru questioned the decisions and authority of the Commission. In 1999, Peru attempted to withdraw from the Court’s jurisdiction to avoid processing several high-profile cases. However, the Court found Peru’s withdrawal to be impermissible under the terms of Peru’s own agreements to join the system. Despite that, Fujimori’s government continued to defy the Court by ignoring its orders and decisions.

As Peruvian judicial authorities tried to investigate the Barrios Altos massacre, the Peruvian Congress passed an amnesty law on June 14, 1995, that excused any human rights violations by the military or police since May 1980. President Fujimori signed the law into force the very next day. Numerous legal attempts by the Peruvian Courts to object to the amnesty law were overturned by the government.

On May 14, 2001, the Inter-American Court of Human Rights ruled that the amnesty was unconstitutional in accordance with the American Convention on Human Rights. In particular, it found that armed forces of the state (namely the Colina Group death squad) committed the Barrios Altos massacre. It determined that the 1995 amnesty law prevented the victims of the attack from receiving a hearing on the case, and, among other violations of their rights, the victims of the attack were consequently denied the right to life. As a result of the Court’s ruling,
the Peruvian Congress repealed the amnesty law, and the government eventually paid $3.3 million in compensation to the families of the victims and survivors of the attack.

In a domestic follow-up case, Peruvian President Alberto Fujimori and intelligence head Vladmir Montesinos were charged with “co-authoring” the attack. The President allegedly went to intelligence headquarters after the attack to celebrate with the hit squad. Following Fujimori’s resignation as President in 2000, the Peruvian government used the IACHR decision to justify Fujimori’s extradition to Japan, and later in its request to Chile for his extradition to stand trial for the Barrios Altos case. In April 2009, Fujimori was sentenced to 25 years in prison for his role in the attack.

**Abella v. Argentina (La Tablada)**

Finally, another of the significant cases in the Commission had to do with its powers to apply international humanitarian law, the law of war, in cases involving human rights violations that occur during armed conflict, whether internal or international. The 1997 case of Abella v. Argentina, known widely as the La Tablada Case, was one of the first in this arena. In 1989, a group of insurgents attacked the military barracks at La Tablada, in Buenos Aires province. After protracted shooting, the attackers were captured. Some were killed, others sentenced to prison, and others disappeared. In providing its analysis of the situation, the Commission concluded that it could not rely on the law of international human rights alone. It found that it could directly apply international humanitarian law. As the Commission stated, “The American Convention, as well as other universal and regional human rights instruments, and the 1949 Geneva Conventions share a common nucleus of non-derogable rights and a common purpose of protecting human life and dignity.” Their decision was controversial. The European Court of Human Rights, for example, has declined to apply treaties other than those directly related to human rights. The IACtHR, at least initially, agreed with that position, finding that application of humanitarian law was beyond its treaty powers. However, in its decision in Bámaca Velásquez v. Guatemala in 2000, the Court switched course, finding that norms of the law of war could be “elements for interpretation of the American Convention.”

The powers and influence of the Commission and Court thus continue to have great relevance for any country in the Americas, and will continue to influence law and policy developments in the future, both within and outside of military forces.