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Policy and Practice Note

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Revamping to Remain Relevant: How Do the European and the Inter-American Human Rights Systems Adapt to Challenges?

Isabela Garbin Ramanzini and Ezgi Yildiz *

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The European and the Inter-American human rights systems seem concerned about their futures. This is not simply an ordinary dexterity check. What lies ahead stokes anxiety. The grim prospect of backlash against liberal ideals in the age of misinformation fuels this fear. Such an atmosphere enhances the polarization between optimism and disillusion about human rights, which has increasingly pushed these regional human rights institutions to revamp in order to remain relevant.

It is no coincidence that both the European and the Inter-American human rights systems recently held sessions to reflect upon their (future) roles and functions. The European system started this process first, back in the 1990s. The reform process took a new dimension in 2010. The Council of Europe kicked off a series of high-level conferences in Interlaken, Switzerland; Izmir, Turkey; Brighton, the UK; Brussels, Belgium; and Copenhagen, Denmark aiming at restructuring the system. The last of these was held in April 2018 in Denmark. There the Conference adopted the Copenhagen Declaration, the most up-to-date guideline to reshape the European human rights system.

In the Inter-American case, the reflections about institutional restructuring also unfolded in two phases. First, the Inter-American system went through a controversial reform

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process between 2011 and 2013. This was prompted by dissatisfied states, and was supposedly put in place to 'strengthen' the system. Later, in 2017, there was another take on reflecting upon the future. The result was the newly established Forum of the Inter-American Human Rights System (the Forum), which holds a series of annual meetings to evaluate and possibly reshape the system.

An analysis of these two recent reform processes reveals that the challenges affecting the regional human rights regimes look increasingly similar. Anxiety about the future gravitates around three main problems: effectiveness (the compliance problem), efficiency (the caseload problem), and identity (the role problem). Both reform processes prescribe improving dialogue as a means to tackle some of these challenges. Nevertheless, they differ on what these problems entail and what improving dialogue means. This policy note compares these institutional initiatives. In particular, it explains the causes of the challenges that affect both systems and the institutional responses. This is not a discussion of whether these human rights regimes indeed have reasons to worry about their futures. Rather, it is an examination of how these institutions adapt to their respective political environments.

1. Background

The European and the Inter-American human rights systems are the leading regional supranational mechanisms that provide individuals with an effective recourse to rectify human rights abuses. Together, they cover 87 states and a population of more than 1.7 billion across two continents. They are equipped with highly productive courts specialized in human rights matters. The European Court of Human Rights (ECtHR) issues the most rulings per year of all the international juridical bodies in the world. The Inter-American Court of Human Rights (IACtHR) is not far behind: it holds the fifth place. It reviews more cases per year than the International Criminal Court, the World Trade Organization Appellate Body, and the International Court of Justice.[1] The success of these two regional human rights regimes inescapably relies on their ability to perform their core functions, which has been the focus of reform processes to be discussed in the next section.

European human rights system

There were two waves of reforms in the European system. The first wave took place in the 1990s and generated significant structural changes.[2] Protocol 9 to the European Convention

1 According to the International Judicial Bodies Taxonomic Timeline provided by Romano et al. (2014), the most productive international judicial bodies are: the Court of Justice of the European Union and European Court of Human Rights (both on the first place); the Andean Tribunal of Justice (second place); the Common Court of Justice and Arbitration of the Organization for the Harmonization of Business Law in Africa (third place); and the Court of Bosnia and Herzegovina War Crimes Chamber (fourth place).

2 In addition to these declarations, two additional protocols to the European Convention were introduced in the last decade. The Committee of Ministers adopted Protocol 15 and Protocol 16, which were opened for signature on 24 June 2013 and 2 October 2013 respectively. Protocol 15 sets out changes to streamline the Court procedures, and Protocol 16 enables national courts to seek advisory opinions from the Court. While Protocol 15 has not yet entered into force, Protocol 16 came into force on 1 August 2018, in respect of 15 member states that ratified it (Albania, Andorra,

on Human Rights, which entered into force in 1994, granted individuals and civil society organizations the right of standing before the Court (*locus standi*). Protocol 11 came into force four years later and created the design of the European human rights system as we know it today. It abolished the European Commission of Human Rights—which served as a quasi-judicial filtering mechanism—and the part-time European Court. It created the new, full-time, European Court to which individual applicants had direct access. Then, in 2010, Protocol 14 modified the internal organization of the European Court (Annual Report 2011—ECtHR 2012). It launched two new filtering mechanisms to streamline the case processing procedure: (i) single-judge formations in charge of giving admissibility decisions; and (ii) committees of three judges that decide on admissibility and merits of repetitive claims.[3]

These changes were much needed to tackle the increasing caseload. The steady growth in the number of applications started in the 1980s and escalated after the cold war, when formerly communist states became members of the Council of Europe and were included in the system (also known as the eastward expansion) (Christoffersen and Madsen 2011: 3). The number of applications rose from 404 in 1981 to 4,750 in 1997 (Schlüter 2006: 40), and to 63,350 in 2017 (Analysis of Statistics 2017—ECtHR 2018).

The second wave of reforms, which started in 2010, has focused on finding solutions for the apparently insurmountable caseload problem. Compared to the first wave, it has been less formalized. It has primarily relied on soft law instruments, namely non-binding declarations issued after the high-level conferences. These declarations were drafted in a way to serve as road maps to improve the European system. What is striking about these declarations is that they also gave the member states the opportunity to express their vision for the European Court and the extent of its functions. That is, they were not merely composed of practical measures devised to address the backlog of cases. Rather, they contained guidelines about the how the European Court should behave.

These high-level conferences were organized at the initiative of the Swiss, Turkish, British, Belgium, and Danish Chairmanships of the Council of Europe, respectively. These governments not only spearheaded the conversations around reforming the European Court but also provided draft declarations and shaped the contents to be discussed. Indeed, these reform proposals reflected these governments' visions for the Court. For example, the first of these, the Interlaken Declaration, identified the backlog and the unenforced judgements as threats to the system's efficiency (Interlaken Declaration—Council of Europe 2010). The Izmir Declaration, issued the following year, underlined that national authorities should take on larger responsibilities to protect rights at the national level. This would prevent the Court from being overwhelmed with applications when serving as a supranational supervisory body—also known as the subsidiarity principle (Izmir Declaration—Council of Europe

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Armenia, Estonia, Finland, France, Georgia, Greece, Lithuania, Luxembourg, Netherlands, San Marino, Slovak Republic, Slovenia and Ukraine).

3 In addition, there are chambers of seven judges that decide on the admissibility and merits of the (non-repetitive) cases and grand chambers of 17 judges that serve as an appeal mechanism and take over the relinquished or referred cases (Rules of Court—ECtHR 2018b).

2011). This message was repeated in the Brighton Declaration. The member states invited the Court 'to give great prominence' to the principles of subsidiarity and margin of appreciation and apply them consistently (Brighton Declaration—Council of Europe 2012). Both of these principles mean that the Court should show deference to the national authorities with respect to protecting rights and providing remedies at the domestic level.

The Brighton Declaration was a turning point in the history of the European Court (Madsen 2018). Thereafter began 'the age of subsidiarity' according to some (Spano 2014, 2018).[4] The Brussels and Copenhagen Declarations only amplified this message. The Brussels Declaration 'invite[d] the Court to remain vigilant in upholding the States Parties' margin of appreciation' (Brussels Declaration—Council of Europe 2015), while the Copenhagen Declaration called for 'an effective, focused, and balanced Convention System' (Copenhagen Declaration—Council of Europe 2018). The latter underscored the importance of shared responsibility between the national authorities and the supranational supervision mechanism. In this regard, the national authorities would have a larger role in protecting rights, and in providing preventive measures and effective remedies.

The Brighton and Copenhagen Declarations, in particular, audaciously ventured into prescribing how the European Court should operate. In this regard, they were driven by the discontent of the organizers of these two high-level conferences: the UK and Denmark (Glas 2020). The UK's reform vision channelled the policies of the Conservative government and carried a strong anti-immigration flavour (see e.g. O'Meara 2015). David Cameron, then the UK Prime Minister, announced the reform news at the Parliamentary Assembly of the Council of Europe by stating 'the time is right to ask some serious questions about how the Court is working'. He then added that the Court should not 'see itself as an immigration tribunal … [and] undermine its own reputation by going over national decisions where it does not need to' (UK Government 2012). The Danish government shared a similar concern about immigration and deportation cases. Lars Løkke Rasmussen, then Danish Prime Minister, stated that 'in Denmark … we have a critical debate about the expansive interpretation by the European Court of Human Rights, in particular on the question of the deportation of foreign criminals. It does not resonate with the general public understanding of human rights when hardcore criminals cannot be deported' (quoted in Hartmann 2017).

Such sentiments were by no means limited to the UK and Denmark. They found strong resonance in Switzerland and Russia, for example. The Swiss People's Party (a right-wing populist party that received the most votes in the 2019 federal election) depicts the European Court as a threat to the Swiss legal order (Altwicker 2016: 395). This harsh reaction is fuelled by the party's fear of a ruling by the European Court against some of its popular initiatives such as banning the construction of minarets and deporting criminals (ibid: 400). The party attempted to bypass the Court by putting forward a proposal that would put domestic law above international law. Yet this initiative was rejected by the Swiss people in a national referendum on 25 November 2018 (Revil 2018). Russia, on the other hand,

4 This term was coined by Judge Robert Spano, who is currently serving as a judge at the European Court of Human Rights.

successfully established the Russian Constitution's supremacy over the European Convention. In a 2015 judgment, the Russian Constitutional Court granted itself the right to review the conformity of European Court judgments with the Russian Constitution (Matta and Mazmanyan 2016: 481). This move was to counter what the Russian President, Vladimir Putin, viewed as 'politicization' of European Court decisions, and perceived discrimination against Russia (ibid: 496).[5]

These overlapping grievances felt by the European Court's long-time allies such as the UK, Denmark, and Switzerland as well as newcomers like Russia culminated in the second-wave reforms. They have shaped the content of these reform proposals. Moving beyond initiating structural changes, the second-wave reforms brought out existential questions about the proper role of the Court and the limits of its functions.

Inter-American human rights system

The Inter-American system underwent a recent institutional review process, which also unfolded in two phases. The first happened between 2011 and 2013 under the 'Working Group on the Functioning of the Inter-American Commission on Human Rights to Strengthen the Inter-American Human Rights System', a task force created by the Organization of American States (OAS). Rather than a push for modernization, this process was driven by a particular combination of political forces and interests in the region that questioned the Inter-American Commission's roles and outreach. It was not the first time. Different states have tried to limit the Inter-American human rights system's competence and powers in order to retaliate against their decisions or undercut their influence. These were often sporadic attempts which could not gather a unified front. However, this time, a particular development helped rally several dissatisfied states around a single cause: Brazil's fervent criticisms against the precautionary measures issued in the Belo Monte Dam case and its campaign to gather opposition against the Inter-American system. This set off a domino effect. States felt at ease following suit and coming together to prompt a formal reform process.

Ecuador, Nicaragua, Venezuela, Bolivia, Colombia, Peru, and Brazil recommended measures to reform the Commission. Some of them targeted the Commission's most powerful tools, such as investigations, reports, and the ability to issue precautionary measures against states—which states like Brazil considered too intrusive. They suggested, for example, that the Commission prioritize promotional activities over carrying out investigations, and severely reduce the numbers of precautionary measures issued. Other recommendations envisioned an even more radical turn for the Inter-American system, such as moving the Commission headquarters away from the United States or dissolving the body (Cambiaghi and Vannuchi 2013; Ramanzini 2017; Cerqueira 2018).

In 2012, the Permanent Council of the OAS approved the Working Group report with 53 recommendations to the Commission. This report primarily reflected the vision and demands of the group of dissatisfied states. While states' interests were at the centre of the discussions, their obligations toward the Inter-American system were ignored. The

5 Political crises such as the wars with Ukraine and with Georgia and the annexation of Crimea led to a sour relationship between the Council of Europe members and isolated Russia.

improvement of states' compliance record, or their financial contributions towards the system, were left aside.

The Commission was vocal in its disagreement. It stressed that these demands would undermine victims' interests. Moreover, it formed a coalition with a network of NGOs to counter the opposition in key states like Brazil.[6] The Commission and its allies participated in all Working Group meetings. They held public hearings and forums in more than a dozen countries across the continent to get users and supporters of the Inter-American system involved in their cause. Those meetings mobilized hundreds of civil society organizations in favour of the continuation of the Commission.[7] This united stand stopped the states from making radical proposals such as relocating or dissolving the Commission. This favourable ending could not silence dissatisfied states' criticisms and threats of financial retaliation. But it showed the importance of establishing a dialogue among the states, the Inter-American system, and its users.

The second phase of the institutional reflection took place against the backdrop of a financial crisis. Some of the states withdrew financial support in 2016. Underfunded and understaffed, the system was under the risk of collapse. However, the same network that unified pro-Inter-American system voices during the controversial reflection process in the early 2010s campaigned for a budget increase and donations from countries outside the region. Having thus secured funding, the network also galvanized support for opening a more institutionalized channel to exercise dialogue, namely the Forum.

The second phase of institutional reflection started in 2017 with the inaugural meeting of the Forum of the Inter-American Human Rights System in Washington, DC. This initiative fostered its very own process of contemplating the Inter-American system's future. This is different from any other reform attempt. It is innovative in its openness. The Forum plans to hold a series of annual meetings that brings member states together and allows them to have an open discussion before a broad audience.[8] It also promotes public evaluation, which may be considered when reforming the Inter-American system in the future.

2. Similar challenges

Leaving aside the contextual differences, we observe that the challenges affecting these regional human rights regimes appear to be similar. Let us start with **effectiveness**. There is a

6 The coalition comprised the following NGOs: Center for the Study of Law, Justice and Society (Dejusticia), Colombia; Centro de Estudios Legales y Sociales (CELS), Argentina; Institute for Legal Defense (IDL), Peru; Due Process of Law Foundation (DPLF), United States; and Fundar, Mexico.

7 For example, in January 2012, after the Permanent Council's approval of the Working Group's recommendations, more than 90 NGOs signed a communiqué, criticizing the recommendations and demanding an open space for dialogue. On 28 March 2012 the International Coalition of Organizations for Human Rights in the Americas—representing more than 700 civil society organizations—expressed its opposition in a public hearing before the Commission (IACHR 2013).

8 The second Forum took place in Bogotá, Colombia. It was jointly organized by the Inter-American Commission on Human Rights, the Inter-American Court, the OAS, the Organization of Ibero-American States (OEI), and the Attorney General of Colombia.

genuine concern over whether these international bodies can improve human rights at the national level. However, judging effectiveness based on this might not be fair. Indeed, the protracted human rights problems in the region may result from a variety of factors. The real culprit could be poorly functioning domestic remedy systems, systemic inequality putting certain groups at disadvantage, or lack of financial resources to ameliorate conditions of state-run facilities. It would be unreasonable to assume that the international human rights regimes will single-handedly solve all these problems. A more realistic and rigorous criterion to assess effectiveness would be whether decisions handed down by these institutions are complied with.

The **compliance problem** in the European system seems less drastic than the one in the Inter-American system. This is mostly because the majority of European Court judgments award monetary compensation, and very few of them require structural changes. This means compliance with European Court decisions is mainly a matter of states providing financial compensation to the victims (Yildiz 2015).[9] Notwithstanding, the record of compliance has improved, especially following the second wave of reforms. The Department for the Execution of Judgments—a political body within the Committee of Ministers of the Council of Europe tasked with supervision of the implementation of judgments—reported 3,691 cases closed in 2017, which represents 30 per cent more than the previous year (Committee of Ministers of the Council of Europe 2018). The report also called on national authorities to introduce effective domestic remedies to tackle the compliance problem—an idea reiterated in the recent Copenhagen Declaration (Council of Europe 2018: paras 19–25).

In the Inter-American system, the compliance problem has been more pronounced. States have been fully rejecting or only partly complying with the decisions (Hawkins and Jacoby 2010). Full rejection generally signals that a state no longer supports the Inter-American system (for example Venezuela). Partial compliance is due to a general difficulty in fulfilling orders that require more than financial compensation. When prescribing reparations, the Inter-American bodies take an integral and holistic approach. Award decisions often concern not only the victims at issue, but society at large. Hence, one single decision may comprise multiple orders, some directed to the victims (such as financial reparation, public apologies, honouring the memory of victims, and revoking domestic decisions), while others are directed to the society (for example, adapting domestic legislation, training public officials, and introducing public policies and programmes). The compliance problem in the Inter-American system is due to the expansive nature of reparations that require more state engagement. This problem was thoroughly discussed at the Forum of the Inter-American Human Rights System (2017). Half of the Forum's agenda was dedicated to issues such as fostering friendly settlements and implementation of judgments, and exchanging good practices in this regard.

9 The pilot judgment procedure is a notable exception, however. This procedure is applied to repetitive cases. When the European Court applies this procedure, it may prescribe more substantive measures in order to address structural problems giving rise to such claims, which sometimes leads to further delays in implementation.

A similar challenge is **efficiency**. This could mean carrying out tasks or discharging duties and responsibilities in a reasonable time frame. There is a common understanding that human rights require immediate action. Delays in rectifying the harm done to the victims may itself constitute a form of violation. Both regional human rights regimes work on the basis of the individual petition system. In 2017 alone, the Inter-American Commission received 2,494 petitions (IACHR 2017), while the European Court received 63,350 (ECtHR 2018a). This absolute number gives just minimal evidence of their workload. This trend of ever-growing caseloads has been putting a strain on them both in recent decades. This development is not entirely surprising. As the Inter-American and the European systems got more recognition, they began to receive more petitions. What is problematic is that the financial resources allocated to these systems did not match this growth. The number of staff members remained virtually the same. Without substantial additional funds and resources, their ability to process cases is likely to be further debilitated. There is therefore a possibility of procedural delays, which could mean that both the European Court and the Inter-American system may themselves be aggravating violations.

Therefore, efficiency is directly linked to **the caseload problem**. The European system has been carrying this burden since the 1990s, when the number of applications escalated following the eastward expansion. Most of the first and second waves of reforms attempted to streamline the case processing procedures. One of the most controversial reforms was the single-judge formations, whereby a single judge decides the admissibility of applications and rejects cases without giving substantive reasoning. This speeded up processing times for cases that are identified as being easy to discard, otherwise known as manifestly ill-founded applications. Yet it did not help with the volume of more complicated cases. The Copenhagen Declaration touched upon this point. It encouraged the European Court to develop innovative working methods to ease the burden, such as reviewing ‘straightforward applications under a simplified procedure’. It also invited national authorities to second temporary judges, prosecutors, or other legal experts to the Court (Copenhagen Declaration—Council of Europe 2018: paras 42–54). It remains to be seen how introducing more simplified procedures for complex cases and giving authority to seconded officials will affect the consistency and neutrality of legal decisions.

Although there are fewer cases reaching the Inter-American system, the caseload still figures as an analogous problem. The demand for the Inter-American system has been steadily increasing over the years. While budget and human resource constraints reduce the system’s ability to respond in a timely fashion, the Inter-American system has used existing resources to tackle the backlog. The Inter-American Commission created specialized case dockets, organized legal teams as processing units, joined similar cases, and improved archiving policy, among other things. All of these changes were introduced to streamline case processing. Applying these measures, the Commission doubled the number of merits decisions and tripled the number of decisions on admissibility of cases in 2017 (IACHR 2017). The Forum also dedicated part of its agenda to the promotion of friendly settlement agreements, whereby parties reach a resolution themselves through dialogue.

Finally, **identity** matters too, especially when it comes to understanding how these systems maintain and advance human rights ideals. The perception of an actor's role defines the limits or nature of its actions. In the case of the European Court, the 'subsidiary body role' means that the Court should defer to national authorities. The 'supranational body role' on the other and, gives the Court more room to manoeuvre to set Europe-wide standards. In the case of the Inter-American system, the 'complementary body role' implies the Inter-American Commission and Court share responsibilities with national authorities when safeguarding rights, and step in when domestic law fails to protect rights. They should not see themselves as supranational bodies that can revise or overturn domestic decisions. However, this narrow definition may not be sufficient to capture the range of roles and functions the Inter-American Court and Commission assume. Having adopted new practices and tasks—including monitoring implementation, and outreach campaigns—the Inter-American Commission and Court showed that their functions will not be limited to this circumscribed role.

The **role problem** touches on a thorny subject: how should these courts function? The most recent reforms ventured into describing the appropriate role for the European Court of Human Rights. In particular, the Brighton and Copenhagen Declarations portrayed a renewed vision and emphasized two principles directly related to the Court's powers: more subsidiarity and more margin of appreciation. The principle of subsidiarity implies that national authorities have a greater responsibility in safeguarding rights and offering remedies (Christoffersen 2009). The European Court's role in this regard is supplementary and limited to providing external review. Similarly, the doctrine of margin of appreciation grants the national authorities the discretion to identify the appropriate measures to be implemented. (Greer 2000). Member states' insistence on bringing up these two principles for discussion at the high-level conferences has been interpreted as an appeal to 'persuade the Court to take a more state-friendly position in its case law' (Arnardóttir 2018: 3).

Moreover, in the Copenhagen Declaration, the member states clearly identified the European Court's role as 'authoritatively interpret[ing] the Convention … in particular, in the light of the Vienna Convention on the Law of Treaties, giving appropriate consideration to present-day conditions' (Copenhagen Declaration—Council of Europe 2018: para. 26). It is rather telling that the member states show preference for an interpretive method based on textualism. This method is considered to be more conservative than, for example, 'the living instrument principle' developed by the Court itself in *Tyrer v. UK* (that is, that rights should be interpreted in light of present-day conditions).[10] Despite sounding like a technical suggestion, this plea to be more conservative and more loyal to the treaty text effectively curtails the European Court's autonomy. Paying heed to the member states' concerns, the Court may become timid and refrain from issuing judgments with wider policy implications (Yildiz, 2020).

In the Inter-American case, the Commission and Court have expanded their own mandates. For instance, the Commission broadly interpreted the American Convention and

[10] Details of cases mentioned in this paper are listed at the end, after the References list.

took on the responsibility of promoting and protecting rights in the late 1960s (Ramanzini 2017). As for the Court, in order to overcome the historic resistance to international law among Latin American judiciaries, it acted slowly and cautiously. While in the earlier period it professed that its mandate would not include reviewing domestic decisions (Engstrom 2017), in the mid-2000s it introduced the 'conventionality control' doctrine. According to this novel idea, national judges should carry out review in the light of the American Convention and the Inter-American jurisprudence (see e.g. *Myrna Mack v. Guatemala* and *Almonacid v. Chile*). Some interpreted it as a move to impose the supremacy of international law. Others saw it as an opportunity to discuss the application of Inter-American jurisprudence in the domestic realm (Gonzalez-Ocantos 2018).

During the institutional reflection processes both the Commission and Court played a pivotal role in keeping the diverse roles they have accumulated over the years. Beyond reviewing cases and issuing decisions, today the Commission and the Court discharge multiple functions as proponents of institutional innovation, investigators, mediators, negotiators, and supervisors of their own decisions. These diverse roles allowed the Inter-American system to reach out to a broader audience, which is likely to increase its effectiveness, efficiency, and relevance.

3. Improving dialogue: a common solution?

Both European and Inter-American institutional reform processes perceive improving dialogue as a tool to ensure a better future, and to find solutions for the challenges listed above. Nevertheless, they differ significantly on what this means. For the European system, dialogue stands for an internal discussion between the European Court and member states. The second wave of reforms has called for more coordination between the national and the supranational to help reduce caseload and improve implementation of judgments. In the Inter-American case, dialogue resembles a vivid conversation: it is external, open to a variety of actors beyond the Inter-American bodies and member states, such as NGOs, victims, intellectuals, social movements, and journalists.

Another important tool, which was not necessarily taken up in these reform processes, is the dialogue between the systems. Here lies an opportunity to learn from each other. Let us briefly explain. Today both regions are populated with countries that are democracies, aspiring democracies, and authoritarian regimes. Indeed, in the past, the European system was tasked with reviewing cases coming from well-functioning democracies. This context was suitable for the emergence of the doctrine of margin of appreciation—shorthand for more deference to national authorities. The Inter-American system, on the other hand, originally oversaw a body of authoritarian states. Instead of yielding to their will, both the Inter-American Court and the Commission took a more activist stand, and forged closer relations with civil society groups and victims. The situation today is somewhat different. Europe has known authoritarian states and Latin America more democratic ones than was the case in earlier years. As the political profile of these two regions is getting increasingly similar, this is an opportune moment for learning through an inter-regional dialogue. The Inter-American system could develop its own version of margin of appreciation—applicable at least to democracies like Chile, Uruguay, and Costa Rica, which according to Freedom House rank

above the majority of the 47 Council of Europe members with respect to protecting political rights and civil liberties (Follesdal 2017). Similarly, the European system could familiarize itself with forging better ties with other international institutions, civil society, and victims. This would increase the sources of support for the Court, and help stabilize the system in times of backlash.

4. Final remarks

This policy note takes stock of the recent institutional reform initiatives at the European and Inter-American human rights systems in a comparative way. In so doing, it examines how these institutions have attempted to respond to rising challenges in their political environments. These parallel processes may have been provoked by similar concerns, yet they have generated different outcomes. While one has sought to increase the Inter-American system's relevance, the other has ended up curtailing the European system's autonomy. Indeed, the Inter-American system took advantage of the Forum to create more opportunities for increasing its roles and outreach. The high-level conferences, on the other hand, provided an opportunity to prescribe a more circumscribed role for the European Court of Human Rights. While this adaptation process within each regime continues to unfold, it is not yet clear the extent to which the reforms will be substantial or ad hoc practices will be consolidated. Yet this comparative analysis of ongoing reform talks reveals crucial insights into the successful strategies and pitfalls that can accompany these analogous reform initiatives.

First, an important strategy that promises success is mutual learning. While the reform initiatives prescribed dialogue within the systems to tackle similar challenges, such as compliance, caseload, and role problems, we believe that dialogue between the systems could yield more effective solutions through mutual learning. The European system could familiarize itself with strategies for expanding the range and type of support it receives. The active support of international institutions, civil society groups, and victims could inject the European Court with more confidence to fend off the backlash coming from some of the member states. The Inter-American system, in its turn, could learn how to forge better ties with member states that have shown long-time support for the system by not only complying with its decisions but also providing structural support for the Forum's yearly sessions.

Second, the tale of recent reform initiatives at the European and Inter-American human rights systems also shows that perhaps an even more important lesson is for the member states. No matter what the form or scale of these reforms are, they have serious implications for how these systems see themselves and operate. Governments may be short-sighted when devising reform proposals, yet these proposals have a long-lasting impact on how human rights are enforced in these two regions. Human rights protection may be weakened when reform initiatives attempt to overpower these institutions or call on them to compromise on their core functions to appease states. Failing to understand the long-term impact of short-term policies is a dangerous route to be avoided, we believe, and the successful design and implementation of reforms hinges on this principle.

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