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THE PROTECTION OF HUMAN RIGHTS  
IN LATIN AMERICA

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LATIN-AMERICAN PARLIAMENT

PROTECTION OF HUMAN RIGHTS

IN LATIN AMERICA

1. The principle of human rights, as embodied in the Declaration of the Rights of Man and of the Citizen by the French National Assembly, figures in all the constitutions drawn up in the Latin-American States following their independence from Spain and Portugal. It is historically significant that, from the very beginning, the concept of the independent nation in the former colonies was linked with the ideal of a society based on respect for popular sovereignty and human rights.
2. At the same time, the independence movements possessed strong geographical and historical ties and attempted to join forces in a form of confederation. The most ambitious move in this direction was the convoking by Simon Bolivar of a General American Congress, which met in Panama in July 1826. This congress saw the signing of the Treaty of Union, Alliance and Confederation, which endorsed the principle of continental citizenship, guaranteeing equal rights and privileges to the citizens of the signatory countries. Under the terms of Article 27 of the Treaty, these countries (Mexico, Central America, Colombia and Peru) also undertook to seek ways of abolishing slave traffic and to punish traffickers, thereby bringing Latin America closer to recognition of the legal status of the individual.
3. During the nineteenth century the Latin-American republics repeatedly attempted, through conferences and treaties, to preserve a common bond of union and citizenship with equal rights and duties for all the citizens of these countries. The Conference on Private Law held in Montevideo in 1888-89 lent international support, for the first time, to an age-old right which had protected many people from the political violence of those years - that of diplomatic exile. The Inter-American Conferences of Havana (1928) and Montevideo (1933) confirmed this humanitarian principle, perhaps the most fundamental tenet of American international law. The Conference of Santiago (1923) recommended a review of civil legislation with a view to advancing the recognition of women's rights.
4. Further progress was made within the inter-American framework with the adoption at the Conference of Havana of a convention on the position of aliens.

The Inter-American Conference of Lima (1938) saw the adoption of a proposal explicitly referring to the protection of human rights. The same Conference also adopted declarations in support of women's rights and

special protection for the indigenous peoples.

5. The Conference of Mexico (1945) adopted Resolution XL proclaiming 'the support of the American republics for the principles embodied in international law safeguarding fundamental human rights' and declaring itself 'in favour of a system of international protection of those rights'. The Inter-American Legal Committee was instructed to draw up a preliminary draft declaration of human rights and duties.

6. The Inter-American Treaty of Reciprocal Assistance, signed in Rio de Janeiro in 1947, stated in its preamble that the regional community would move forward in peace 'and that peace is founded in justice and morality and, in consequence, in international recognition and protection of human rights and freedom for the essential well-being of the peoples, and on the effectiveness of democracy in ensuring justice and security at international level'.

7. The Inter-American Conference of Bogota in May 1948 adopted the American Declaration of Human Rights and Duties, which preceded by seven months the Universal Declaration of Human Rights adopted in Paris by the United Nations Assembly in December of the same year. The Bogota Conference also adopted the American International Charter on Social Safeguards and the Inter-American Convention on the granting of civil rights to women.

However, these were mere declarations of principle, as no provision was made for protection by an appropriate court. The IXth Conference recommended that a study be undertaken on the establishment and operation of an inter-American court for the protection of human rights.

8. The Xth Conference, held in Caracas in 1953 at a time when many Latin-American countries were ruled by dictatorships, gave little consideration to the problem of human rights and their protection. It did, however, confirm unreservedly the right of diplomatic exile.

9. The continent's political spectrum underwent a change in 1959, a year which marked a democratic revival. The Fifth Meeting of Consultation of Ministers for Foreign Affairs, held in Santiago in August 1959, adopted a resolution on human rights. The preamble to this resolution noted the progress made in this sphere in the United Nations and the Council of Europe. It ended with instructions to the Inter-American Juridical Committee to draw up a draft convention on human rights, and set up an Inter-American Commission responsible for promoting respect for these rights and composed of seven members, each individually selected from a list of three submitted by each government.

10. The Inter-American Juridical Committee submitted a draft largely based on the European Convention on Human Rights and covering economic and social rights as well as civil and political rights. This draft provided for the creation of an Inter-American Commission on Human Rights and a special court.

This Commission, composed of seven members, began operation in 1960, and in that same year made a positive contribution towards solving problems created by the governments of the time. It also went some way towards resolving conflicts in Haiti and other countries, although it failed to obtain permission to visit all the states concerned.

11. The Commission was formally recognized by the Extraordinary Inter-American Conference of Rio de Janeiro of 1965. The Conference of Buenos Aires of 1967 adopted the Buenos Aires Protocol, Articles 31 and 32 of which refer to ways of creating favourable conditions for the well-being and dignity of mankind. Article 112 confirms the creation of the Inter-American Commission on Human Rights, the main function of which would be to 'promote the respect and protection of human rights and to act as a consultative body of the Organization in this sphere'.

The same article lays down that an 'inter-American convention on human rights shall determine the structure, jurisdiction and procedure of this Commission, and of other bodies with responsibilities in this field'.

12. The following passages are taken from the book by the distinguished Colombian Parliamentarian and Senator, Dr Diego Uribe Vargas, entitled 'Human rights and the inter-American system':

'It may be concluded that Pan-Americanism and American international law - its expression in legal terms - have diverted attention away from the problems of mankind by increasing the number - but not the effectiveness - of protection procedures. This situation is compounded by the inflexible intergovernmental structure of OAS organs, composed solely of government representatives and excluding any direct participation by other sectors.'

Both the Pan-American conferences and the future General Assembly are or will be attended by personal representatives of political leaders who do not always represent the real wishes of their fellow citizens. The voice of many sectors of the population, who have frequently been crushed by despotic governments, has not yet been heard within the precincts of the continental assemblies .... future organizations are reserved for government representatives only. This is a consequence of the disregard for the international status of the individual .... The crisis which some people claim to exist within the continent's legal institutions has its root in this disregard for the

individual, and has emerged as a consequence of the rigidly intergovernmental structure of its institutions.

The creation of the Latin-American Parliament, to serve as a link between legislatures, represents a positive development for those of us who have pressed for the abandonment of the intergovernmental ties which have largely paralysed the continental mechanisms'.

13. This considerable evolution, the main aspects of which are described above, was taken a step further at the Special Conference on Human Rights, organized by the OAS in San José, Costa Rica, from 7 to 22 November, with the participation of eighteen American countries. This Conference adopted the American Convention on Human Rights, consisting of a preamble and 82 articles.

The first part of the Convention provided for the following: the individual's right to recognition as a person before the law, the right to life, the right to personal integrity, the prohibition of slavery and servitude, the right of personal freedom and security, the rights to legal safeguards, respect and dignity, freedom of conscience and religion, freedom of thought and expression, freedom of association, the right to protection of the family and to marry the person of one's choice, to choose one's own name, the right of nationality, the right of private property, freedom of movement and residence, the right to vote and stand for office at free elections, held at fixed intervals, by universal and equal suffrage and by secret ballot and the right to legal protection.

The second part, devoted to 'means of protection', refers to the two bodies responsible for enforcing the Convention - the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.

The terms of reference and powers of these institutions are similar to those of the bodies set up under the European Convention of Rome. However, it has been emphasized that, in some cases, they possess more effective instruments, such as Article 62, which empowers the Court to take temporary measures in particularly serious and urgent cases.

Taken as a whole, despite observations which have been made concerning the omission of economic, cultural and social rights, the Inter-American Convention represents an extremely important development for the protection and respect of human rights on the American continent.

14. Eight years after its adoption in San José de Costa Rica, the Convention has regrettably been signed only by the Governments of Colombia, Costa Rica, Chile, Ecuador, El Salvador, Honduras, Nicaragua, Panama, Paraguay, Uruguay and Venezuela. On 10 June 1977 the President of the United States,

James E. Carter, signed the Convention on behalf of the USA at the OAS's headquarters in Washington, and underlined its importance by declaring that he had added his signature 'in a year of concern for human rights'.

Pursuant to Article 74 of the Convention, it must be ratified by eleven nations before it can enter into force. The only countries to have ratified it so far are Costa Rica and Colombia.

15. It is clearly possible and necessary to ensure effective protection of human rights in all our countries within the framework of the Inter-American Convention. To ensure its observance, parliamentarians of each state, together with Members of the Latin-American Parliament, must exert pressure on their respective governments to secure its ratification as soon as possible. Furthermore, parliamentarians must inform their respective governments that their National Assemblies and Congresses, representing the legislative power, are ready to ratify the Convention forthwith.

16. At its VIIIth Assembly held in Curaçao in 1977 the Latin-American Parliament decided to set up from among its Members an Interim Committee on Human Rights, to be composed of legislators designated by the Parliaments of each of the countries represented. This Committee should exert strong moral pressure, and the Latin-American Court of Human Rights is expected to occupy a leading position among the organs of the future Latin-American Economic Community.

17. Efforts are currently being made to secure international legal protection of human rights, and to stimulate awareness of their importance through mobilization of public opinion, through declarations by political parties and through the mass media. It is believed that the collaboration of the European Parliament and each of its Members will be of inestimable value in achieving the desired objective, given the numerous occasions on which this prestigious organization has made its influence felt.

#### C O N C L U S I O N S

The following conclusions may be drawn from the above:

- (1) The Latin-American countries have manifested an historical vocation for freedom and respect for human rights. Their national ideal has always been identified with the democratic ideal.
- (2) This deep concern for human rights has been reflected in international agreements since the beginning of the nineteenth century, and in agreements establishing continental citizenship and outlawing slavery.

(3) The political reality of the Latin-American republics has frequently obstructed the exercise of human rights, as despotic governments and dictatorships have violated these rights on countless occasions, in some cases over extremely long periods.

(4) Since the beginning of the Pan-American system in 1889, most multilateral agreements have been concluded at continental level and are thus not strictly Latin-American.

(5) Within the framework of Pan-Americanism, certain principles were gradually established relating to the protection of human rights. This trend was accentuated after the Second World War, one of its most significant expressions being the American Declaration of Human Rights and Duties of May 1948.

(6) Clearly influenced by the Universal Declaration of Human Rights adopted by the United Nations in Paris in December 1948 and the European Convention on Human Rights, the continental regional organization adopted an Inter-American Convention on Human Rights setting up a Commission and a Court for the protection of these rights.

(7) At its VIIIth Ordinary Assembly the Latin-American Parliament decided to set up, on a provisional basis, a Committee on Human Rights. This Committee, which will mainly exercise a moral influence, will be a forerunner of the Latin-American Court of Human Rights, which will be set up immediately following the consolidation of the Latin-American Economic Community under a multi-lateral treaty.

(8) Ever since its foundation, the Latin-American Parliament has come out strongly in favour of the full respect of human rights in the sub-continent. It believes that similar action by the European Parliament will contribute significantly towards achieving this objective in those countries where human rights are disregarded or violated.



