

Burgorgue-Larsen, Laurence y Úbeda de Torres, Amaya, *The Inter-American Court of Human Rights. Case Law and Commentary*, Oxford, Oxford University Press, 2011, 886 pp.

The book titled *The Inter-American Court of Human Rights. Case Law and Commentary*, is one of the most complete *oeuvres* done in the human rights field in the English language. Laurence Burgorgue-Larsen, a Professor of Public Law at the Université Paris I Panthéon-Sorbonne, and Amaya Úbeda de Torres, a Legal Specialist for the Venice Commission, have joined their efforts to introduce to the English-speaking world one of the most passionate subjects that is yet to be discovered to its largest extent: the evolution of the Inter-American Court of Human Rights, and more importantly, its innovative jurisprudence.

Most English-speaking countries in the American continent do not currently accept the contentious jurisdiction of the Court; as well, Europe has largely focused on the development of its own institutions and jurisprudence. Therefore, this work is definitely a major contribution to the human rights field at an international level, which will be considerably interesting for scholars and practitioners.

With a foreword by Sergio García Ramírez, former President of the Inter-American Court of Human Rights and a renowned human rights scholar of the Institute for Legal Research of the UNAM, the work of Burgorgue-Larsen and Úbeda de Torres is divided in two parts, containing twenty-seven chapters. The first part deals with the procedural guarantees established by the Court, while the second part discusses some of the substantive guarantees that have been enforced by the American Convention on Human Rights.

The first eleven chapters treat the subject of the procedural guarantees. Therefore, the authors focus on the procedures that take place

before the Court, discussing in the first place the contentious jurisdiction. The first two chapters are about the characteristics of that jurisdiction, pointing out its main ubiquities—which make it very different from the European Human Rights System—, such as the possibility to add several limits to the jurisdiction, the possibility to opt out of the contentious regime of the Court, or the impossibility of individuals to bring cases to the Court by themselves—instead, the cases are brought by the Inter-American Commission of Human Rights, which acts as a filter for the Court. Chapter three, on its behalf, discusses the jurisdiction *ratione materiae* of the Court, which includes not just the American Convention on Human Rights, but also other conventions of the Inter-American system, or even international conventions dealing with human rights, international law or humanitarian law.

The Court also holds an advisory jurisdiction, which is examined in the fourth chapter, detailing the way the organs of the Organization of American States, or the States themselves, request an advisory opinion from the Court. This power of the Court has been criticized and rejected by some of its judges, namely by Judge Oliver Jackman, who mentioned in a particular case the impertinence of allowing the Court to spend its time in ‘purely academic speculation’.<sup>1</sup>

Chapters five and six center on the victims and the exhaustion of domestic remedies as an obligation to bring a case before the Court. In the victims’ chapter, the different types of victims are mentioned, being them the direct, indirect and multiple victims, which in several cases have appeared (such as *Campo Algodonero v. Mexico*, *Niños de la Calle v. Guatemala*, among others; in both cases, the direct victims had died and the claimants—indirect victims—were their relatives). On the exhaustion of remedies, the authors mention the abuse in the use of this rule by the States, and the interpretation the Court has given to this matter by determining what constitutes an adequate and effective remedy—therefore imposing a limit on the States’ abuse of this preliminary exception.

<sup>1</sup> Corte IDH. Condición Jurídica y Derechos Humanos del Niño. Opinión Consultiva OC-17/02 del 28 de agosto de 2002. Serie A No. 17. Dissenting Opinion of Judge Oliver Jackman.

The following procedural chapters treat the powers of the Court, both to interpret and revise its judgments, and to monitor their compliance by the States; the right the Court has to order provisional measures, so that the damages do not become irreparable –a power shared by the Commission; the determination of reparations, in which the Court has innovated by introducing the legal figure of the ‘damage to the life project’, while maintaining the economic and moral reparation schemes; and lastly, one of the most important subjects in the field, the *ad intra* enforcement of the American Convention of Human Rights, which through article two compromises the State parties to modify their legislation in order to comply with the dispositions established in the regional instrument.

Part two, on its behalf, discusses some of the substantial rules that are contained in the American Convention on Human Rights. Therefore, the chapters contain discussions and explanations on several subjects, such as the right to life and the death penalty, enforced disappearances and extrajudicial executions (which are some of the subjects in which the Inter-American System has developed a case law of international importance, that is used by several UN working groups and organs), or the right to personal integrity –in which torture and other punishments are discussed, including the elements that compose and define each conduct.

As well, the rights of several groups of people are analyzed, such as children’s rights (focusing on the international legal personality of the child), women’s rights (including the application of the Convention of Belém do Pará regarding the prevention, sanction and eradication of violence against women), workers’ rights (including national and migrant workers, a subject for which the Court rendered an advisory opinion by Mexico’s request), the rights of detainees (including the negative and positive obligations of the State) and of indigenous people, one of the subjects in which the Court is a global authority.

To finalize the review of the rights contained under the Convention, Burgorgue-Larsen and Úbeda de Torres touch some classic subjects and their application and interpretation by the Inter-American System, such as the right to freedom of thought and expression, to nationality, poli-

tical rights, economic and social rights, the right to due process, to an effective remedy, and lastly, the right to the truth.

It is worth mentioning that each chapter begins with the inclusion of an extract from a notorious case brought before the Inter-American Court of Human Rights, while the insightful and expert analysis that follows includes a deep immersion in the case law of the Inter-American System, with several references to legal scholarship, national legislation, international human rights instruments, European Human Rights case law or the jurisprudence of international tribunals, such as the International Court of Justice or the International Criminal Tribunal for the former Yugoslavia.

An outstanding volume, *The Inter-American Court of Human Rights. Case Law and Commentary* is a much needed and welcomed addition in the English language regarding the development of a deeply interesting system of protection of human rights, one that deals with the peculiarities of the Latin-American subcontinent, and with the work of a Court that advocates for the protection and evolution of the human rights field in the region.

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