

## **Dilemmas and Lessons of Transitional Justice in Latin America: Judicial Response of Inter-American Court of Human Rights**

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### **Abstract**

Most new democratic governments in the Latin American region were required to deal with the human rights violations committed by past authoritarian/military regimes after shifts from war to peace or from an authoritarian regime to democracy. Numerous transitional justice mechanisms were adopted by these governments within the context of these transitions and post-conflict settings. The prevalence of impunity and the incapacity of judicial institutions, however, often impede the new administrations' capacity to tackle grave human rights violations such as torture, forced disappearance, extra-legal executions or murders. Hence, the victims and their families eventually bring their cases to the Inter-American Human Rights System to seek judicial resolutions.

Against this background, this paper addresses the following three issues: (1) the ways in which the Inter-American Court of Human Rights deals with cases of genocide, forced disappearances, extra-judicial executions, and torture, (2) the impacts of these court decisions on the domestic government in Latin America and the countries in other regions, and (3) the factors that trigger the court to preside over such cases. This paper argues that there are three primary features produced by the court's decisions. The first feature is recognition and expansion of state responsibility. The second feature is domestic amnesty laws in violation of the American Convention on Human Rights. The third feature is guarantee of the right to remedy and right to truth for the victims. The decisions of the Inter-American Court of Human Rights have a huge impact on Latin American

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countries. Particularly, these decisions have triggered several domestic constitutional courts to invalidate existing amnesty laws. This paper argues that the independence and fairness of the Inter-American Commission of Human Rights and Inter-American Court of Human Rights, the influence of international human rights norms and the rise and mobilization of international human rights advocacy are the main factors that facilitate an active response by the Inter-American Court of Human Rights regarding cases of transitional justice.

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