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# Assessing the record of the Inter-American Court of Human Rights in Latin America's rural conflict zones (1979–2016)

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## ABSTRACT

Analysing the jurisprudence of the Inter-American Court of Human Rights highlights major problems of access to justice in rural Latin America. A majority of the cases ruled on by the Inter-American Court since its inception in 1979 concern violations of human rights in major urban centres. This despite the fact that the worst human rights violations committed in Latin America in recent decades have targeted rural populations. Under specific historical conditions, some rural victims and their advocates have successfully brought their cases to the Inter-American Court. Notably, most of the Colombian cases adjudicated by the court have concerned events in rural conflict zones. In the case of Peru, the focus has been almost exclusively on events in the capital city, Lima. The stark contrast between Colombia and Peru points to a broader trend. Further research must be carried out to determine why, how and with what effect the rural victims of state-sponsored violence have sought international justice remedies, where these efforts have succeeded, and where they have foundered. Human rights mobilisation at the local level determines where Inter-American Court cases originate. This article considers the geographic distribution of cases brought before the Inter-American Court of Human Rights as a function of the strength of advocacy networks connecting rural and urban areas, and beyond, in relation to Latin American histories of dictatorship, counterinsurgency, and the evolution of the inter-American human rights system itself.

## KEYWORDS

Human rights; rural violence; armed conflict; social movements; international justice; Inter-American Court of Human Rights; Organisation of American States; Colombia; Peru

## Introduction

Arriving at the Nueva Vida settlement on the Cacarica River in Colombia's north-western frontier, visitors are greeted by a hand-painted sign stating that the community is 'Protected by Precautionary Measures of the Inter-American Commission on Human Rights'. Similar notices have been placed at the entrances to Curvaradó, Jiguamiandó and Caracolí, all self-declared 'humanitarian zones' established by, and for, internally displaced persons. Nueva Vida is part of a wider phenomenon of popular recolonisation that has been underway in the war-torn Urabá region since a military-led counterinsurgency sweep of the zone in 1997 under the code name Operation Genesis. Some of the displaced have chosen to take up permanent residence in the city. Many others have returned to

establish new footholds in their traditional territories, assertions of a spatial strategy of resistance, backed by Colombian and international law.<sup>1</sup> The boldness of this achievement is all the more astonishing considering that many of these settlements are accessible only by small watercraft capable of navigating narrow *caños*, or streams.<sup>2</sup>

Despite their apparent isolation, the residents of Nueva Vida have successfully engaged national and international organisations in strategies designed to protect themselves from attacks by military and paramilitary forces. The ongoing efforts of these rural activists have drawn international attention to the deficiencies of the Colombian justice system, and to the deeper challenges facing popular movements engaged in peacemaking and democratisation.<sup>3</sup> Since the late 1990s the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights have ordered that Colombia take urgent action to protect displaced communities dozens of times.<sup>4</sup> In a landmark 2013 decision, the Inter-American Court ruled that the Colombian state was responsible for the massive violation of human rights as a result of Operation Genesis.<sup>5</sup> The communities' physical presence in these conflict areas, supported by the Bogotá-based Inter-Church Commission for Justice and Peace, the José Alvear Restrepo Lawyers' Collective, as well as international solidarity organisations and the inter-American human rights system, has helped lay bare the architecture of state-sponsored repression.<sup>6</sup>

By providing encouragement to the victims of political violence, the advent of the Inter-American Court of Human Rights in 1979 opened new channels of social and political mobilisation.<sup>7</sup> But who exactly has made effective use of the Inter-American Court, and under what circumstances? As we shall see in the pages that follow, the Nueva Vida case is exceptional. The purpose of this article is not just to demonstrate what makes Nueva Vida exceptional, but that it is important to understand what makes it exceptional, and what we can learn from the Colombian experience about the work of rural activists in the face of political violence. There exists a serious justice deficit in rural Latin America that is reflected in the work of the Inter-American Court. The Inter-American Court has been mainly concerned with national politics, and the violation of civil and political rights in urban areas, often at the expense of rural zones. However, the record of the Inter-American Court reveals surprisingly varied outcomes in countries that have experienced protracted periods of rural violence. In this article, I focus on the cases of Colombia and Peru, where very different histories of internal armed conflict and human rights organising at the local and national levels have produced decidedly different outcomes in terms of Inter-American Court intervention.

The internal armed conflicts in Colombia and Peru were both devastating to civilian life. The Colombian conflict between leftist guerrillas and the state claimed an estimated 260,000 lives between 1958 and 2016.<sup>8</sup> The Peruvian conflict claimed an estimated 69,000 lives between 1980 and 2000.<sup>9</sup> Like Peru, Colombia is a country deeply divided by geography, and has a history of armed conflict mainly affecting the rural poor. Both countries experienced massive internal displacement wherein millions of mostly peasant farmers and indigenous communities were forced to abandon their land. In both cases, the civilian state has been historically weak outside the capital city, and this has given rise to fiercely independent forms of local politics. In both cases, rural victims and their advocates are also extremely vulnerable to threats.<sup>10</sup> Despite these parallels, human rights organising has evolved very differently in Colombia and Peru. In Colombia, rural movements collaborated with national and international organisations to bring cases to the Inter-American

Court. In Peru, no such dynamic emerged. The Peruvian highlands were the focus of intense conflict, and an important area of popular movement organising, yet have effectively remained beyond the reach of international justice.

This article looks at the relationship between human rights activism and the geographic distribution of cases adjudicated by the Inter-American Court of Human Rights. The first finding is that the court has intervened mainly in urban areas, and that this urban focus points to a global trend whereby most events in rural zones go unreported, uninvestigated, and unprosecuted.<sup>11</sup> Latin American states' failure to provide domestic legal remedies for rural victims has not been effectively addressed through international justice. But the overall record of the Inter-American Court is in fact mixed. My findings reveal that the Inter-American Court has had a significant impact in rural Colombia. To understand why this is the case requires an understanding of the history of the court itself, and its relationships with local activist organisations.

In the analysis of the Colombian and Peruvian cases that follows, I grapple with the understudied problem of the precariousness of human rights organising in rural conflict areas. As a backdrop to this analysis, I consider the history of the inter-American human rights system. I pay particular attention to the early on-site investigative work of the Inter-American Commission prior to the establishment of the court. As we shall see, the formation of direct relationships between local human rights advocates and the commission during the 1970s was a key factor in the determination of which types of cases were later taken up by the court. The preponderance of urban cases at the Inter-American Court is not surprising given the difficulties inherent in carrying out investigations in areas where judicial authority is ineffectual, or entirely absent. However, the weakness of the state alone does not account for the weakness of transnational human rights interventions outside of major cities in most of Latin America. Most studies of human rights organising in the region have focused on urban cases, and in particular on examples from Argentina and Chile.<sup>12</sup> Almost no research has been conducted on the institutional history of the Inter-American Court of Human Rights.<sup>13</sup> While there exists a strong and growing body of work that looks at the impact of the court's rulings across the region, there remains a need to historicise these processes.<sup>14</sup> This article is part of a larger effort in my research to study local human rights activist histories in Latin America, and how these connect to national and transnational dynamics within a larger global context.

This article employs quantitative and qualitative methods to map the ways in which the court has been used, by whom, and under what circumstances. I have chosen to focus on contentious cases because they represent the highest level of justice within the inter-American system. The Inter-American Commission on Human Rights refers cases to the court only after it has been demonstrated that all domestic remedies have been exhausted.<sup>15</sup> As such, any study of contentious cases encourages an analysis of events at the local and national levels. More than 200 contentious cases have been adjudicated by the court since 1979. This total represents only a small fraction of the thousands of complaints submitted by victims and their advocates to the commission. The decisions of the court are considered binding, and are not subject to appeal, and the court monitors its rulings, allowing for the long-term study of judicialisation processes. The article will refer to the data that I have gathered and organised into tables, included as appendices.<sup>16</sup> I collected these figures by reading through the complete jurisprudence of the Inter-American Court, as well as protective measures and country reports issued by the Inter-American

Commission. The article is divided into three sections. In the first, I consider the institutional history of the inter-American human rights system. This first section argues that the evolution of the inter-American human rights system has been tied to the history of grassroots human rights activism since the late 1970s, around the time of the establishment of the Inter-American Court itself. In the second, I consider the record of the court in Colombia and Peru. This section includes analyses of dynamics within specific regions that have been impacted by armed conflict, with divergent outcomes. I explore the possible reasons why the court has focused on events in Lima, before looking in greater depth at the Colombian experience. In the concluding section of this article I propose a new approach to studies of the international judicialisation of human rights and seek to understand how the history of human rights activism in Latin America's rural conflict zones has shaped, and been shaped by, the work of the Inter-American Court of Human Rights. Integrating in my historical approach local, national and transnational levels of analyses enables me to better conceptualise the development of case studies of the court's rulings. The contingencies within long-term judicial processes reveal important lessons on the workings of human rights activism in the Americas.<sup>17</sup>

## International justice in Latin America

To better understand why the Inter-American Court of Human Rights has such an uneven record of attention to victims in rural areas, it is important to consider the history of the inter-American human rights system as a whole. In its earliest days, the system focused on questions of civil and political rights in countries where US hegemony was at risk, first in Cuba and then in the Dominican Republic. The Inter-American Court itself was created by the Organisation of American States (OAS) at a time of deepening political crisis in Latin America. Between the passing of the American Convention on Human Rights in 1969 and the establishment of the Inter-American Court of Human Rights in 1979, most of the governments in Latin America fell under the control of right-wing dictators.<sup>18</sup> During this time human rights advocates in Latin America continued to work on fundamental civil and political liberties, now mainly in the Southern Cone. Working in tandem with the Inter-American Commission on Human Rights, and in collaboration with national human rights groups, the court helped to frame the long democratic transitions that unfolded in some parts of Latin America through the 1980s.<sup>19</sup> Yet in many areas of the region, this evolution would lag. Notwithstanding the advance of procedural democracy across the Southern Cone, other countries descended into periods of terrible violence, concentrated mainly in rural areas, accounting for a vast majority of the worst violations of human rights. Yet just 25% of the total contentious cases ruled on by the Inter-American Court concern events outside major cities (see [Table A2](#)). As we shall now see, the remarkable imbalance in rural versus urban cases is related to a long history of inter-American promotion of capitalist liberal democracy, linked to US interests.<sup>20</sup>

The early history of the inter-American human rights system responded to political imperatives, more than a commitment to defend human rights. This first phase runs from the founding of the OAS in 1948 through to the coup d'état in Chile in 1973. The American Declaration of the Rights and Duties of Man was endorsed in Bogotá, Colombia in 1948 by representatives of 21 countries at the Ninth International Conference of American States, the same meeting at which the OAS was launched, and the intention to

establish an Inter-American Court to Protect the Rights of Man was announced.<sup>21</sup> The Inter-American Commission on Human Rights was established in 1959, just a few months after the Cuban Revolution in which a small number of *guerrilleros* overthrew the dictatorship of Fulgencio Batista and challenged the power of the US in the region.<sup>22</sup> Cuba was the subject of the first two reports by the commission, both published in 1962. Half of the reports written by the commission in its first decade concerned the Castro regime's detention of its political opponents, written on the basis of interviews with Cuban exiles in the US. Another telling episode of the pull of pro-US and reactionary forces on the inter-Americans system is the fact that the first on-site investigative mission by the commission was undertaken in October 1961 to the Dominican Republic in the wake of the assassination of US client President Rafael Trujillo. The commission undertook three additional visits to the Dominican Republic in 1963, 1965 and 1966. The US invaded and occupied the island nation in April 1965 in support of forces opposed to the nationalist Dominican Revolutionary Party.<sup>23</sup> In its report published four months later, the commission catalogued human rights violations that had been committed by sectors of the military in support of Dominican Revolutionary Party President Juan Bosch, yet no mention was made of the US invasion.<sup>24</sup> Crimes committed during the rightist military coup in Brazil in 1964 were likewise ignored by the commission. Even through the 'years of lead' beginning in 1968, when Brazil's military murdered hundreds and detained thousands of activists, the commission remained silent.<sup>25</sup>

In the second phase of its work, beginning in 1973, the Inter-American Commission would become increasingly responsive to activists' denunciations of the rightist authoritarian turn in Latin America. With the coup d'état against the democratically elected left-wing government of Salvador Allende on 11 September 1973, the commission focused on Chile, as did social movement activists, faith groups and trade unions around the world.<sup>26</sup> Commission Executive Secretary Luis Reque travelled to Chile alone in October 1973 to meet officials of the military government. Following Reque's return to Washington, DC, the commission received a notice denouncing the presumed murder of President Allende's personal physician, Enrique París. When Chile failed to produce information on París' whereabouts, the commission asked for authorisation to undertake a full and official visit.<sup>27</sup> One year later, the commission sent a seven-person delegation to Santiago, where they met government officials, representatives of the International Committee of the Red Cross, and small groups of lawyers, the spouses of political detainees, and a few detainees themselves. Members of the commission spent two weeks in Santiago working from the centrally located Hotel Crillón. Dozens of Chilean citizens met with the commission at their temporary offices despite fears of being closely watched.<sup>28</sup> In the context of a severe crackdown by the military, there were few organised social movement or opposition activists available or willing to meet the commission in the country at that time. The commission travelled to Concepción in the south and Antofagasta in the north, but the meetings were all held in the capital. The Pinochet government would never again allow the commission to visit Chile, thus demonstrating its contempt for outside human rights monitoring. The commission would go on to write two more reports on Chile in 1976 and 1977 based on information received at OAS headquarters in Washington, DC.

Locally based non-governmental groups became essential interlocutors with the Inter-American Commission on Human Rights for the first time during its first visit to



Argentina in September 1979. The commission had resumed on-site investigations in 1977 with visits to Panama, El Salvador, Haiti and Nicaragua, where they met with government officials, as well as small numbers of civil society organisations and victims. In Argentina the commission conducted even more thorough investigations. This development pre-saged the new activism that would emerge in Colombia, Peru and elsewhere, whereby local non-governmental organisations began to use the inter-American system to corroborate and broadcast their claims. The Argentinian visit was precedent-setting in this regard.<sup>29</sup> Over a two-week period in 1979 commission officials met with Argentinian activists in a number of small regional centres and Buenos Aires. Members of the commission spoke with dictator Jorge Videla, as well as the Madres de la Plaza de Mayo and other rights groups, including the families of the disappeared from the provincial capital cities of Córdoba, Tucumán, Mendoza, Rosario and La Plata. Public and private hearings were held in addition to visits to detention centres, and by the end of their stay the commission had received 5,580 denunciations of human rights violations.<sup>30</sup> In the following years, the commission travelled widely across Latin America to speak to local groups about the consequences of dictatorship and armed conflict.<sup>31</sup> As human rights activism took hold in the region, a number of countries took steps to formally recognise the inter-American system. Through the first half of 1978 six countries ratified the American Convention on Human Rights, allowing for the formal establishment of the Inter-American Court.

The court's first president, Costa Rican diplomat Rodolfo Piza Escalante, acknowledged at the court's installation on 3 September 1979 that it would not be easy to overcome what he termed the social 'antagonisms' that continued to divide the peoples of the Americas.<sup>32</sup> Assistant OAS Secretary General Jorge Luis Zelaya Coronado also spoke at the ceremonies, and managed to avoid any mention of the fact that his native Guatemala was ruled by military dictatorship. Every speaker alluded to the serious challenges facing the region, without entering into specifics. At the time, Guatemala, Honduras, Argentina, Uruguay, Chile, Brazil, Haiti, Nicaragua, Paraguay and Bolivia were governed by dictatorship. Although Peru was about to hold general elections for the first time since the 1960s, the military maintained a strong presence in the countryside. At the same time, the Shining Path was preparing to launch its armed insurrection. Colombia was governed by a repressive legal regime known as the National Security Statute, which gave extraordinary powers to the army.<sup>33</sup> El Salvador fell under the control of the military one month after the installation of the court. Guatemala was about to descend into a period of genocidal violence waged by the military against the indigenous Mayan population. The Southern Cone dictatorships of Argentina, Chile, Brazil, Uruguay and Paraguay would only ratify the American Convention on Human Rights recognising the jurisdiction of the court following their transitions to democracy, beginning with Argentina in 1984.<sup>34</sup> The paradox of building a court for the protection of human rights at a time of political regression in Latin America appeared to one founding judge, Thomas Buergenthal, as something 'straight out of a García Márquez novel'.<sup>35</sup> During a month-long series of court planning meetings held in La Paz in late 1979, Buergenthal recalls meeting three different Bolivian presidents as one replaced another.

The court was slow to start its work, but grew to become an important player in regional human rights politics. During our wide-ranging conversation in San José, Costa Rica, the long-serving Secretary of the Court, Pablo Saavedra, observed that

‘when the Court was created, nobody believed it would have the importance that it has today’.<sup>36</sup> The court wrote a handful of advisory opinions beginning in 1981, heard its first cases in 1987, and delivered its first rulings in 1988, all of which pertained to cases of enforced disappearances in Honduras. By 1992 some 25 countries had ratified the American Convention, including all of Latin America except for Cuba. In its first two decades of work the court ruled on just 15 contentious cases. Between 1979 and 1989 the budget of the court varied between \$200,000 and \$300,000 per annum. Pressure on the court to respond to a growing number of claims continued during the decade that followed, and the budget was increased to \$1.2 million by 2000. A sharp uptick in contentious cases brought before the court has been seen in more recent years, and more than 90% of those cases have been decided since 2000 (see [Table A1](#)). In a short period of time, the inter-American human rights system has become a major factor in the way human rights advocacy is organised across Latin America.

The history of the inter-American human rights system reflects the OAS’s equivocal concern with the promotion of liberal democracy. Political stability has been a key underlying purpose of the Inter-American Commission on Human Rights since its inception in 1959 at the height of the Cold War.<sup>37</sup> The early activities of the commission were thus a reflection of US anxieties about the spread of communism. The push back against reactionary forces by grassroots activists in the 1970s then helped to change the modus operandi of the inter-American system. During visits to Chile in 1974 and Argentina in 1979, commission officials would experience the limitations and possibilities of undertaking on-site investigations. The Inter-American Court was born out of a long process of regional liberal capitalist consolidation that embraced human rights, albeit conditionally. In time the court would become responsive to demands from grassroots activists. As we shall now see, even with the input of local activists, there would be limits to what the court could achieve.

## Rural violence in comparative perspective

Conceived to address issues of civil and political rights, the Inter-American Court has had to consider more and more denunciations of state-sponsored violence committed in the context of armed conflicts. As of this writing conflict-affected countries account for more than double the total number of contentious cases from the Southern Cone, including Brazil (see [Table A2](#)).<sup>38</sup> The many other legal instruments used by the inter-American system reflect a similar tendency. Notably, the number of on-site visits realised by the commission to Colombia and Peru exceeds all other countries except Haiti.<sup>39</sup> Colombian and Peruvian human rights defenders have also been the frequent subjects of urgent protective actions on the part of both the commission and the court, known respectively as precautionary and provisional measures (see [Table A5](#)). Taken together, conflict-affected countries account for more than double the total number of protective measures than all other countries combined.

Human rights mobilisation at the local level has determined where the contentious cases that have been heard by the Inter-American Court of Human Rights originate. This is evident in Colombia and Peru, and across the region.<sup>40</sup> Human rights work tends to be focused on events in large cities. Rural victims often have little or no contact with the national human rights groups or judicial authorities that investigate



and prepare cases for the national or international level. The Inter-American Court has adjudicated far more rural cases in Colombia than anywhere else in Latin America. Indeed, Colombia is the only country where the court has worked mainly outside of major cities (see Table A3). In the case of Peru, the court has scarcely made inroads outside Lima (see Table A4). In 2016, two new Peruvian cases were heard by the court, both of which directly related to abuses committed by state security forces in the context of counterinsurgency campaigns. Of these, the case of the disappearance of Rigo-berto Tenorio Roca at a military checkpoint in 1984 in Ayacucho is just the third rural case from Peru ever to be adjudicated by the Inter-American Court.<sup>41</sup> Two new Colombian cases were heard by the court in 2016, one of which considered human rights violations committed by state security forces in the popular Comuna 13 neighbourhood of Medellín. As of the end of 2016 a total of 11 of the 17 Colombian cases have been rural.<sup>42</sup>

The extreme conditions under which governmental and non-governmental human rights advocates in Peru and Colombia have worked are comparable in many respects. As we shall see in the following section, the particularities of the armed conflicts in these two countries have shaped the priorities of human rights advocacy in each case, and help to explain the stark contrast between the two. Peru has been subjected to court rulings on contentious cases more frequently than any other country, and all but three of the 38 contentious cases to come out of Peru concern events in urban areas (see Table A2). This includes 32 in Lima alone despite the fact that most of the human rights violations committed by state security forces during the internal conflict that began in 1980 targeted rural populations. The lack of rural cases out of Peru demonstrates systemic weaknesses in the rule of law in the country, especially in the indigenous highlands. Colombia, in contrast, has been subject mainly to court decisions on cases of rights violations committed in the countryside, where social movements capable of documenting abuses are extremely vulnerable.<sup>43</sup> Where the state is present in rural areas of Colombia it has often worked to quash human rights work. As Winifred Tate writes, 'In many regions, including rural Colombia, the state is actively engaged in the work of erasing the register of the forms and practices of political violence.'<sup>44</sup>

Official memory projects in both Colombia and Peru have emphasised the historic marginalisation of the countryside, and the isolation of war-affected communities. Colombia's National Centre for Historical Memory concluded in 2013 that rural violence was experienced locally and regionally, but not nationally. In the centre's final report the authors write:

This is the war that many Colombians have not seen but that is experienced daily in the marginal settings of rural areas. The country has seen an accelerated trend of urbanization, but its inhabitants could not, or perhaps chose to see only the closest and the more striking. In this sense, the violence in Colombia has had an enormous local and regional impact, but very little impact on a national level.<sup>45</sup>

Based on hundreds of interviews with victims, *¡Basta Ya! Colombia: Memories of War and Dignity* makes the case that the gap between urban and rural Colombia has been a significant obstacle to justice.<sup>46</sup> Peru's Truth and Reconciliation Commission (TRC) concluded in 2005 that historic racism explained why violence in the countryside was so often ignored:

The TRC has established that the tragedy suffered by the populations of rural Peru, the Andean and jungle regions, Quechua and Ashaninka Peru, the peasant, poor and poorly

educated Peru, was neither felt nor taken on as its own by the rest of the country. This demonstrates, in the TRC's judgment, the veiled racism and scornful attitudes that persist in Peruvian society almost two centuries after its birth as a Republic.<sup>47</sup>

Despite the fact that both countries have experienced high levels of state-sponsored violence in rural areas, Peru and Colombia remain studies in contrast. This article will now consider why the pursuit of international justice emerged as an important aspect of human rights activism in some of the most conflict-affected regions of Colombia, but not so in the case of Peru. This exercise illustrates why we need to undertake case studies that shed light on the history of international human rights interventions across Latin America in local perspective. Comparing Colombia and Peru cases in greater depth will ultimately allow us to test hypotheses on the relationship between human rights organising, modalities of both state and insurgent violence, as well as questions of poverty, race, gender, and political exclusion in rural zones, amongst other variables.<sup>48</sup> For the purposes of the present study, a comparison between historically violence-affected regions in Colombia and Peru will allow us to explore why, how and with what effect the rural victims of state-sponsored violence have sought international justice remedies.

The Middle Magdalena and Ayacucho regions are synonymous with the suffering of rural Colombia and Peru respectively in the late twentieth century. While nearly 80% of Colombians live in urban areas, most of the violence in this country in recent decades has been rural. This includes more than 60% of the victims of collective killings, or massacres. Nearly 9 out of 10 of internally displaced people in Colombia have been driven out of rural areas.<sup>49</sup> The Middle Magdalena is an isolated, mainly rural and impoverished area, although resource-rich. It is home to nearly one million people, 70% of whom live below the poverty line.<sup>50</sup> It has also been a major theatre of armed conflict for the better part of half a century. Beginning in the early 1980s, the Middle Magdalena was the first region of the country to experience extreme right-wing paramilitary violence, and remains an important area for the concentration of illegal armed actors. While some 80% of Peruvians also live in cities, it has been estimated that 79% of the 69,000 victims of the war between leftist guerrillas, state security forces and paramilitary groups were rural.<sup>51</sup> Forty percent of the total number of recorded killings were carried out in the department of Ayacucho alone, birthplace of the Shining Path insurgency. Ayacucho is a mainly peasant farming region, home to less than 2% of the country's population.

A closer look at the dynamics of the armed conflicts in Colombia and Peru reveals important differences that help to explain the degree to which the court has focused on urban cases in Peru and on rural cases in Colombia. In both contexts, urban areas were insulated from the worst ravages of internal armed conflict. However, beginning in the early 1990s Lima became a staging ground for guerrilla activity.<sup>52</sup> In shantytowns such as Villa El Salvador the Shining Path even attacked leftist political parties and community activists. This would include the notorious murder of community organiser and Deputy Mayor of Villa El Salvador María Elena Moyano in February 1992.<sup>53</sup> Middle- and upper-class *limeños*' sense of security was shattered a few months later when the guerrillas detonated a car bomb in the comfortable suburb of Miraflores, killing 25 people and injuring hundreds. In Colombia, meanwhile, the guerrillas remained focused on rural areas. Residents of Bogotá, Medellín and Cali also contended with killings and bombs in the early 1990s. However, most of the terrorist actions carried out in Colombian cities were

attributed to drug traffickers. Shining Path attacks on civilians in and around Lima got the attention of the Peruvian government during the presidency of Alberto Fujimori. In April 1992 President Fujimori suspended the constitution and dissolved Congress in what has been described as a 'self-coup', or *autogolpe*. Peruvian security forces responded to the challenges posed by the guerrillas by carrying out selective killings and massacres inside the city. Several of these crimes have been the subjects of Inter-American Court cases. In 1995 President Fujimori passed an amnesty law to ensure impunity for military personnel involved in his counterinsurgency campaign. Peruvian human rights defenders were well-positioned to investigate and denounce state-sponsored repression in the city. Moreover, the perpetrators of human rights violations in Lima were associated with supposedly democratic institutions.

Peru sits securely in first place in the list of countries with the highest number of contentious cases heard by the Inter-American Court,<sup>54</sup> and the court has had a major impact on Peruvian politics. Much of the focus in Peru has been on the violation of human rights in Lima during the 10-year period during which Alberto Fujimori was president. Fujimori's 1992 *autogolpe* set in motion a series of events that culminated in Peru distancing itself from the inter-American human rights system. In the aftermath of the May 1999 *Castillo-Petruzzi et al. v. Peru* judgment challenging Peru's anti-terrorism legislation, Fujimori unilaterally renounced Peru's recognition of the court. In July 1999 he 'decided to withdraw the Peruvian State's recognition of the Inter-American Court's contentious jurisdiction, effective immediately'.<sup>55</sup> Fujimori left office amidst accusations of vote rigging in 2000, and the following year, the government of interim president Valentín Paniagua returned Peru to the contentious jurisdiction of the court. Several Inter-American Court cases, including the Barrio Altos ruling of 2001 and the Castro Castro ruling of 2006, were then used by Peruvian national courts to prosecute Alberto Fujimori.<sup>56</sup> Not surprisingly, more than half of the Peruvian contentious cases concern events that occurred in the immediate aftermath of the 1992 *autogolpe*. The Inter-American Court and the Peruvian TRC would make explicit use of one another's work to draw conclusions about state responsibility for human rights violations.<sup>57</sup> Yet there are very clear limitations to what the inter-American human rights system has achieved in Peru.

There were multiple obstacles to the work of the Inter-American Court in Peru. The complexity of the conflict in rural zones, including the use of violence by militia groups known as *rondas campesinas*, made it hard for outsiders to investigate effectively in a number of cases. No single event in the history of Peru's armed conflict symbolises the difficulty of undertaking human rights work in the Peruvian countryside more than the murder of eight journalists in Uchuraccay, Ayacucho, on 26 January 1983. The journalists had travelled from Lima to look into a reported attack on Shining Path guerrillas by members of a self-defence militia in the neighbouring village of Huaychao. The residents of Huaychao had historically organised self-defence patrols called *rondas campesinas* to protect themselves against cattle rustlers. By the early 1980s there were more than 3,000 *rondas campesinas* across Peru, many of which would mobilise against Sendero Luminoso.<sup>58</sup> The widespread distribution of *rondas* across the national territory nonetheless made obvious the absence of the civilian state in many parts of Peru. Novelist Mario Vargas Llosa led a government commission of enquiry into the tragic series of events in Ayacucho in 1983.<sup>59</sup> On his return, Vargas Llosa was at pains to explain the complex political context into which he had ventured. The author observed that travelling to the region

was ‘an encounter with another time, a gap of centuries’.<sup>60</sup> Historian Steve J. Stern has noted that the residents of Lima scarcely took the threat of Sendero Luminoso seriously until the guerrillas began carrying out attacks in the city: ‘Given the snobbery, racism, and indifference that attended Limeño perceptions of the highland Department of Ayacucho ... Sendero also seemed an expression of isolation and peculiarity.’<sup>61</sup> The Inter-American Commission accepted a petition on behalf of the families of the eight murdered journalists in 2010. In it, the families accuse the Peruvian military of ordering the attack and failing to carry out a proper enquiry.<sup>62</sup> The case has yet to advance through to the Inter-American Court. As we shall now see, the lack of progress on rural cases in Peru contrasts utterly with the early and continuing results delivered by the Inter-American Court on rural cases in Colombia.

The Inter-American Court first received victims’ denunciations of military and paramilitary violence in the Magdalena Medio region of Colombia in the 1980s. In two rulings, *19 Comerciantes* (2004) and *La Rochela* (2007), the court articulated a cogent analysis of paramilitarism, vindicating local human rights advocates’ demands that the state be held accountable for atrocities committed by so-called *autodefensas* working with the armed forces in the countryside. In Colombia’s war-torn rural regions the administration of justice was tenuous, and human rights activism extremely unsafe. Early human rights advocates in the Middle Magdalena were targeted by the military and paramilitary. Residents of Bogotá at the time would have been only vaguely aware of the drama unfolding in Colombia’s inland frontier, where leftist guerrillas confronted rightist paramilitaries, who enjoyed the support of the military and the country’s wealthiest drug traffickers.<sup>63</sup> The region was a war zone by the mid-1980s, and mostly inaccessible to outsiders. Rural and urban social movements working at the local level were thus obliged to act independently of state authorities. They raised the alarm beyond the region to garner support. These activists sought international validation for their claims, including that of the inter-American human rights system.<sup>64</sup>

The La Rochela massacre illustrates the extreme conditions under which Colombian justice officials worked if they ventured to investigate the violence in the Middle Magdalena region. On 18 January 1989 a group of heavily armed men posing as leftist guerrillas murdered 12 government human rights investigators in the small town of La Rochela, Santander. The judicial commission massacred at La Rochela had been established by national authorities in response to an Inter-American Court ruling ordering the Colombian state to investigate illegal paramilitary activity in the area.<sup>65</sup> Most of the investigators who joined the commission were based in the department of Santander, although none possessed direct first-hand knowledge of the rural areas into which paramilitary groups were expanding. The fighters who carried out the La Rochela massacre were part of the expansion of rightist death squad activity from the nearby town of Puerto Boyacá, home to the 14th Brigade of the Colombian army. Had the commission been allowed to carry out its work, it would have been an important move towards the rule of law. Instead, La Rochela was the first major incident in a war against human rights advocates.

Human rights complaints in the Middle Magdalena declined in inverse proportion to the consolidation of military and paramilitary strength.<sup>66</sup> The case of Puerto Boyacá is telling. Puerto Boyacá is a small city on the western bank of Magdalena River. With an economy based mainly on oil and cattle ranching, Puerto Boyacá was of significant strategic interest to leftist guerrillas and state and paramilitary forces. Between 1980 and 1985,

activists and journalists based in Puerto Boyacá reported 215 political murders committed by military and paramilitary forces. As social movement organisations were silenced and paramilitaries took over, there was simply nobody left to raise the alarm. Even if there had been a few people tempted to speak up, there was no government authority to whom they could turn. Local officials either yielded to the paramilitary, or were killed. As local union leader and human rights activist Rafael Gómez recalls, it was a pattern repeated right across the region, north from Puerto Boyacá: 'If you look at *municipios* like La Dorada, Puerto Berrío, the rates of violence decrease at the moment that the *autodefensas* take control. It decreases because people submit to the *autodefensas*.'<sup>67</sup> By the middle of the 1980s Puerto Boyacá would become known as the 'counterinsurgency capital of Colombia'.

Instead of silencing Colombia's human rights movement, La Rochela motivated many activists to build networks of solidarity between local and national social movements, as well as international groups. It was in the wake of La Rochela that the Comité Ecuaménico de Colombia – a national human rights organisation known today as the Inter Church Commission for Justice and Peace – began working with displaced peasants in the nearby city of Barrancabermeja. The Albergue para Campesinos Desplazados was inaugurated on 6 May 1989, less than four months after the La Rochela Massacre. The Albergue was a joint initiative between Colombia's largest peasant organisation and the Bogotá-based Comité Ecuaménico. The Albergue housed dozens of families from the area around La Rochela and other war-torn rural zones.<sup>68</sup> Whenever possible, Albergue staff assisted in the resettlement of peasants to areas from which they had been displaced.<sup>69</sup> The Albergue received support from the Bishop of Barrancabermeja and local trade unions, including the influential oil workers' and teachers' unions. Significantly, they also received support from the International Committee of the Red Cross, and brought religious and community volunteers from other parts of Colombia and from Europe, as well as members of Peace Brigades International, to provide accompaniment.<sup>70</sup> In time, the pressures to which the Albergue was subjected through paramilitary threats proved overwhelming. As the summary of their last meeting indicates, Albergue Campesino staff were forced to close their doors in 1996 due to security concerns, but they had learned hard lessons about linking rural rights struggles to international networks along the way. The Albergue Campesino would become the model upon which the Inter Church Commission for Justice and Peace would work in solidarity with displaced communities in the Urabá region affected by years of repression, culminating in Operation Genesis.<sup>71</sup> The basic principles of frontline protection for displaced people, support of grassroots social movements, international accompaniment, and return to the land were forward-thinking strategies that thus produced more initiatives along these same lines in other parts of the country. As previously mentioned, the displaced and their supporters in Urabá would go on to pursue the international judicialisation of their claims.

Preliminary government-led investigations into the La Rochela massacre dragged on for more than a decade. The legal case was thwarted by personnel changes, venue changes, a lack of cooperation on the part of the military, and death threats.<sup>72</sup> Local non-governmental human rights activists would eventually seek justice outside Colombia. Interest in La Rochela was maintained through the efforts of the victims' families, supported by Bogotá-based human rights organisations, and the Inter-American Commission. Nearly two decades later, on 11 May 2007, the Inter-American Court held the

Colombian state responsible for the La Rochela massacre.<sup>73</sup> It was, in the words of one of the lawyers who represented the victims' families, 'The first time that the state has been found guilty of collaborating in the murder of other agents of the state.' In the view of a disgruntled official who defended the government's case, '[t]he entire Colombian judicial system is at risk of being replaced by the Inter-American Court'.<sup>74</sup> Hyperbole notwithstanding, the Colombian judicial system has in fact provided no remedy in the case of La Rochela. Despite ongoing threats, the relatives of the victims of La Rochela have pursued justice for nearly three decades in Colombia, represented by the José Alvear Restrepo Lawyers' Collective, the Center for Justice and International Law, and backed by the Inter-American Court. Their joint efforts continue to highlight the specific context of paramilitary violence in the rural Magdalena Medio.

As the experiences of Peru and Colombia illustrate, there is a major problem of access to justice across Latin America. On the increase in human rights prosecutions in the past two decades, Kathryn Sikkink writes:

Because the justice cascade has followed the global wave in democratization, it will not extend to regions of the world where democratic transitions have not taken root.<sup>75</sup>

In this article, I broaden this observation to consider the limits of the rule of law in rural areas. The inter-American human rights system's capacity to address the problem of violence in rural areas, and in rural conflict zones in particular, is contingent on the degree to which the pursuit of international justice has been developed as a strategy of protection by local actors. The effectiveness of the inter-American human rights system therefore depends on the readiness of local activists to use the opportunity structures offered by the inter-American human rights system.

## Conclusions

The jurisprudence of the Inter-American Court of Human Rights demonstrates that there is a major problem of access to justice in rural Latin America. That there is a lack of access to justice is not surprising. But why have some rural victims had success bringing international attention to their struggles, and not others? The purpose of this article is to establish a correlation between rural violence, human rights organising at the local level, and the evolution of the inter-American human rights system. In the case of Peru, just a handful of contentious cases adjudicated by the Inter-American Court have originated outside the capital city. The opposite scenario has played out in Colombia, despite high levels of violence in the countryside that discourage effective human rights investigations. The United Nations and Amnesty International documented 63 murders of human rights defenders in Colombia in 2015 and 80 in 2016, the highest levels in decades.<sup>76</sup> The Colombian exception demonstrates a need to undertake closer examination of the specificities of national and local contexts, beginning with an attempt to explain the relationships that exist between rural and urban activists.

Careful study of the jurisprudence of the Inter-American Court reveals a general tendency for human rights activism to be concentrated in larger urban areas where social activists and state officials interact on a regular basis. However, the stark contrast that exists between Colombia and Peru demonstrates that geography is not always the main factor determining whether rural cases are brought to the Inter-American Court. Nor can we



just say that rural cases are too difficult to investigate. How did the Inter-American Court rule on state responsibility for Operation Genesis when the affected zone has no roads, and no historic presence of the civilian state? Other Colombian cases with similar histories could be mentioned, including the El Aro massacre of 22 October 1997, carried out in a rural hamlet about six hours' drive from Medellín, yet inaccessible by car and dominated by paramilitary forces.<sup>77</sup> As the case of Colombia demonstrates, frontline human rights workers have demonstrated a capacity to draw the Inter-American Court into areas considered remote and dangerous.

To explain discrepancies in the prosecution of rural human rights violations across time and geography requires attention to multiple scales of analysis. We should consider justice as a set of processes, and not just questions of judgment and enforcement, or lack thereof. The term 'judicialisation' is a valuable concept precisely because it takes into account social, political and affective practices. As Huneeus, Couso and Sieder write, 'Judicialisation is a phenomenon that also unfolds outside the formal legal system in ways that shape and influence politics.'<sup>78</sup> The use of the concept of judicialisation also allows us to historicise legal processes, to link them to local conditions. This will allow us to go well beyond what transpires in the courtroom.

There are a number of practical reasons why urban human rights cases may be easier to prosecute than rural ones. The preparation of a legal case is complex and time-consuming. It stands to reason that human rights groups must take tough decisions. Some of the thousands of complaints received by the Inter-American Commission are thin and hastily written. Others are detailed and carefully prepared by teams of lawyers with international experience. To answer why the Inter-American Court has heard relatively few rural cases, future research should consider a wide variety of questions, in Peru and Colombia, as well as in Guatemala and other countries where rural violence has been the prevailing dynamic. Urban cases tend to involve higher profile victims, and higher profile perpetrators. As such, human rights advocates and inter-American officials may conclude that urban cases will have the greater potential impact. On a practical level, urban cases are more viable simply because there is more available evidence. 'Winnable' cases may be chosen over 'lost causes', and strategically important issues, regions, or countries may receive more attention than others. Certain countries may come under increased inter-American scrutiny in response to national events, as was the case of Alberto Fujimori's 1992 'self-coup' in Peru. Lastly, it is crucial that we look at the problem of international justice from the victims' perspective. Cases are only brought forward when victims are willing to expose themselves to public scrutiny, and potentially dangerous backlash. As such, some trade union, social movement or other activist groups may be comfortable in the spotlight, and these cases are more likely to be the subject of denunciations. Many Colombians seek out international support precisely because they cannot rely on the protection of the state. Many indigenous peasants do not trust formal justice systems, whether local, national or international.<sup>79</sup>

To deepen our understanding of the uneven record of the Inter-American Court of Human Rights in rural Latin America, this article has identified the different types of actors involved in the judicialisation of human rights, and the obstacles they face. To reiterate a goal that I put forward in my previous writings on the social origins of human rights activism, we must engage in social-historical research that complements existing scholarship that focuses on the actions of lawyers and lawmakers.<sup>80</sup> Besides the

victims themselves, there are a number of intermediaries for researchers to consider. These actors may include local, national or international non-governmental organisations, composed of the families of the disappeared, lawyers, Catholic clergy, trade unionists and researchers. Of importance to the preparation of cases for the Inter-American Court are state actors at all levels, including police, coroners, prosecutors, judges, ministers and diplomats. In certain contexts, local non-governmental and state human rights advocates may simply not be present. In others, these intermediaries may be present, but weak. Human rights work can be very difficult without the necessary resources, such as secure internet connections, transportation and paid staff.

This article provides a roadmap for understanding the rural justice deficit in Latin America. The history of the Inter-American Court of Human Rights reflects shifts in the development of social activism in Latin America more generally, which has been mainly urban. Human rights activists working in opposition to military dictatorships in the Southern Cone countries of Chile and Argentina led the push for justice across borders in Latin America. Through the 1980s the Andean region and Central America descended into internal armed conflict, with terrible counterinsurgency campaigns engulfing the countryside. The investigation of violence in the war-torn rural regions of these countries would prove very difficult for international organisations, but not impossible. Thus far the Inter-American Court has been unable to make a significant contribution to correcting the justice deficit in rural Latin America. The unbalanced record of the Inter-American Court is the outcome of many factors, including decisions taken and priorities set by local organisations, and at the commission and court levels. Although the decision-making processes at the Inter-American Court are outside of the scope this article, they too need to be properly considered in order to fully understand the dynamics described above. The work of Justice and Peace and similar Colombian organisations with rural victims represents a clear-eyed and strategic response to the problem of injustice.

## Notes

1. Ulrich Oslender, *The Geographies of Social Movements: Afro-Colombian Mobilisation and the Aquatic Space* (Durham, NC: Duke University Press, 2016), 20.
2. Inter-American Commission on Human Rights, 'IACHR Takes Case Involving Colombia to Inter-American Court', Press Release, 29 July 2011.
3. Alto Comisionado para la Paz, 2015. Contribución al entendimiento del conflicto armado en Colombia. Comisión Histórica del Conflicto y sus Víctimas. <http://www.altocomisionadoparalapaz.gov.co/mesadeconversaciones/PDF/InformeComisionHistoricadelConflictoysusVictimas> (accessed 12 May 2017).
4. The Inter-American Commission on Human Rights (1959) and the Inter-American Court of Human Rights (1979) together constitute the longest-functioning regional justice system outside of Europe. The Inter-American Commission has undertaken dozens of onsite investigations, held more than 1,000 hearings, and referred more than 200 cases to the Inter-American Court.
5. República de Colombia, Alegatos Finales Escritos. Caso No. 12.573 'Marino López Mena y Otros – Operación Genesis' (12 February 2013).
6. Amongst the groups providing international protective accompaniment and support to these displaced communities in Urabá are Peace Brigades International, Projet Accompagnement Solidarité Colombie, Witness for Peace, and Fellowship of Reconciliation Peace Presence.
7. The Inter-American Court of Human Rights is a regional judicial institution based in San José, Costa Rica and established in 1979 to adjudicate human rights cases originating in

countries that have ratified the American Convention on Human Rights, first debated in 1959, adopted in 1969, and entered into force in 1978. The court comprises seven elected judges. The two main functions of the court are (1) to rule on contentious cases between human rights victims and member states, and to (2) issue provisional measures for the protection of individuals or communities under threat. Before being passed on to the court, human rights advocates must have demonstrated to the commission that they have exhausted all legal recourse at the national level.

8. Joe Parkin Daniels, 'Colombia Peace Process Weathers the Storm as FARC Hands in Weapons', *The Guardian*, 16 June 2017.
9. Comisión de la Verdad y Reconciliación, *Informe Final, Conclusiones Generales* (Lima: CVR, 2003).
10. See recent reports out of Colombia regarding the targeting of rural rights advocates working on the land restitution process underway since the 2011 Ley de Víctimas. Francisco Gutiérrez Sanín, Margarita Marín Jaramillo, and Francy Carranza, *Dinámicas del asesinato de líderes rurales: las coviarbles municipales* (Bogotá: Observatorio de Restitución y Regulación de Derechos de Propiedad Agraria, June 2017).
11. Jule Kruger et al. 'It Doesn't Add Up: Methodological and Policy Implications of Conflicting Casualty Data', in *Counting Civilian Casualties: An Introduction to Recording and Estimating Nonmilitary Deaths in Conflict*, ed. Taylor B. Seybolt, Jay D. Aronson, and Baruch Fischhoff (Oxford: Oxford University Press, 2013), 251.
12. The best known academic literature on grassroots human rights organising in Latin America focuses on Argentina. The monographs that have been published on Argentina include: Alison Brysk, *The Politics of Human Rights in Argentina: Protest, Change, and Democratization* (Stanford, CA: Stanford University Press, 1994); Rita Arditti, *Searching for Life: The Grandmothers of Plaza de Mayo and the Disappeared Children of Argentina* (Berkeley, CA: University of California Press, 1999); Marguerite Guzmán Bouvard, *Revolutionising Motherhood: The Mothers of the Plaza de Mayo* (New York: Rowman & Littlefield, 2002); Michelle Bonner, *Sustaining Human Rights: Women and Argentine Human Rights Organisations* (University Park, PA: Penn State University Press, 2007). Since the 1998 arrest of Augusto Pinochet, an influential scholarship on human rights organising around the Chilean case has emerged. Monographs on the Pinochet trial and related issues include: Naomi Roht-Arriaza, *The Pinochet Effect: Transnational Justice in the Age of Human Rights* (Philadelphia: University of Pennsylvania Press, 2006); Steve J. Stern, *Battling for Hearts and Minds: Memory Struggles in Pinochet's Chile, 1973–1988* (Durham, NC: Duke University Press, 2006); Cath Collins, *Post-transitional Justice: Human Rights Trials in Chile and El Salvador* (University Park, PA: Penn State University Press, 2010).
13. Thomas Buergenthal, 'Remembering the Early Years of the Inter-American Court of Human Rights', Center for Human Rights and Global Justice Working Paper (New York: NYU, 2005); Thomas Buergenthal, 'The Inter-American Court of Human Rights', *American Journal of International Law* 76, no. 2 (1982): 231–45.
14. Of special significance in terms of understanding the perspectives of the victims of violence is the work of Carlos Martín Beristain, especially his 1,200-page study compiling hundreds of interviews with people affected by the work of the Inter-American Court. See Carlos Martín Beristain, *Diálogos sobre la reparación. Experiencias en el sistema interamericano de derechos humanos*. 2 vols (San José, Costa Rica: Instituto Interamericano de Derechos Humanos, 2010).
15. Jo Pasqualucci, *The Practice and Procedure of the Inter-American Court of Human Rights*, 2nd ed. (Cambridge: Cambridge University Press, 2013), 83.
16. I did the work of coding the case law of both the Inter-American Commission on Human Rights and the Inter-American Court of Human rights according to types of human rights violations committed, perpetrators, victims, and the geographic distribution of the violations concerned, amongst other variables, between 2013 and 2016, with the assistance of student researchers Kattie Bonilla, Jack Zachary, and Orlando Deavila.

17. William Patrick Kelly, 'On the Poverty and Possibility of Human Rights in Latin American History', *Humanity: An International Journal of Human Rights, Humanitarianism and Development* 5, no. 3 (Winter 2013): 438.
18. Greg Grandin, *The Last Colonial Massacre: Latin America in the Cold War* (Chicago and London: The University of Chicago Press, 2004), 4. As Klaas Dykmann underscores in his history of OAS action on human rights since 1970, the 1970s were characterised by both increased official repression and increased official concern for human rights. Klaas Dykmann, *Human Rights Policy of the Organisation of American States: Philanthropic Endeavours or the Exploitation of an Ideal?* (Princeton, NJ: Markus Wiener Publishers, 2008).
19. The year 1979 was a watershed in Latin American human rights history. Concern for what became known as the 'transition to democracy' began to coalesce at the international level through the activities of Amnesty International and other groups acting in support of Latin American activists, and the OAS, and academic institutions such as the Wilson Center. Guillermo O'Donnell, Philippe C. Schmitter, and Laurence Whitehead, eds, *Transitions from Authoritarian Rule: Comparative Perspectives* (Baltimore, MD: The Johns Hopkins University Press, 1986).
20. Juan Pablo Scarfi, *The Hidden History of International Law in the Americas: Empire and Legal Networks* (Oxford: Oxford University Press, 2017), xviii.
21. Inter-American Juridical Committee, Report to the Inter-American Council of Jurists Concerning Resolution XXXI of the Conference of Bogotá: Inter-American Court to Protect the Rights of Man (Washington, DC: Pan-American Union, 1949).
22. The Fifth Meeting of Consultation of Ministers of Foreign Affairs of the OAS was held 12–18 August in Santiago, Chile. Twenty-one Latin American countries, plus Haiti and the US, were represented at the meeting. Some 20 Caribbean island nations, and Guyana, Suriname and Belize, were all still colonies or protectorates of the United Kingdom, Netherlands, France and the US.
23. In May 1965, the OAS created the Inter-American Peace Force, legitimising the presence of 42,000 US marines on the island nation with the addition of small numbers of troops from other member states.
24. Report on the Activities of the Inter-American Commission on Human Rights in the Dominican Republic, Inter-Am. C.H.R., O.A.S. Doc. OEA/Ser.L/V/II.13, doc.14 rev. (1965).
25. Rebecca Atencio, *Memory's Turn: Reckoning with Dictatorship in Brazil* (Madison, WI: University of Wisconsin Press, 2014), 10. See also: Bruno Boti Bernardi, 'Silence, Hindrances and Omissions: The Inter-American Commission on Human Rights and the Brazilian Military Dictatorship', *International Journal of Human Rights* (Forthcoming).
26. William Patrick Kelly, 'The 1973 Chilean Coup and the Origins of Transnational Human Rights Activism', *Journal of Global History* 8, no. 1 (March 2013): 168.
27. Mark Ensalcado, *Chile Under Pinochet: Recovering the Truth* (Philadelphia, PA: University of Pennsylvania Press, 2000), 105.
28. Inter-American Commission on Human Rights, Report on the Situation of Human Rights in Chile, Inter-Am. C.H.R., O.A.S., OEA/Ser.L/V/II.34 doc. 21 corr.1 (25 October 1974).
29. Margaret Keck and Kathryn Sikkink. *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca, NY: Cornell University Press, 1998), 17.
30. Inter-American Commission on Human Rights, Report on the Situation of Human Rights in Argentina, Inter-Am. C.H.R., O.A.S., OEA/Ser.L/V/II.49 Doc. 19 corr.1 (11 April 1980).
31. Between 1961 and 2016 the commission undertook 96 on-site visits to 23 countries. Three-quarters of these visits were conducted in the 1980s and 1990s.
32. Organization of American States, 'Inter-American Court of Human Rights: Proceedings of the Installation' (San José, Costa Rica, September 1979), 21.
33. The Comisión Colombiana de Juristas has estimated that a total of 8,000 people were legally prosecuted under the National Security Statute during President Turbay's term in office between 1978 and 1982, most of them by court martial. As cited in Boaventura de Sousa

- Santos and Mauricio García Villegas, eds., *El caleidoscopio de las justicias en Colombia*, vol. 2 (Bogotá: Siglo del Hombre Editores, 2001), 322.
34. Meanwhile, the US and Canada refused to ratify the convention and remained outside the reach of the court.
  35. Thomas Buergenthal. *Remembering the Early Years of the Inter-American Court of Human Rights*. New York University School of Law Center for Human Rights and Global Justice Working Paper No. 1 (2005), 5.
  36. Pablo Saavedra, meeting with author, San José, Costa Rica, 8 March 2012.
  37. Dykmann, *Human Rights Policy*, 53.
  38. The Southern Cone refers to Chile, Argentina, Paraguay, Uruguay and Brazil.
  39. Haiti has received 14 in-country visits by the commission, while Guatemala has received 13, Colombia 7 and Peru 6. The Dominican Republic comes next with 5 visits.
  40. As per my findings, in the case of Argentina, no rural contentious cases have been heard by the court, reflecting the central importance given to rights activists' denunciations of central state authorities. In Chile, six out of eight cases pertain to events in cities. Equally striking is the case of Venezuela, where only two of the 17 cases brought before the court concern events in a rural area. Ecuador has been subject to 20 cases in total, 16 of which concern events in urban areas. Just two out of the 11 Honduran cases concern events in rural areas, despite historically high levels of violence against peasant activists.
  41. Inter-American Court of Human Rights, *Caso Tenorio Roca y Otros v. Peru, Excepciones Preliminares, Fondo, Reparaciones y Costas* (22 September 2016), 15.
  42. Upwards of 90% of the human rights atrocities in Guatemala were carried out by the military in the highlands, yet fewer than half of the contentious cases ruled on by the court concern events in rural areas. Priscilla B. Hayner, *Unspeakable Truths: Facing the Challenge of Truth Commissions*, 2nd ed. (New York: Routledge, 2010), 33. For an in-depth consideration of the limitations of human rights organising in Guatemala since the 1970s see Grandin, *The Last Colonial Massacre*.
  43. Mary Roldán, *Blood and Fire: La Violencia in Antioquia, 1946–1963* (Durham, NC: Duke University Press, 2002), 106.
  44. Winifred Tate, *Drugs, Thugs and Diplomats: US Policymaking in Colombia* (Stanford, CA: Stanford University Press, 2015), 12.
  45. GMH (Historical Memory Group), *¡Basta ya! Colombia: Memories of War and Dignity* (Bogotá: CNMH, 2016), 114.
  46. Pilar Riaño-Alcalá and Maria Victoria Uribe, 'Constructing Memory amidst War: The Historical Memory Group of Colombia', *International Journal of Transitional Justice* 10, no. 1 (March 2016): 3.
  47. *Informe Final, Conclusiones Generales*. The Peruvian TRC was limited to the investigation of the period between 1980 and 2000, which put constraints on the data they could collect, and the scope of their historical analysis. Cynthia J. Milton, 'At the Edge of the Peruvian Truth Commission: Alternative Paths to Recounting the Past', *Radical History Review* no. 98 (Spring 2007): 3–33. For a critical take on Peru's TRC, see Greg Grandin, 'The Instruction of Great Catastrophe: Truth Commissions, State Formation, and National Identity in Argentina, Chile, and Guatemala', *American Historical Review* 109, no. 1 (February 2005): 46–67.
  48. For readings on the method of comparative history, see Alette Olin Hill and Boyd H. Hill, 'AHR Forum: Marc Bloch and Comparative History', *The American Historical Review* 85, no. 4 (October 1980): 828–46.
  49. Centro Nacional de Memoria Histórica, *Una nación desplazada: informe nacional del desplazamiento forzado en Colombia* (Bogotá, CNMH - UARIV, 2015), 38.
  50. Luis van Isschot, *The Social Origins of Human Rights: Protesting Political Violence in Colombia's Oil Capital, 1919–2010* (Madison, WI: University of Wisconsin Press, 2015), xi.
  51. Comisión de la Verdad, *Informe Final*.
  52. Jo-Marie Burt, 'Quien habla es terrorista: The Political Use of Fear in Fujimori's Peru', *Latin American Research Review* 41, no. 3 (2006): 52.



53. Jo-Marie Burt, 'Accounting for Murder: The Contested Narratives of the Life and Death of Maria Elena Moyano', in *Accounting for Violence: The Marketing of Memory in Latin America*, ed. Ksenija Bilbija and Leigh Payne (Durham, NC: Duke University Press, 2011), 69.
54. Through the middle of 2017 there were four Peruvian cases and five Colombian cases awaiting rulings by the Inter-American Court. See Corte Interamericana de Derechos Humanos, 'Casos en Etapa de Fondo (Pendiente de Emitirse Sentencia)'. <http://www.corteidh.or.cr/index.php/es/casos-en-tramite-pendientes-de-emitirse-sentencia> (accessed 21 June 2016).
55. Inter-American Commission on Human Rights, *Second Report on the Situation of Human Rights in Peru*, OEA/Ser.L/V/II.106 Doc. 59 rev. 2 (June 2000). For commentary on the legality of state withdrawal from the court, see Pasqualucci, *The Practice and Procedure of the Inter-American Court*, 145.
56. Jo-Marie Burt, 'Guilty as Charged: The Trial of Former Peruvian President Alberto Fujimori for Human Rights Violations', *The International Journal of Transitional Justice* (2009): 390.
57. Anita Ferrara, *Assessing the Long-Term Impact of Truth Commissions: The Chilean Truth and Reconciliation Commission in Historical Perspective* (New York: Routledge, 2015), 136.
58. Orin Starn, *Nightwatch: The Politics of Protest in the Andes* (Durham, NC: Duke University Press, 1999), 136.
59. Mario Vargas Llosa, *Informe de la comisión investigadora de los sucesos de Uchuraccay* (Lima: Editora Peru, 1983).
60. Mario Vargas Llosa, 'Inquest in the Andes', *New York Times Magazine*, 31 July 1983.
61. Steve J. Stern, ed., *Shining and Other Paths: War and Society in Peru, 1980–1995* (Durham, NC: Duke University Press, 1998), 1.
62. 'They maintained that the Peruvian State is responsible for the alleged victims' deaths, both by virtue of the military's direct involvement in the events and by virtue of the State's failure to comply with its duty to protect the journalists.' Inter-American Commission on Human Rights. Report No. 62/10, Petition 142-03 Admissibility Jorge Sedan Falcón et al. (Peru: March 24, 2010).
63. Luis van Isschot, 'Rural Colombia: The Architecture of State-Sponsored Violence and New Power Configurations', in *Dominant Elites in Latin America*, ed. Liisa North and Timothy D. Clark (New York: Palgrave Macmillan, 2017), 119–49.
64. To better understand this episode, see Ponciano del Pino, *En nombre del gobierno. El Perú y Uchuraccay: un siglo de política campesina* (Lima: La Siniestra Ensayos, 2017).
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No potential conflict of interest was reported by the author.

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## Appendices: Inter-American Court of Human Rights Tables

**Table A1.** Final rulings on contentious cases by year.

Year	Final ruling
1989	2
1990	0
1991	0
1992	0
1993	1
1994	1
1995	0
1996	2
1997	2
1998	4
1999	3
2000	0
2001	11
2002	6
2003	5
2004	11
2005	17
2006	17
2007	10
2008	9
2009	15
2010	9
2011	14
2012	17
2013	13
2014	12
2015	16
2016	14
Total	211

**Table A2.** Contentious cases at the Inter-American Court by country, rural versus urban.

Country	Total	Rural	Urban	National
Peru	38	3	35	
Guatemala	23	10	12	1
Ecuador	20	3	13	4
Venezuela	17	2	15	
Colombia	17	11	5	1
Argentina	15		12	3
Honduras	11	2	9	
Mexico	8	5	3	
Chile	8	2	6	
Paraguay	7	3	2	2
Brazil	6	3	3	
Bolivia	6		4	2
Suriname	6	4	2	
El Salvador	6	2	4	
Panama	5	1	3	1
D. Republic	4		1	3
Trinidad & Tobago	2		1	1
Nicaragua	3	2	1	
Costa Rica	3		1	2
Barbados	2			2
Haiti	2		2	
Uruguay	2		2	
TOTAL	211	53	136	22

Note: National cases refer to those examples where a national law or policy was challenged directly, such as two cases from Barbados and one from Trinidad and Tobago pertaining to the death penalty.

**Table A3.** Peruvian contentious cases at the Inter-American Court by locality, year, perpetrator, type of violation, and year of ruling, with rural cases highlighted in bold (1996–2016).

Case	Locality/ region	Year	Actor	Type of violation	Ruling
Pollo Rivera	Lima	1992	National Police	Arbitrary detention, torture	2016
Tenorio Roca	Iguaín, Huanta	1984	Army	Disappearance	2016
Quispialaya Vilcapoma	Military Base, Huancayo	2001	Army	Beating	2015
Galindo Cárdenas et al.	Huánuco, Huánuco	1994	Army, National Police	Arbitrary detention	2015
<b>Peasant Community of Santa Barbara</b>	<b>Santa Barbara, Huancavelica</b>	<b>1991</b>	<b>Army</b>	<b>Disappearances, massacre</b>	<b>2015</b>
Wong Ho Wing	Airport, Lima	2008	Judiciary	Due process	2015
Cruz Sánchez et al.	Lima	1996	Army	Extrajudicial executions	2015
Canales Huapaya	Lima	1992	Executive	Judicial guarantees (Congressional Employees case)	2015
Espinoza Gonzáles	Centro, Lima	1993	National Police	Torture, sexual violence	2014
Tarazona Arrieta et al.	Ate Vitarte, Lima	1994	Army	Arbitrary detention, torture, murder	2014
J.	Lima	1992	National Police	Due process	2013
<b>Osorio Rivera and Family</b>	<b>Nunumia, Cajatambo</b>	<b>1991</b>	<b>Army</b>	<b>Arbitrary detention, disappearance</b>	<b>2013</b>
Abril Alosilla et al.	Lima	1993	Judiciary	Administrative, private property, labour rights	2011
Acevedo Buendía et al.	Lima	1992	Judiciary	Administrative, private property, labour rights	2009
Anzulado Castro	Callao, Lima	1993	Army	Arbitrary detention, murder	2009
Castro-Castro	Lima	1992	Army	Massacre	2006
Cantoral Huamaní and García Santa Cruz	Centro, Lima	1989	National Police	Kidnapping, murder	2007
Congressional Employees	Lima	1992	Executive	Judicial guarantees	2006
La Cantuta	Lima	1992	Army	Massacre, Disappearances	2006
Acevedo-Jaramillo	Lima	1998	Executive Judiciary	Judicial guarantees, freedom of association	2006
<b>Baldeón-García</b>	<b>Pucapaccana Ayacucho,</b>	<b>1990</b>	<b>Army</b>	<b>Torture, murder</b>	<b>2006</b>
García-Asto and Ramírez-Rojas	Lima	1991 and 1995	Judiciary	Judicial guarantees, personal freedom	2005
Gómez-Palomino	Chorrillos, Lima	1992	Army	Disappearance, murder	2005
Lori Berenson-Mejía	La Molina, Lima	1995	Judiciary	Judicial guarantees, personal freedom	2004
Huilca-Tecse	Los Olivos, Lima	1992	Army	Detention, murder	2005
De La Cruz-Flores	Jesus, María, Lima	1996	National Police	Arbitrary detention	2004
Gómez-Paquiyaui	Callao, Lima	1991	National Police	Arbitrary detention, executions	2004
‘Five Pensioners’	Lima	1994 and 1998	Judiciary	Judicial guarantees, personal freedom	2003
Durand and Ugarte	Prison, Lima	1986	National Police	Arbitrary detention, massacre	2000
Barrios Altos	Barrios Altos, Lima	1991	Army	Massacre	2001
Cesti-Hurtado	Lima	1993	National Police	Arbitrary detention	2001
Ivcher-Bronstein	Lima	1997	Executive	Harassment, freedom of expression	2001
Constitutional Court	Lima	1992	Executive	Threats, harassment	2001

(Continued)

**Table A3.** Continued.

Case	Locality/ region	Year	Actor	Type of violation	Ruling
Cantoral-Benavides	La Victoria, Lima	1993	National Police	Arbitrary detention, torture	1998
Loayza-Tamayo	Los Olivos, Lima	1993	National Police	Arbitrary detention, torture	1998
Castillo-Páez	Villa El Salvador, Lima	1990	National Police	Arbitrary detention, disappearance	1998
Castillo-Petruzzi et al.	Lima	1993	National Police	Wrongful arrest	1998
Neira-Alegría et al.	Prison, Lima	1986	Army	Disappearance	1996

**Table A4.** Colombia contentious cases at the Inter-American Court by locality, year, perpetrator, type of violation, and year of ruling, with rural cases highlighted in bold (1994–2016).

Case	Locality	Year	Actor	Type of violation	Ruling
Duque	Bogotá	2002	Central State	Discrimination based on sexual orientation	2016
Yarce	Medellín, Antioquia	2002	Central State	Displacement	2016
Palacio de Justicia	Bogotá	1985	Army	Massacre/disappearances	2014
<b>Cacarica: Operation Genesis</b>	<b>Urabá</b>	<b>1997</b>	<b>Army</b>	<b>Massacre/displacement/ bombardment</b>	<b>2013</b>
<b>Santo Domingo</b>	<b>Arauca, Northeast</b>	<b>1998</b>	<b>Army</b>	<b>Massacre/bombardment</b>	<b>2012</b>
Vélez Restrepo	Caquetá, Southwest	1996	Army	Freedom of expression/ beating/ threats	2012
Manuel Cepeda	Bogotá	1994	Army/PPMM	Assassination	2010
Valle Jaramillo	Medellín, Antioquia	1998	Army/PPMM	Assassination	2008
<b>La Rochela</b>	<b>Santander, MMedio</b>	<b>1989</b>	<b>Army/PPMM</b>	<b>Massacre</b>	<b>2007</b>
<b>Escue Zapata Ituango</b>	<b>Jambaló, Cauca</b>	<b>1988</b>	<b>Army/PPMM</b>	<b>Assassination</b>	<b>2007</b>
	<b>Antioquia</b>	<b>1996</b>	<b>Army/PPMM</b>	<b>Massacre</b>	<b>2006</b>
Pueblo Bello	Turbo, Antioquia, Urabá	1990	Army/PPMM	Massacre	2006
Guitierrez Soler	Bogotá	1994	Army/police	Illegal detention/torture	2005
<b>Mapiripán</b>	<b>Meta, Southwest</b>	<b>1997</b>	<b>Army/PPMM</b>	<b>Massacre</b>	<b>2005</b>
<b>19 Comerciantes</b>	<b>Santander, MMedio</b>	<b>1987</b>	<b>Army/PPMM</b>	<b>Massacre/forced disappearance</b>	<b>2004</b>
<b>Las Palmeras</b>	<b>Mocoa, Putumayo</b>	<b>1991</b>	<b>Army/PPMM</b>	<b>Massacre</b>	<b>2001</b>
<b>Caballero Delgado y Santana</b>	<b>El Carmen, Cesar, MMedio</b>	<b>1989</b>	<b>Army/police</b>	<b>Illegal detention/torture/ disappearance</b>	<b>1994</b>

**Table A5.** Precautionary measures of the Inter-American Commission and provisional measures of the Inter-American Court by country.

Country	Precautionary measures	Country	Provisional measures
Colombia	188	Venezuela	105
Guatemala	105	Guatemala	91
Mexico	84	Colombia	63
United States	81	Peru	63
Honduras	55	Mexico	38
Peru	38	Brazil	34
Brazil	35	Argentina	20
Venezuela	31	Honduras	19
Trinidad and Tobago	30	El Salvador	19
Jamaica	30	Trinidad and Tobago	18
Haiti	27	Dominican Republic	16
Cuba	26	Ecuador	9
Ecuador	19	Costa Rica	7
Argentina	16	Haiti	6
El Salvador	16	Nicaragua	4
Paraguay	15	Paraguay	3
Dominic. Rep.	13	Barbados	3
Nicaragua	11	Bolivia	1
Bahamas	11	Suriname	1
Canada	8	Panama	1
Paraguay	6		
Granada	6		
Chile	6		
Bolivia	5		
Suriname	3		
Guyana	3		
Barbados	2		
Belize	2		
Costa Rica	1		