

Inter-American Human Rights System

Introduction

The Inter-American system (IAS) is one of the world's regional systems for human rights (HR)¹. Created within the Organization of American States (OAS),² which includes states from Canada to Chile, it thus includes the Central American countries and the Caribbean. The founding document of the IAS is the American Convention on Human Rights³, but not all member states have ratified the Convention⁴. The IAS is made up of the Inter-American Commission on Human Rights (IACHR),⁵ with headquarters in Washington D.C., USA, and the Inter-American Court of Human Rights,⁶ with headquarters in San José, Costa Rica.

The Inter-American Commission on Human Rights

The main function of the IACHR is to promote the compliance and defense of human rights. It is composed of seven commissioners, elected by the General Assembly of the OAS, who take the decisions within the IACHR.

Social movements and civil society organizations have recourse to the following mechanisms within the IACHR:

a. National or regional hearings on topics or emblematic cases

The IACHR holds public hearings at its headquarters twice a year (March and October) in the presence of all the commissioners. On average 400 hearings are requested each session but only around 120 are accepted. The hearings provide a platform for exposure⁷ to draw the attention of the IACHR, the member States, and organizations that participate in the hearings to a topic/case of particular importance.

Social movements working with FIAN have recently participated in the following hearings: Right to Food and Seed Regulation in Latin America, together with the Peasant Assembly of the

¹ Jointly with the European and African systems and the emerging Asian system.

² http://www.oas.org/en/what_we_do Not all the OAS countries have subscribed to the Convention.

³ http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights

⁴ http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights_sign

⁵ <http://www.oas.org/en/iachr>

⁶ <http://www.corteidh.or.cr>

⁷ The hearings are streamed live on the IACHR's website in Spanish and English and, depending on the topic, also in Portuguese and French: <http://www.oas.org/hearings/en>

Coordination Of Latin American Rural Organizations and La Via Campesina (LVC–LOC)⁸; Situation of Human Rights Defenders in Brazil, together with the Indigenous Missionary Council (Conselho Indigenista Missionario);⁹ and Human Rights Situation in Bajo Aguán, Honduras, jointly with the Latin American Regional Secretariat of the International Union of Food Workers (Rel-UITA).

b. Precautionary Measures

This is a mechanism that is used extensively in the case of human rights defenders or community leaders who have been threatened with death, or in other serious or urgent situations in which the Commission may request a State to implement precautionary measures to prevent irreparable harm to the people concerned. While it is true that this mechanism has limitations as some states are reluctant to implement the measures, it is clear that the authorities pay more attention to these cases as the political price is higher. The movements with whom FIAN works have requested a series of precautionary measures for different peasant leaders of Bajo Aguán, many of which have been approved. Also, measures were sought on behalf of some Guaraní Kaiowá communities. While the precautionary measures were not approved in this case, they were also not rejected, the result being an exchange of confidential communications between the Commission and the Brazilian State, which led to an improvement in the distribution of food aid in the communities.

c. Strategic Litigation

At the express request of the organizations and movements with whom FIAN works at national level, it was decided to carry out the first strategic litigation at international level. This was due to the lack of experience of other litigating organizations with regard to the relationship between natural resources and the right to food. The first case, of the Guaraní-Kaiowá of Brazil, consisted of filing a case against the Brazilian State for specific violations against the Guaraní people, by focusing on a small group of communities that are representative of the situation of the almost 40,000 Guaraní-Kaiowá across Brazil.

⁸ <http://www.fian.org/en/news/article/detail/hearing-current-state-of-right-to-food-and-seed-regulation>

⁹ <http://www.fian.org/en/news/article/detail/hearing-on-the-situation-of-human-rights-defenders-in-brazil>

FIANs litigation experience takes place within the much broader work on the case, in which litigations is only one instrument, which, together with advocacy at different levels and trainings, among others, seeks to contribute to the struggles of social movements.

The Inter-American Court of Human Rights

The Inter-American Court of Human Rights decides on complaints/cases against States that have not complied with the recommendations of the IACHR. The Court is the highest authority for bringing a case before the IAS and its decisions are binding. The Court may also issue advisory opinions on a variety of topics such as the last one presented by the State of Panama, in which the advisory opinion of the Court was requested on the scope of protection for legal persons or companies.

Social Movements and the IAS

The IAS offers interesting tools that can complement the broader strategies used by social movements in their struggle. Initially the indigenous movement and, more recently, the peasant movement, are using the IAS to defend their right to territory (land and natural resources) in the face of the imposition of a development model based heavily on 'extractivism' (mining, agribusiness and infrastructure works), as well as to denounce the serious situation faced by human rights defenders and community leaders. Faced with the campaign to dismantle the IAS and the advance of the corporate sector in various areas of public interest, it is of vital importance that social movements consolidate a strategy for dealing with the IAS to defend their rights and at the same time support the regional system of human rights.