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RESEARCH BRIEF

Systemic Interpretation of International Human Rights Law in the Jurisprudence of the Inter-American Court of Human Rights

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ABSTRACT

This research brief proposes a critical legal analysis of the systemic integration of the *corpus juris* of international human rights law, as a hermeneutical tool able to deliver a more effective and comprehensive protection of human rights. In this sense, this study is based on the critical analysis and deconstruction of the interpretative methods applied by the Inter-American Court of Human Rights while interpreting the American Convention on Human Rights. It focuses on how this regional tribunal has broadened or expanded the scope of protection afforded in international human rights law to the recognized rights, by means of interpreting them under the light of the *pro homine* principle, which allocates the human person at the center of international law.

KEYWORDS

Human rights - Corpus juris - Pro homine principle - Judicial interpretation - Inter-American Court of Human Rights

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INTRODUCTION

The Inter-American Court of Human Rights (I-ACtHR, or the Court) has developed an innovative jurisprudence that has enlightened and further developed the notion of the corpus juris of international human rights law. Through the systemic interpretation of international law the Court has interpreted the American Convention on Human Rights (ACHR, the Convention or the American Convention),[1] under the light of all other regional or universal human rights instruments that would become applicable in a given case in order to reach a better understanding and – most importantly – expand the scope of protection of the rights recognized within the Convention.

The systemic integration[2] of international law applied by this regional tribunal has imposed the obligation to interpret human rights conventions under the light of all instruments that are part of the same system, in such a way that the system for the protection of human rights will be able to have and generate all its appropriate effects (*effet utile*).[3] Additionally, through the incorporation of the *pro homine* principle as a central hermeneutical tool in its jurisprudence, the Court has developed an interpretation of human rights norms based "on the principle of the rule most favorable to the human being".[4] In line with this principle, the rights recognized in the ACHR cannot be subjected to restrictive interpretation.[5]

Furthermore, by interpreting the American Convention under the light of the *pro-homine* principle, that is, in the manner that could provide the most effective protection to individuals under its jurisdiction, the regional tribunal has expanded the scope of protection of conventional rights and – therefore – contributed to strengthen human rights guarantees in the region. However, it is important to note that this expansive interpretation could also be seen as a potential caveat for the *praetorian* introduction of rights and obligations not expressly mentioned in the ACHR. In fact, as mentioned elsewhere, this development has generated some discomfort among the States Parties of the American Convention.[6]

Therefore, an analysis of the Court's interpretative methods will contribute to a better understanding of the steps taken by this regional tribunal towards the determination of the content and scope of the rights contained in the Convention. This will not only clarify the legal grounds invoked by the Court, but also shed light over the hermeneutical contribution of the *corpus juris* of international human rights law in the effective implementation of the protected rights.

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1 The American Convention on Human Rights (ACHR), also denominated 'Pact of San José, Costa Rica', was adopted by the delegates of the member States of the Organization of the American States (OAS) in the Inter-American Specialized Conference on Human Rights, which was held in San José, Costa Rica, on 22 November 1969, and entered into force on 18 July 1978. Today, 22 countries –out of 35 States Members of the OAS are parties of this Convention.

2 See Koskenniemi M., *Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law,* Report of the Study Group of the International Law Commission, A/cn.4/L.682 (International Law Commission, Geneva, 1 May-9 June and 3 July-11 August 2006).

3 See Advisory Opinion OC-16/99, *The Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law,* 1 October 1999, IACtHR, Series A No. 16, para. 58. *See also* Lixinski L., *Treaty Interpretation by the Inter-American Court, of Human Rights: Expansionism at the Service of the Unity of International Law,* The European Journal of International Law Vol. 21, No. 3, 2010.

4 *See Baena-Ricardo et al. v. Panama,* 2 February 2001, IACrtHR, Merits, Reparations and Costs, Series C No. 72, para. 189.

5 Medina C., *The American Convention on Human Rights. Crucial Rights and their Theory and Practice,* Intersentia Publishing Ltd, 2014, p. 6.

6 In this regard, it has been highlighted that the jurisprudence related to the recognition of the right of indigenous peoples to their traditional land and territories have had an enormous impact on different strategic sectors for the development of the States, in particular, in the exploitation of the natural resources present in the claimed traditional lands. See Fuentes A., *Protection of indigenous peoples' traditional lands and exploitation of natural resources. The Inter-American Court of Human Rights' safeguards*, International Journal on Minority and Group Rights 24 (2017) 229-253.

JUDICIAL INTERPRETATION IN THE AMERICAS

The hermeneutical relevance of the object and purpose of a human rights treaty

The IACrtHR applies in its interpretation what could be called the traditional cannons or traditional methods of interpretation in International Law, which finds expression in Articles 31[7] and 32[8] of the 1969 Vienna Convention of the Law of the Treaties (VCLT).[9]

Under the light of Article 31 VCLT, the first guidance in the interpretation of the provisions contained in the Convention is provided by its own object and purpose, which in the case of the American Convention on Human Rights is the "effective protection of human rights".[10] As clarified by the same regional tribunal, this method of interpretation "respects the principle of the primacy of the text, that is, the application of objective criteria of interpretation".[11] To put it differently, the terms and – therefore – the content of the rights recognized in the Convention have autonomous and independent meanings, which is informed not only by the object and purpose of the same instrument, but also "interpreted by reference to their normative environment" in which the convention is integrated.[12]

Moreover, the interpretation of the American Convention has to be done "in such a way that the system for the protection of human rights has all its appropriate effects (effet utile)".[13] Accordingly, the rights enshrined in the Convention must not be interpreted in a sense that would reduce, restrict or limit their recognition and effective protection.[14] In other words, protected rights have to be interpreted in a manner that prohibits their exercise from becoming illusory or deprived of their essential content.[15] As expressed by the Court,

> "[A] provision of the Convention must be interpreted in good faith, according to the ordinary meaning to be given to the terms of the treaty and their context, and bearing in mind the object and purpose of the American Convention, which is the effective protection of the human person, as well as by an evolutive interpretation of international instruments for the protection of human rights."[16]

7 Article 31 VCLT states – in its first paragraph – that "[a] treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose".

8 Article 32 VCLT recognizes the possibility to recourse to supplementary means of interpretation, such as "the preparatory work of the treaty and the circumstances of its conclusion".

9 *See "Other Treaties" Subject to the Consultative Jurisdiction of the Court (Art. 64 American Convention on Human Rights),* 24 September 1982, IACrtHR, Advisory Opinion oc-1/82, Series A No.1, para. 33.

10 In this sense, the Court has said that "[t]he safeguard of the individual in the face of the arbitrary exercise of the powers of the State is the primary purpose of the international protection of human rights". *Cf. Yatama v. Nicaragua,* 23 June 2005, IACrtHR, Judgment on Preliminary Objections, Merits, Reparations and Costs, Series C No. 127, para. 167.

11 *Cf. The Effect of Reservations on the Entry into Force of the American Convention on Human Rights (Arts. 74 and 75)*, 24 September 1982, IACrtHR, Advisory Opinion oc-2/82, Series A No. 2, para. 29.

12 *See* Koskenniemi M., *Fragmentation of International Law, supra* note 3, p. 209, paras. 413-414. According to this study, "[a]ll treaty provisions receive their force and validity from general law, and set up rights and obligations that exist alongside rights and obligations established by other treaty provisions and rules of customary international law." *Cf.Ibid.*

13 *Cf. The right to information on Consular Assistance, supra* note 4, para. 58.

14 In the wording of Judge García Ramírez, "the principle of interpretation that requires that the object and purpose of the treaties be considered (Article 31(1) of the Vienna Convention) … and the principle *pro homine* of the international law of human rights … which requires the interpretation that is conducive to the fullest protection of persons, all for the ultimate purpose of preserving human dignity". *Cf. Mayagna (Sumo) Awas Tingi Community v. Nicaragua,* 31 August 2001, IACrtHR, Merits, Reparations and Costs, Series C No. 79, Concurring Opinion of Judge Sergio García Ramírez, para. 2.

15 According to the Court, "the efficacy of the mechanism of international protection, must be interpreted and applied in such a way that the guarantee that it establishes is truly practical and effective, given the special nature of human rights treaties". *Cf. Constitutional Court v. Peru.* Competence, 24 September 1999, IACrtHR, Judgment, Series C No. 55, para. 36. *See also Yatama v. Nicaragua, supra* note 11, para. 204.

16 *Cf. Artavia Murillo et al. ("In Vitro Fertilization") v. Costa Rica,* 28 November 2012, IACrtHR, Preliminary Objections, Merits, Reparations and Costs, Series C No. 257, para. 173. See notably (for a comprehensive analysis of the main findings of the case) Ligia M. de Jesus, *A Pro-Choice Reading of a Pro-Life Treaty: The Inter-American Court on Human Rights' Distorted Interpretation of the American Convention on Human Rights in Artavia v. Costa Rica,* Wisconsin International Law Journal, Vol. 32, Issue 2 (2014), pp. 223-266.

Therefore, in order to fulfil the requirements of the principle of effectiveness, which lies at the core of the scope of protection of the American Convention, its interpretation cannot be done in a form that deprives efficacy to the scope of protection of the rights and freedoms enshrined in it. As a complement of this principle, Article 29 ACHR incorporates the principle of *non-restrictive* interpretation.[17] This principle precludes any restrictive interpretation of the rights and freedoms recognized in the Convention, by virtue of domestic legislation or the implementation of other conventional obligations.[18]

Furthermore, an effective protection of conventional rights also requires a consideration of all circumstances and relevant contextual factors of the case under analysis.[19] As expressly reaffirmed by the Court, "human rights treaties are living instruments whose interpretation must consider the changes over time and present-day conditions".[20] For this reason, the regional tribunal "must adopt the proper approach to consider [the interpretation of a given right] in the context of the evolution of the fundamental rights of the human person in contemporary international law."[21]

Systemic interpretation of the American Convention

In addition to the above mentioned hermeneutical steps, an evolutionary interpretation of the American Convention needs to take into account not only the instruments and agreements directly related to it (Article 31(2)(a)(b) VCLT), but also "any relevant rules of international law applicable in the relations between the parties" (cf. Article 31(3)(c) VCLT). The latter provision introduces the principle of *systemic* integration in general international law which, "points to a need to take into account the normative environment more widely".[22]

> "[A]ccording to the systematic argument, norms should be interpreted as part of a whole, the meaning and scope of which must be defined based on the legal system to which they belong. Thus, the Court has considered that "the interpretation of a treaty should take into account not only the agreements and instruments formally related to it (Article 31(2) of the Vienna Convention), but also its context (Article 31(3))"; in other words, international human rights law."[23]

17 Article 29 ACHR (Restrictions Regarding Interpretation) reads as follows: "No provision of this Convention shall be interpreted as: a) permitting any State Party, group, or person to suppress the enjoyment or exercise of the rights and freedoms recognized in this Convention or to restrict them to a greater extent than is provided for herein; b) restricting the enjoyment or exercise of any right or freedom recognized by virtue of the laws of any State Party or by virtue of another convention to which one of the said states is a party; c) precluding other rights or guarantees that are inherent in the human personality or derived from representative democracy as a form of government; d) …"

18 In this sense, the Court has stressed that "[a]ny interpretation of the Convention that […] would imply suppression of the exercise of the rights and freedoms recognized in the Convention, would be contrary to its object and purpose as a human rights treaty". *Cf. Ivcher Bronstein v. Peru, 24 September 1999, IACrtHR, Competence, Series C No. 54, para. 41. See also, Fuentes A., Judicial Interpretation and Indigenous Peoples' Rights to Lands, Participation and Consultation. The Inter-American Court of Human Rights' Approach,* International Journal on Minority and Group Rights 23 (2015), pp. 58 et seq.

19 As Judge Sergio Garcia-Ramirez highlighted, "[i]t would be useless and lead to erroneous conclusions to extract the individual cases from the context in which they occur. Examining them in their own circumstances – in the broadest meaning of the expression: actual and historical – not only contributes factual information to understand the events, but also legal information through the cultural references – to establish their juridical nature and the corresponding implications". *Cf. Yatama v. Nicaragua, supra* note 11, Concurring Opinion of Judge Sergio Garcia-Ramirez, para. 7.

20 *Cf. The right to information on Consular Assistance, supra* note 4, para. 192 *et seq.; Gómez Paquiyauri Brothers v. Peru,* 8 July 2004, IACrtHR, Merits, Reparations and Costs, Series C No. 110, para. 165.

21 *Cf. The Right to Information on Consular Assistance, supra* note 4, para. 115.

22 See Koskenniemi M., *Fragmentation of International Law, supra* note 3, p. 209, para. 415. According to this study, "[w]ithout the principle of "systemic integration" it would be impossible to give expression to and to keep alive, any sense of the common good of humankind, not reducible to the good of any particular institution or "regime"". *Ibid.*, p. 244, para. 480.

23 *Cf. Artavia Murillo, supra* note 17, para. 191. *See also González et al. ("Cotton field") v. Mexico*, 16 November 2009, IACrtHR, Preliminary Objection, Merits, Reparations and Costs, Series C No. 205, para. 43.

Therefore, the interpretation must take into account the legal system of which the Convention is a part, namely, the international human rights law.[24] In this sense, the Court would not limit itself to the text of the Convention when it integrates the content of its provisions, but would rather scrutinize all other regional or universal human rights instruments that would assist on its application in a given case.[25]

Although the systemic interpretative approach is essentially grounded on the fact that international human rights law is composed of a series of rules (conventions, treaties and other international documents), it cannot disregard "a series of values that these rules seek to develop."[26] This means that norms "should also be interpreted based on a values-based model that the Inter-American System seeks to safeguard from the perspective of the "best approach" for the protection of the individual."[27]

In the case of a human rights treaty, the object and purpose of the treaty provide the criteria that inform the values-based model to be taken into account during the interpretation process. In addition, the legal system of which that treaty is part of will further integrate (and cross-fertilize) its axiological foundations.

THE *CORPUS JURIS* OF INTERNATIONAL HUMAN RIGHTS LAW

The concept of *corpus juris* of international human rights law is closely related to the evolutive interpretation of international instruments. As mentioned elsewhere, this means that human rights treaties are living instruments whose interpretation must consider the changes over time and present-day conditions.[28] As pedagogically explained by the Court,

> "The corpus juris of international human rights law comprises a set of international instruments of varied content and juridical effects (treaties, conventions, resolutions and declarations). Its dynamic evolution has had a positive impact on international law in affirming and building up the latter's faculty for regulating relations between States and the human beings within their respective jurisdictions. This Court, therefore, must adopt the proper approach to consider this question in the context of the evolution of the fundamental rights of the human person in contemporary international law."[29]

24 *Cf. The Right to Information on Consular Assistance, supra* note 4, para. 113; and *Kichwa Indigenous People of Sarayaku v. Ecuador,* 27 June 2012, IACrtHR, Merits and Reparations, Series C No. 245, para. 161.

25 In this sense, the Court has declared that "it could "address the interpretation of a treaty provided it is directly related to the protection of human rights in a Member State of the Inter-American System," even if that instrument does not belong to the same regional system of protection". *Cf. Sarayaku v. Ecuador, supra* note 25, para. 161.

26 *Cf. González et al. ("Cotton field"), supra* note 24, para. 33. Also, according to Cançado Trindade: "Stemming from human conscience and the sentiment of justice enshrined therein, jus gentium is erected upon ethical foundations, incorporates basic human values, common to the whole of humankind, thus paving the way for the future evolution of the international legal order". *Cf.* Cançado Trindade A.A., 2013, *International Law for Humankind: Towards a New Jus Gentium, supra* note 13, p.27

27 *Ibid.*

28 *The Right to Information on Consular Assistance, supra* note 4. Para. 114.

29 *Ibid,* para.115; *See also Juridical Condition and Rights of Undocumented Migrants,* 17 September 2003, IACrtHR, Advisory Opinion OC- 18/03, Series A No. 18, para. 120; *Yakye Axa Indigenous Community v. Paraguay,* 17 June 2005, IACrtHR, Preliminary Objections, Merits, Reparations and Costs, Series C No. 172, para. 67; *and Ituango Massacres v. Colombia,* 1 July 2006, IACrtHR, Preliminary Objections, Merits, Reparations and Costs, Series C No. 148, para. 157. *See also Rights and Guarantees of Children in the Context of Migration and /or in Need of International Protection,* 19 August 2014, IACrtHR, Advisory Opinion OC- 21/14, Series A No. 21. The Court has referred in this Advisory Opinion to the *corpus juris* as: "a series of rules expressly recognized in international treaties or established in international customary law as evidence of a general practice accepted as law, as well as of the general principles of law and of a series of general norms or soft law, that serve as guidelines for the interpretation of the former, because they provide greater precision to the basic contents of the treaties."*Cf Ibid*., para. 60.

In the views of this regional tribunal, States are "bound by the corpus juris of the international protection of human rights, which protects every human person erga omnes, independently of her statute of citizenship, or of migration, or any other condition or circumstance" in order to deliver effective protection to several rights contained in the convention.[30] In this sense, it is important to highlight that the systemic protection provided by the *corpus juris* of human rights law is particularly relevant *vis-à-vis* individuals or groups in situation of vulnerability.[31]

As mentioned above, in integrating the *corpus juris* of international human rights law, the Court has recurred to all kind of norms (binding or not, universal, regional or domestic) while dealing with different provisions from the ACHR in relation to a wide array of issues involving, for instance, the rights of indigenous peoples, migrants and children.[33] In this regard, the IACrtHR has not only taken into account different sources of international law during its extensive interpretation of the Convention, but it has also made consistent references to domestic law.[32]

In sum, references to the corpus juris of international human rights law have also paved the way to the allocation of the fate of the human person – and of humankind as a whole – as a central element of international law. According to Justice Cançado Trindade, this process of integration has led to a "greater justice" and "a higher level of humanity" in International Law, where the subjects of International Law are not only States and international organizations but also "human beings, either individually or collectively" and "humankind".[34]

In this sense, and as it will be further elaborated below, the *pro homine* principle has played a central hermeneutical role in the Court's jurisprudence by prioritizing the centrality of the individual fate in the interpretative process of the Convention. Consequently, some remarks regarding this principle are necessary to achieve a better understanding of the Court's method of systemic interpretation.

THE INTERPRETATIVE CENTRALITY OF THE *PRO HOMINE* PRINCIPLE

As mentioned above, the "effective protection of human rights" constitutes not only the object and purpose of the American Convention but also a guiding principle for its interpretation. Indeed, human rights treaties aim to establish a system for the protection of human dignity, which lies and provides content to the *pro homine* principle (also named as *pro persona* principle).[35]

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30 *Cf. Juridical Condition and Rights of the Undocumented Migrants, supra* note 30, para. 85.

31 As Justice Cançado Trindade said - when referring to the relevance of the instruments that integrate the *corpus juris,* "[t]o attempt to withdraw their protection, rendering human beings, individually and in groups, extremely vulnerable, if not defenceless, would go against the letter and spirit of those Conventions." *Cf. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, 18 November 2008, ICJ, Preliminary Objections, Dissenting Opinion of Judge Cançado Trindade, para. 61.

32 *See* Tigroudja H., *The Inter-American Court of Human Rights and international humanitarian law,* in Research Handbook on Human Rights and Humanitarian Law, Ed. Kolb R. & Gaggioli Gloria,Edward Elgar Publishing, 2013, p. 473.

33 See *Medina C., The American Convention on Human Rights, supra* note 6, 2014.

34 According to Justice Cançado Trindade, this process of integration has led to a "greater justice" and "a higher level of humanity" in International Law, where the subjects of International Law are not only States and international organizations but also "human beings, either individually or collectively" and "humankind". *Cf.* Cançado Trindade A.A, I*nternational Law for Humankind, supra* note 27, p.282. In this sense, it has been said that "[t]he corpus juris is therefore "essentially victim orientated" as it has been originally consolidated and developed in benefit of human beings "individually" or "in groups". *Cf. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia), supra* note 32, Dissenting Opinion of Judge Cançado Trindade, para .59.

35 *See* Medina C., *The American Convention on Human Rights, supra* note 6, p. 6; *see also* 19 *Merchants v. Colombia,* 5 July 2004, IACrtHR, Merits, Reparations and Costs, Series C No. 103. According to the Court: "In this case, the right to due process must be considered in accordance with the object and purpose supra note of the American Convention, which is the effective protection of the human being; in other words, it should be interpreted in favor of the individual"(emphasis added). *Cf. Ibid,* para. 173.

The regional tribunal has expressly recognized this principle as a constitutive part of the American Convention, stating that,

> "[T]he American Convention expressly establishes specific standards of interpretation in its Article 29, which includes the pro persona principle, which means that no provision of the Convention may be interpreted as restricting the enjoyment or exercise of any right or freedom recognized by virtue of the laws of any State Party or by virtue of another convention to which one of the said States is a party, or excluding or limiting the effect that the American Declaration of the Rights and Duties of Man and other international acts of the same nature may have".[36]

The *pro homine* principle appears as an essential hermeneutical tool, which – combined with the evolutionary and systemic interpretation of the Convention – enlarges human rights' protection. This means that the references made by the Court to different human rights instruments not only could generate – as a consequence – the expansion of the human rights protection in a given case, but also the prioritization and centrality of the individual fate in the process of interpretation.[37] For instance, by applying the *corpus juris* of international human rights law in line with the *pro homine* interpretation, the Court has concluded that sexual orientation is included under the categories of "any other social condition" contained in Article 1(1) ACHR as prohibited grounds of discrimination.[39]

Finally, it is essential to highlight that the principle of humanity "permeates the whole corpus juris of the international protection of the rights of the human person (encompassing international humanitarian law, the international law of human rights and international refugee law), conventional as well as customary, at global (UN) and regional levels".[39] Hence, the *pro homine* principle is not only a principle of interpretation but also "a rigorous principle for the elaboration of national and international norms" and -in this regard- a "principle of regulation".[40]

In fact, this principle has gained further relevance and it has had a major incidence in those cases when individuals or groups are "in situation of vulnerability or great adversity",[41] such as in the case of children, women and indigenous peoples.[42] *Vis-à-vis* these cases, the *pro homine* principle has reinforced and highlighted the human dimension of the victims, paving the way for the recognition and reparation of their sufferings, including preventing the future repetition of the wrongdoings.

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36 Cf. Rights and Guarantees of Children in the Context of Migration and /or in Need of International Protection, supra note 30, para. 54.

37 *See* Mazzuoli Oliveira V. & Ribeiro D., *The Pro Homine principle as an enshrined feature of International Human Rights Law, Indonesian Journal of International & Comparative Law,* Volume: 3 Issue 1 (2016).

38 *See Atala Riffo and daughters v. Chile*, 24 February 2012, IACrtHR, Merits, Reparations and Costs, Series C No. 254. See also Negishi Y., *The Pro Homine Principle's Role in Regulating the Relationship between Conventionality Control and Constitutionality Control,* The European Journal of International Law, Vol. 28 no. 2, 2017, pp. 457-481.

39 *Cf. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia), supra* note 32, Judge Cançado Trindade Dissenting Opinion, para. 67. *See also Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation)*, 19 April 2017, ICJ, Request for the indication of Provisional Measures, Judge Cançado Trindade, Separate Opinion.

40 *Cf. Claude-Reyes et al. v. Chile, 19 September 2006, IACrtHR, Merits, Reparations and Costs, Separate Opinion of Judge S. Garcia Ramirez*, para. 13. *See also Awas Tingi v. Nicaragua, supra* note 15, Concurring Opinion of Judge Sergio Garcia Ramirez, para. 2.

41 *Cf. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia), supra* note 32, Judge Cançado Trindade Dissenting Opinion, para. 65.

42 In this sense, the Court has often referred to the "exacerbated situation of vulnerability". *See* - among others- *Maritza Urrutia v. Guatemala,* 27 November 2003, IACrtHR, Merits, Reparations and Costs, Series C No. 103, para. 87; and *Bámaca¬ Velásquez v. Guatemala,* 25 November 2000, IACrtHR, Merits, Series C No. 70, para. 150.

CONCLUSIVE REMARKS

This brief has critically analyzed how the Inter-American Court has enlarged the conventional protection of the rights of individuals by means of implementing a systemic, evolutive, dynamic and effective interpretation of the Convention under the light of human rights instruments that are part of the *corpus juris* of international human rights law.

The systemic, dynamic and evolutive integration of relevant international human rights standards has aimed at delivering a targeted protection to human beings in situation of vulnerability, i.e. foreigners in detention and undocumented migrant workers, emphasizing the application of the *pro homine* principle. In other words, delivering an effective human rights protection that prioritizes and puts at the center of the interpretational process the human person.[43]

In this sense, references to the international norms and principles part of the *corpus juris* of international human rights law, including *jus cogens* norms and *erga omnes* obligations, could be seen as paving the way towards "the construction of a new jus gentium at the beginning of the XXIst century, no longer State centric, but turned rather to the fulfilment of the needs of protection and aspirations of human beings and humankind as a whole".[44]

43 *See Benjamin et al. v. Trinidad and Tobago,* 1 September 2001, IACrtHR, Preliminary Objections, Series C. No. 81, para. 70.

44 *Cf.* Cançado Trindade A.A., *International Law for Humankind, supra* note 27, p. 397.