


Overcoming the Backlog in the Initial Review of Petitions in the Inter-American Commission on Human Rights

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Human rights systems may be victims of their own success, as they can become dysfunctional under the unbearable weight of their massive caseloads. The Inter-American Commission on Human Rights (Commission or IACHR) has faced this challenge in the past two decades with regard to the enormous backlog of pending applications in the Initial Review, the first phase of the petition process in the Inter-American Human Rights System (IAHRS).

The Initial Review entails a preliminary study of each application by the Executive Secretariat of the Commission to screen out (i) incomplete petitions in light of the mandatory information required under Article 28 of the IACHR's Rules of Procedure (RoP), and (ii) petitions that manifestly do not fulfil the admissibility requirements under Articles 31-34 of the RoP and Articles 46-47 of the American Convention on Human Rights. If one considers the percentage of dismissed petitions as the determinant factor, the Initial Review indeed constitutes the most significant 'filter' of the IAHRS: on average, between 2006 and 2022, 75% of the petitions submitted by the Commission were rejected by the Executive Secretariat in the Initial Review.

Despite its importance for access to justice in the IAHRS, the Initial Review was plagued by a 'chronic' backlog of pending petitions. Graph 1 below shows the remarkable growth of the IACHR's docket in the past two decades. While the Commission received 658 petitions in 2000, this number increased to 3034 in 2019, a growth of 361%. Consolidation of democracy in the region, increased civic participation, and greater awareness among the IAHRS's users could explain this increase.

The IACHR's Executive Secretariat could not keep up with the volume of incoming petitions, resulting in procedural delays in the Initial Review (see Graph 2 below). In 2007, the waiting time for a decision in this procedural stage was typically four years (here, para 106). In *Mémoli v. Argentina* (at para 36), the Inter-American Court of Human Rights (IACtHR) cautioned that this delay was 'excessive'. Besides the high number of complaints received and the lack of sufficient resources as important causes for the backlog, factors pertaining to the Commission's own performance, such as poor case management, inept managerial and working dynamics, and inefficient procedural practices, should not be overlooked (see here).



Until the early 2000s, the Executive Secretariat carried out the Initial Review in a decentralised and disorganised manner. Back then, this organ was divided into geographic sections, each implementing the Initial Review using its own working methods and degrees of efficiency. In terms of institutional culture and allocation of resources, the petition system was not the focus of the IACHR, whose efforts were instead centred on the monitoring and promotion of human rights. The Commission's role in criticising the human rights violations by totalitarian regimes in the region between the 1960s and 1980s could explain this choice. Consequently, when the number of received petitions mushroomed from the late 1990s, the Commission was unprepared in terms of organisation and mindset.

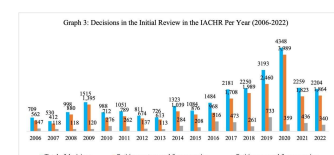
This post claims that the IACHR's efforts to overcome the backlog in the Initial Review can be divided into three phases, depending on the main institutional body created by the Commission within its Executive Secretariat for this end: (1) the first phase centred on the Registry Section (2007-2014); (2) the second phase focused on the Procedural Delay Group (2014-2018); and (3) the third and final phase centred on the Initial Review Section (2018-2021). Each of them will be assessed below.



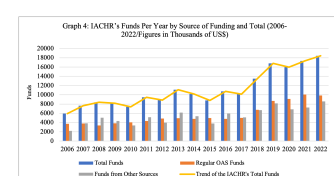
The First Phase: The Registry Section (2007-2014)

One of the IACHR's first measures to eliminate the backlog in the Initial Review was the creation of the Registry Section in 2007, whose goal was to remove the Initial Review from the competence of the different geographic sections of the Executive Secretariat and centralise it into one single organ. By receiving more resources and applying improved and unified working methods, the Registry Section ensured more efficiency: waiting time for a decision in the Initial Review went from four years in 2007 to two years in 2012 ([here](#), [para 106](#)). Graph 3 below discloses that the number of decisions in the Initial Review stage tripled between 2007 and 2009, even though it decreased in the following years.

It was evident that the creation of the Registry Section alone would not be sufficient to overcome the backlog. More fundamental changes were necessary in the Commission's structure and working methods. Thus, handling the backlog became a crucial point in the [Strategic Plan 2011-2015](#) ([at 75-76](#)), in which the IACHR pledged that, by 31 December 2013, no petition presented before 2010 would be under review.



Graph 4 above indicates that, despite a discreet rise between 2010 and 2013, there was no significant budgetary increase to the IACHR before 2018, a fact described by the Commission as the main element that prevented the Registry Section from fulfilling the Strategic Plan 2011-2015's ambitious goal ([here](#), [para 106](#)). As a result, in its first phase of overcoming the



backlog, the IACHR failed to systematically reduce the number of applications pending in the Initial Review. On the contrary, Graph 2 indicates that, in this period, the number of pending petitions continued to grow.

The Second Phase: The Procedural Delay Group (2014-2018)

Given the persistence of the logjam in the Initial Review, from 2014 onwards, the IACHR took more robust structural measures. The Commission altered its internal organisation in 2014 by rearranging its existing personnel into four departments ([Annual Report 2015, 831-832](#)). One of them was the Department of Petitions and Cases, mandated with assisting the IACHR with the receipt, analysis, and processing of individual petitions. A temporary section of this Department, named the Procedural Delay Group (PDG or Group), was established in this reform to implement the Initial Review of petitions filed between 2007 and 2013 that were still pending. Concurrently, the pre-existing Registry Section, also placed under the Department of Petitions and Cases, was assigned to perform the Initial Review of petitions filed after 2013.

The PDG operated from December 2014 to July 2016 and was particularly successful. The Group 'achiev[ed] results that are unparalleled in the history of the system of petitions and cases, with a total of 6405 petitions evaluated' ([here](#)). By 2016, the Commission had overcome the past procedural backlog in the Initial Review stage, evaluating all petitions submitted to the IACHR up to that year at least once ([Annual Report 2017, 49](#)). Graph 3 illustrates this accomplishment, indicating an increase in the number of decisions in the Initial Review after 2014.

Despite the success of the PDG, the immense flow of incoming applications was too overwhelming for the Registry Section. Graph 1 indicates a surge in the number of received applications between 2014 and 2019, with the latter being the year with the most significant number of petitions received in the IACHR's history. Graph 2 also shows that the number of pending petitions in the Initial Review stage between 2016 and 2018, although significantly smaller, still remained high, with an evident increase in 2018. Accordingly, while the PDG focused mainly on tackling the bulk of pending pre-2014 petitions, the IACHR needed to adopt new, forward-looking measures to ensure the long-term sustainability of its docket.

The 2016 financial crisis of the IACHR is another episode of this phase worth mentioning. On 23 May of that year, the Commission [announced](#) that the contracts of 40% of its staff could not be renewed for lack of funds. The Commission also suspended the visits it had planned for 2016 and its regular sessions scheduled for July and October of that year. One of the [main reasons](#) for this severe situation was that some European Permanent Observers decided to bring an end to their long-standing voluntary contributions to the Commission in 2015 and 2016 and instead focus their resources on the 2015 refugee crisis in the Mediterranean. However, due to a quick international mobilisation to gather resources ([here](#), [here](#)), the Commission was able to return to normality by the [end of](#)

September 2016. Despite rapidly overcoming the crisis, the impending financial meltdown of the Commission, amid the implementation of its backlog-handling policies, revealed the economic vulnerability of this organ.

The Third Phase: The Initial Review Section (2018-2021)

In line with the Special Procedural Delay Reduction Program introduced in the Strategic Plan 2017–2021 (at 51), this phase had two significant developments. First, in response to the IACHR's 2016 financial crisis, in 2017 the General Assembly of the Organization of American States decided to double the Regular Fund resources to the IACHR and the IACtHR between 2018 and 2020. This budget increase was vital to securing the success of this third phase of backlog-handling measures. Second, in September 2018, the Commission created the Initial Review Section (IRS) to replace the already extinct PDG and the Registry Section to implement the Initial Review (Annual Report 2021, 120; here). The IRS consisted of a group of specialists initially set up as a task force to tackle the backlog in the Initial Review.

The IRS has four primary differences in comparison to the former Registry Section. First, only lawyers with extensive experience in international human rights law carry out the Initial Review in the IRS. Prior to this change, fellows and interns, some lacking legal training, were often assigned to implement the Initial Review in the Registry Section. Second, while the latter had only two staff members in August 2016, a significant increase in permanent staff meant the IRS had six lawyers as of November 2018. In October 2023, the IRS had five staff lawyers and two coordinators. Third, a much more expeditious and effective operational dynamic was established within the IRS, with the supervisor working directly with the lawyers.

The fourth difference concerns the working methods to handle the backlog. The IRS adopted a new strategy centred on a more aggressive mass processing of petitions in order to quickly reduce the IACHR's docket in bulk. This strategy was used in particular to reject pending requests for the re-examination of a petition already dismissed in the Initial Review (see Resolution 1/19, transitory provisions) and the mass notification of the potential archival of inactive petitions under Article 42 of the RoP (see Resolution 1/22). In light of these innovations, the Commission described the IRS as 'a paradigm shift' in its handling of petitions (Annual Report 2021, 120).

Ultimately, the IACHR's measures paid off. Graphs 2 and 3 disclose the IRS's remarkable success, with a record-breaking number of issued decisions in 2020 and a drastic reduction in the number of petitions pending Initial Review in that year. In 2021, the IACHR declared the backlog in the Initial Review eliminated, indicating that the Executive Secretariat 'is now up to date with the initial study of petitions after having studied all the petitions received annually, plus those that remained with no activity on the part of the petitioners over the years' (Annual Report 2021, 120). An interview with the IACHR's Coordinator of Initial Review and Admissibility disclosed that, as of October 2023, the IRS continues to be the organ responsible for the Initial Review, which is carried out in six months on average.

Final Remarks

The IACHR should be praised for its achievement in overcoming the backlog in the Initial Review. In particular, the Commission's efforts show responsiveness to the need to quickly determine whether the IACHR will process the submitted petitions. The backlog-fighting policies also led (at least for now) to further professionalisation and efficiency in the implementation of the Initial Review, as well as greater institutional focus on the petition system. These improvements in the IACHR's procedure help to ensure that the IACHR does not repeat the cycle of abuse and dysfunction that victims may have endured in the state's domestic jurisdiction.

However, it is outside the scope of this piece to provide a conclusive analysis of the numerous and multifaceted implications of the backlog-driven changes introduced in the Initial Review. Further academic scrutiny is certainly welcomed in this regard. Suffice it to note at this point that eliminating the backlog in the Initial Review does not necessarily guarantee speediness in the petition process as a whole, since the logjam may simply move to the following procedural stage. In fact, the IACHR currently faces a backlog in the notification of the initiation of the proceedings under [Article 30\(2\) of the RoP](#). In December 2022, the Commission had 1,446 petitions, referring to 25 different states, approved in the Initial Review but still pending notification ([Annual Report 2022, 76](#)). As a result, there are significant delays between the decision to open a case in the Initial Review and the actual notice of that decision to the respondent state. Without this notification, the admissibility stage in the Commission cannot start.

The IACHR's backlog-fighting policies in recent years have not focused solely on the Initial Review. Measures to prevent logjams in the admissibility and merits stages and in friendly settlement procedures were also implemented ([here](#), [here](#), [here](#), [here](#)). Yet, it remains to be seen whether these measures will ensure that the IACHR can handle that transient backlog from one procedural stage to the next without giving rise to new logjams in the previous stages. There is the risk that the Commission falls into a perpetual spiral of backlogs and backlog-handling measures. Avoiding this outcome is critical to allowing the IACHR to depart from the crisis mode derived from the urgency of eliminating backlogs and instead focus on adopting long-term policies aimed at ensuring the adequacy of its petition system in a broader and more holistic perspective.

NB: The author created all graphs in this post using statistical data from the [IACHR's official website](#).

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