A CRITICAL VIEW OF THE INTER-AMERICAN SYSTEM OF HUMAN RIGHTS PROTECTION WITH THE EUROPEAN SYSTEM AS A PARADIGM

UMA VISÃO CRÍTICA AO SISTEMA INTERAMERICANO DE PROTEÇÃO AOS DIREITOS HUMANOS TENDO COMO PARADIGMA O SISTEMA EUROPEU

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Abstract
The article presents a brief description of the human rights protection systems in the Americas and Europe. It then focuses on the Inter-American System of Human Rights Protection, addressing the issue of delays in practice, using the example of the "Workers of the Brazil Verde Farm vs. Brazil" case. Subsequently, the article explores the European System of Human Rights Protection. Finally, some final considerations are presented on the challenges faced by human rights protection systems and the importance of more effective action in this area. The article discusses the importance of human rights protection in the Americas and Europe, problematizing how delays in law enforcement can undermine the effectiveness of these systems. The example of the "Workers of the Brazil Verde Farm vs. Brazil" case illustrates this issue in the context of the Inter-American System of Human Rights Protection. The research hypothesis is the importance of more effective action by human rights protection systems and the challenges they face in achieving this effectiveness. To achieve the objectives, a deductive method supported by a literature review was adopted. As bibliographic references, published materials, scientific literature, legislation, and jurisprudence relevant to the purposes discussed here were used. The conclusion highlights the need to reformulate the Inter-American system of human rights protection, using the European system as a paradigm.
Keywords: Human Rights; Inter-American Court; European Court of Human Right; Effectiveness.
Resumo
O artigo apresenta uma breve descrição dos sistemas de proteção de direitos humanos das Américas e da Europa. Em seguida, ele se concentra no Sistema Interamericano de Proteção aos Direitos Humanos, abordando a questão da morosidade na prática, com o exemplo do "Caso Trabalhadores da Fazenda Brasil Verde Vs. Brasil". Posteriormente, o artigo explora o Sistema Europeu de Proteção de Direitos Humanos. Por fim, são apresentadas algumas considerações finais sobre os desafios enfrentados pelos sistemas

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de proteção de direitos humanos e a importância de uma atuação mais efetiva nessa área. O artigo discute a importância da proteção dos direitos humanos nos sistemas das Américas e da Europa, tendo como problematização de como a morosidade na aplicação das leis pode prejudicar a efetividade desses sistemas. O exemplo do "Caso Trabalhadores da Fazenda Brasil Verde Vs. Brasil" ilustra essa questão no contexto do Sistema Interamericano de Proteção aos Direitos Humanos. Tendo como hipótese de pesquisa a importância de uma atuação mais efetiva dos sistemas de proteção de direitos humanos, e os desafios que eles enfrentam na busca por essa efetividade. Desta forma, para se alcançar os objetivos, adota-se o método dedutivo apoiado na revisão bibliográfica. Como referências bibliográficas foram utilizados materiais publicados, literatura científica, Legislação e Jurisprudência que foram relevantes para os fins aqui discutidos. Tendo como conclusão a necessidade de se reformular o sistema interamericano de proteção dos direitos humanos, tendo como paradigma o sistema europeu.

Palavras-Chave: Direitos Humanos; Corte Interamericana; Corte Europeia de Direitos Humanos; Efetividade.

Summary: 1 Introduction. 2 Brief Description of Human Rights Protection Systems in the Americas and Europe. 3 Inter-American System of Human Rights Protection. 3.1 The Slowness in Practice – 'Workers of the Fazenda Brasil Verde vs. Brazil' Case – Slave Labor. 4 European System of Human Rights Protection. 5 Final Considerations. 6 References.

1 INTRODUCTION

The Inter-American System of Human Rights Protection has been in existence for over half a century, providing a framework for the promotion and defense of fundamental rights and freedoms in the Americas. Despite its achievements in promoting human rights norms and standards, there is room for improvement in terms of its effectiveness and efficiency in responding to human rights violations in a timely manner.

To illustrate the excessive delay in its decisions, this article focuses on the emblematic case 'Trabalhadores da Fazenda Brasil Verde vs. Brazil', which deals with the violation of human rights through slave-like labor.

The article argues that, although the Inter-American System has made significant advances in promoting human rights, there is a need for improvement in terms of speed, effectiveness, transparency, and the right of victims to petition their decisions. Taking the European system as a reference for comparison, the article suggests that a more democratic access to the court would avoid political interference and waste of time within the commission, which currently holds concurrent active legitimacy with member states to access the Inter-American Court of Human Rights.

Thus, this article offers a critical perspective on the Inter-American System of Human Rights Protection, using the European system as a paradigm for comparison. It provides a brief study of the protection system in both the Inter-American and European systems.

The article aims to analyze the challenges faced by the Inter-American system in protecting human rights, focusing on the issue of slow and inefficient

handling of cases. It also evaluates the potential benefits of adopting a more European-style approach to human rights protection in the Americas.

To achieve these objectives, the article puts forward the following hypothesis: a more effective and efficient system of human rights protection in the Americas can be achieved by adopting a more European-style approach to human rights protection. The methodological approach adopted in this study is deductive, supported by a comprehensive review of relevant literature, legislation, and case law.

2 BRIEF DESCRIPTION OF THE HUMAN RIGHTS PROTECTION SYSTEMS IN THE AMERICAS AND EUROPE

The European system of human rights protection and the Inter-American system of human rights protection are both regional systems that aim to ensure the protection and promotion of human rights in their respective territories. However, there are some important differences between these two systems.

One of the main differences is that the European system is older and has a more complex structure. It is composed of different bodies and legal instruments, such as the Council of Europe, the European Convention on Human Rights, and the European Court of Human Rights. These bodies work together to protect and promote human rights in member countries.

On the other hand, the Inter-American system is composed of two main bodies: the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. Although it has a simpler structure, the Inter-American system has a strong emphasis on supervising and monitoring member countries of the Organization of American States (OAS) to ensure respect for human rights.

According to Assumpção, (2021, p. 182), the Inter-American System of Human Rights: “was born, in the context of advancing post-war, in the area of Universal Rights, in legal, temporal and logical complementarity to the establishment of the Universal Protection System, which started to be structured from 1948, with the Declaration of the United Nations Organization.”.

Another important difference is the geographical scope of these two systems. While the European system encompasses most countries in Europe, the Inter-American system is limited to OAS member countries.

Finally, it is worth noting that despite the differences, both systems have the common goal of ensuring the protection and promotion of human rights in their respective regions. Each system has its own characteristics and challenges, but both are fundamental to ensuring that human rights are respected worldwide.

3 INTER-AMERICAN SYSTEM OF HUMAN RIGHTS PROTECTION

The American Convention on Human Rights, also known as the San Jose Pact, came into force in 1978 and applies to all OAS member countries. It guarantees a wide range of rights, such as the right to life, liberty and personal security, freedom of expression, freedom of peaceful assembly and association, privacy, among others.

OAS member countries also have other obligations under the inter-American complaint system, such as the obligation to cooperate with the Commission and the Court, to implement the Court's judgments and to guarantee human rights protection in their territories.

The Inter-American System of Human Rights Complaints is a regional mechanism for the protection of human rights, created by the Organization of American States (OAS) in 1969. The objective of this system is to ensure respect for human rights in OAS member countries, through a set of legal instruments and mechanisms for supervision and monitoring.

The Inter-American System for the Protection of Human Rights provides for two bodies, the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, as follows:

> *(...) the two-phase procedure for human rights protection in the contentious jurisdiction of the IACHR was retained. Thus, in cases of petitions from victims of human rights violations, representatives of victims, non-governmental organizations, and petitions initiated ex officio (individual claim) or by Member States (interstate claim), it is necessary to have – in both situations – a stage before the Inter-American Commission on Human Rights and only after – if necessary – a stage before the International Court of Human Rights (IDH Court or San Jose Court).* (RAMOS, 2022, p. 3)
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> *In procedural terms, upon receiving a petition, the Inter-American Commission initially decides on its admissibility, taking into account the requirements established in Article 46 of the Convention. If the admissibility of the petition is recognized, it requests information from the government being accused. As Héctor Fix-Zamudio explains: "The processing of complaints and claims, both private and state, can be divided into two stages: the first refers to the requirements of admissibility, and the second consists of observing the principle of due process* (PIVEZAN, 2019, p. 161)

Thus, the Commission is responsible for receiving, analyzing, and, if necessary, referring human rights violation complaints to the Court. In turn, the Court is responsible for judging individual cases and issuing judgments, as well as interpreting and applying the American Convention on Human Rights, the main legal instrument of the system.

Therefore, with regard to active legitimacy, only the Member States and the Inter-American Commission on Human Rights have the right to propose cases before the judging body – the Inter-American Court of Human Rights – as well pointed out by Ricardo D. Rabinovich-Berkman "Only the OAS states and the Commission can submit a case to the Court, once the Commission's intervention has been unsuccessful (art. 61)." (RABINOVICH-BERKMAN, 2007, p. 37)

It is noted that not even victims, their legal representatives, or non-governmental organizations have the right to petition the Court, being constrained to present complaints to the Inter-American Commission, which will have the function of making an admissibility judgment and then proposing or not proposing the opening of the case before the Inter-American Court.

This seems like a paradox, given that for the Inter-American Court, "(...) the victim and their protection have undergone significant evolution in their

jurisprudence, granting an important role to the victim in the proceedings before said international court, evolving towards a conception of centrality of the victim for criminal investigations, which implies recognition of procedural rights and, above all, access to effective judicial protection." (ROJAS and MENDES, 2022, p. 260).

It is necessary to emphasize that the two-phase system was inherited and modeled on the old European system, which, as will be studied in the next topic, underwent a salutary change in order to bring more transparency, agility, and establish the right of petition of victims, giving them direct access to the European Court with the advent of Additional Protocol 11.

In turn, the defendant in actions before the Court will always be one of the member States.

Article 46.1 of the American Convention on Human Rights sets out the necessary requirements that cases must meet for a petition on human rights violations to be admissible before the Inter-American Commission on Human Rights.

> *Article 46*
>
> *1. In order for a petition or communication submitted in accordance with Articles 44 or 45 to be admitted by the Commission, the following shall be required:*
>
> *a. that internal remedies have been exhausted, in accordance with generally recognized principles of international law;*
>
> *b. that it is lodged within a period of six months from the date on which the party alleging violation of his rights was notified of the final judgment;*
>
> *c. that the subject of the petition or communication is not pending in another international proceeding for settlement; and*
>
> *d. that, in the case of Article 44, the petition contains the name, nationality, profession, domicile and signature of the person or persons or legal representative of the entity submitting the petition.*

Although one of the requirements is precisely the exhaustion of internal remedies, this legal instrument provides for the mitigation of this requirement, according to the exact teachings of Mazzuoli:

> *However, with regard to the first and second requirements, it should be noted that paragraph 20 of the same Article 46 provides that the provisions of subparagraphs (a) and (b) above shall not apply when: a) there is no due process of law for the protection of the right or rights alleged to have been violated in the internal legislation of the State concerned; b) the presumed victim has been denied access to the internal remedies, or has been prevented from exhausting them, and c) there has been unwarranted delay in reaching a decision on the said remedies.* (MAZZUOLI, 2023, p. 834)

This mitigation is very important and fundamental to access to justice within the Court, especially regarding unwarranted delays in decisions. Especially in cases involving Brazil, where there is a real legal maze with numerous available remedies, where the slowness of the justice system (systemic and active) always ends up happening. Thus, the complete exhaustion of internal remedies, especially in cases

involving slavery-like work, is hardly likely to occur in a coherent time frame given the economic and social disparity between the parties involved (on one side the Employer and on the other the Employee/Slave).

Although considered a great advance in the defense of human rights within the inter-American scope, the System also faces challenges. Among these challenges are the lack of adherence of some countries to the American Convention, the low level of compliance with the Court's judgments, and the Commission's limitation to address the large number of complaints, and especially the slowness and lack of direct access to the Court (Judging Body) by the victims or their legal representatives, unlike what occurs in the European system.

3.1 The Slowness in Practice – 'Workers of the Fazenda Brasil Verde vs. Brazil' Case

In order to illustrate the slowness brought by the two-phase system, it is important to mention the case of "Workers of the Fazenda Brasil Verde vs. Brazil," which began with a petition filed on November 12, 1998. However, it was only on March 3, 2011 that the Commission issued its report on admissibility and merit, urging Brazil to be held responsible for the violations that occurred at Fazenda Brasil Verde, as well as to determine the reparation of damages caused to the victims, and finally submitting the case to the Inter-American Court of Human Rights.

It is clear that the need for victims to first present their complaints to the Inter-American Commission, and only then can the Commission open the case before the Inter-American Court (Judicial Body), is what leads to excessive slowness in the system.

On the other hand, the decision of the Inter-American Court of Human Rights was only made on August 22, 2017.

Although slavery, in the strict sense of the word, was abolished in Brazil in 1888 with the advent of the Áurea Law, it is certain that exhausting work is still experienced under unfavorable and degrading circumstances for the worker. It is correct to say that slavery still exists in the country.

Thus, in order to adapt to modern times, in Brazil Law No. 10,803/03 brought changes to the Penal Code, criminalizing the conduct of "Reducing someone to a condition similar to that of a slave," as follows:

> *Art. 149. Reduce someone to a condition analogous to slavery, whether by subjecting them to forced labor or exhausting work hours, or by subjecting them to degrading work conditions, or by restricting their movement through any means due to debt contracted with the employer or their representative:*
>
> *Penalty – imprisonment for two to eight years and a fine, in addition to the penalty corresponding to violence.*
>
> *§ 1. The same penalties apply to those who:*
>
> *I – restrict the use of any means of transportation by the worker, with the purpose of retaining them at the workplace;*

II – keep watch over the workplace or seize personal documents or objects of the worker, with the purpose of retaining them at the workplace.

§ 2. The penalty is increased by half if the crime is committed:

I – against a child or adolescent;

II – due to prejudice based on race, color, ethnicity, religion or origin.

It can be observed that the legislator was sensible in typifying not only the employer but also those who are intimately linked to the function of monitoring or restricting the freedom of the worker, also putting them in the position of defendants.

This evolution was necessary for the State to have the conditions and legal basis to effectively protect human dignity from abuses committed by employers against their employees. In many cases, worker exploitation is so great that the conditions imposed by the employer reduce the person to a condition analogous to slavery.

The International Labor Organization defined, through Convention 29[2] – Forced or Compulsory Labor as: "Art. 2 – 1. For the purposes of this Convention, the term 'forced or compulsory labor' shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."

This is exactly what happened in the case under study, at Fazenda Brasil Verde located in the state of Pará, Brazil. The situation is even more aggravated, as it is a large rural property located several kilometers from any civilization, and the workers did not even have the conditions to leave their work, being at the mercy of the rules imposed by the employer.

According to information in the records, the workers were lured from afar by tempting work proposals that never materialized. They arrived at the site with hope and were literally treated as cheap and disposable labor. Housing, food, and health conditions were precarious. They slept in wooden sheds with tarps as roofs that barely protected them from the rain. The water provided came from artesian wells but was stored in inappropriate places, making it unsuitable for human consumption.

Work shifts were exhausting, they had to wake up in the early hours and walk to the job site, and in order to receive their salaries, they had to meet unattainable targets. The food provided was repetitive, of poor quality, and scarce. Due to the distance to the city, everything they needed had to be bought at the local store, owned by the farm owner, at exorbitant prices, causing them to incur more debt, and their "salary" at the end of the month was barely enough to pay off their debts.

It should be noted that since 1988, the Pastoral Land Commission and the Diocese of Conceição de Araguaia had already filed a complaint with the Federal Police about the practice of slave labor on the Fazenda Brasil Verde and the disappearance of two young men.

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[2] Approved at the Geneva Convention in 1930, it was ratified by Brazil through Legislative Decree No. 24, dated May 29, 1956..

In this bleak context, two of the workers, Francisco Furtado de Sousa and Antonio Francisco da Silva, fell ill, but were still forced to work under the threat of armed overseers. This was the last straw, causing them to gather courage and flee the farm. Finding support from the Pastoral Land Commission, which had already formalized several complaints about the inhumane situation of Fazenda Brasil Verde workers to Brazilian authorities, which were never enough to end the workers' situation, it was necessary to file a complaint with the Inter-American Commission on Human Rights, since the direct petition to the Inter-American Court of Human Rights is prohibited for victims or associations.

In March 2000, during an inspection by the Ministry of Labor on the farm, 80 workers were rescued working in conditions similar to slavery. According to the Federal Public Ministry[3], other inspections carried out in 1993, 1996, and 1997 had already found the practice, but with no major consequences for the owners who continued with abusive practices.

As a result of the liberation of the 80 workers, a police investigation (2001.39.01.000270-0) was initiated before the 2nd Federal Court of Marabá, but due to the discussion and doubts about federal competence to investigate slave labor crimes, the investigation was referred to the State Justice for the Xinguara/PA District, where the investigation simply disappeared.

In the Inter-American Court, despite the decision having been published for more than five years, the case remains emblematic, relevant, and current, especially because the situation that the case seeks to combat still persists. It is also worth noting that the proceedings took a very long time, with almost twenty years of proceedings, raising questions about the real need for reform and improvement of the inter-American system of human rights protection as a whole.

There is no doubt that the creation of the Inter-American Court of Human Rights was a great advance in the system for protecting the supreme rights of man against their violations. However, there is room to improve the system, in order to bring more speed, effectiveness, transparency, and to guarantee victims' right to petition, taking as a paradigm the European system, where access to the court is as democratic as possible, thus avoiding political interference and wasting time in the commission, which currently holds concurrent standing with the member states to access the Inter-American Court of Human Rights.

This case is extremely emblematic, as it was the first one analyzed by the Inter-American Court regarding the accusation of labor similar to slavery, thus establishing a new paradigm on the subject.

This topic is very relevant and current, including with the recent rescue of more than one hundred and fifty workers who were working, under outsourcing, in wineries in the Serra Gaucha region, southern Brazil. The joint operation between the Ministry of Labor and Employment and the Federal Police was triggered by the

[3] BRASIL. Ministério Público Federal, relatório sobre o caso disponível em https://www.mpf.mp.br/pgr /documentos/entenda-o-caso-_fazenda-brasil-verde.pdf. Acesso em 09 de fev. de 2023, às 23:50.

complaint of three workers who succeeded in escaping from the lodging where they were kept against their wills. (NAGEL, 2023, p 02).

Regarding the 'Fazenda Brasil Verde Workers Vs. Brazil Case', it is important to note that since 1988 the Pastoral Commission of the Land and the Diocese of Conceição de Araguaia had already filed a complaint with the Federal Police about the practice of slavery on Fazenda Brasil Verde and the disappearance of two young people.

However, it was only with the decision of the Inter-American Court that the rescued workers (or their heirs) were able to receive any compensation to mitigate their damages, condemning the Federative Republic of Brazil and declaring:

> *Unanimously, it is held that:*
>
> *3. The State is responsible for violating the right to not be subjected to slavery and trafficking in persons, established in Article 6.1 of the American Convention on Human Rights, with respect to Articles 1.1, 3, 5, 7, 11, and 22 of the same instrument, to the detriment of the 85 workers rescued on March 15, 2000, at Fazenda Brasil Verde, listed in paragraph 206 of this Judgment, in accordance with paragraphs 342 and 343 of this Judgment. Additionally, in relation to Mr. Antônio Francisco da Silva, this violation also occurred with respect to Article 19 of the American Convention on Human Rights, as he was a child at the time of the events, in accordance with paragraphs 342 and 343 of this Judgment.*
>
> *By five votes to one, it is held that:*
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> *4. The State is responsible for violating Article 6.1 of the American Convention, with respect to Article 1.1 of the same instrument, in the context of a historic structural discrimination situation, due to the economic position of the 85 workers identified in paragraph 206 of this Judgment, in accordance with paragraphs 342 and 343 of this Judgment. Judge Sierra Porto dissents.*
>
> *Unanimously, it is held that:*
>
> *5. The State is responsible for violating the judicial guarantees of due diligence and reasonable time, provided for in Article 8.1 of the American Convention on Human Rights, with respect to Article 1.1 of the same instrument, to the detriment of the 43 workers of Fazenda Brasil Verde found during the inspection of April 23, 1997, and who were identified by the Court in paragraph 199 of the Judgment, in accordance with paragraphs 361 to 382 of this Judgment.*
>
> *By five votes to one, it is held that:*
>
> *6. The State is responsible for violating the right to judicial protection, provided for in Article 25 of the American Convention on Human Rights, with respect to Articles 1.1 and 2 of the same instrument, to the detriment of: a) the 43 workers of Fazenda Brasil Verde found during the inspection of April 23, 1997, and who were identified by the Court in this litigation (par. 199 supra) and b) the 85 workers of Fazenda Brasil Verde found during the inspection of March 15, 2000, and who were identified by the Court in this litigation (par. 206 supra). Additionally, in relation to Mr. Antônio Francisco da Silva, this violation occurred with respect to Article 19 of the American Convention, all previous in accordance with paragraphs 383 to 420 of this Judgment. Judge Sierra Porto dissents.*
>
> *Unanimously, it is held that:*
>
> *7. The State is not responsible for violations of the rights to legal personality, life, integrity, and personal liberty, and of the guarantees and judicial protection provided for in Articles 3, 4, 5, 7, 8, and 25 of the American Convention, with respect to*

Articles 1.1 and 19 of the same instrument, to the detriment of Luis Ferreira da Cruz and Iron Canuto da Silva or their family members, in accordance with paragraphs 421 and 426 to 434 of this Judgment.

The Court also determined that the Brazilian State should continue the investigations to criminally prosecute those responsible, especially through the reconstruction of Police Inquiry No. 2001.39.01.000270-0, initiated in 2001, before the 2nd Federal Court of Marabá, which was lost.

Following this determination from the Court, in 2017, the Federal Public Ministry reopened investigations into the incident, hearing from more than 70 victims, which resulted in charges being filed on September 13th, 2019, against the owner of the Brasil Verde Farm and the then-administrator. The charges were accepted by the Federal Judge in Redenção/PA on January 20th, 2020. The case is still ongoing.

4 EUROPEAN SYSTEM FOR THE PROTECTION OF HUMAN RIGHTS

The system of human rights protection in Europe is considered one of the most advanced and effective in the world, precisely because it is the oldest and most established, having been perfected over time. It is based on a set of international and regional legal instruments, which establish standards and mechanisms for the protection of human rights throughout the region.

The main legal instrument of the European system for the protection of human rights is the European Convention on Human Rights, which entered into force in 1953 and applies to all 47 member countries of the Council of Europe.

The Convention is based on three pillars: Human Rights, Democracy and the Rule of Law, and guarantees a wide range of rights, such as the right to life (Article 2), freedom (Article 5), freedom of expression (Article 10), freedom of assembly (Article 11), privacy (Article 8), freedom from torture (Article 3), freedom from slavery (Article 4), the right to a fair trial (Article 6), the right to the protection of property (Protocol 1, Article 1), among others.

In addition to the Convention, the European system for the protection of human rights has other important instruments, such as the Additional Protocol to the European Convention on Human Rights, which provides for the abolition of the death penalty in peacetime, and the European Social Charter, which guarantees social and economic rights, such as the right to work, social security and protection of health.

The European system for the protection of human rights also has various mechanisms for supervision and monitoring of the implementation of the rights provided for in the legal instruments. Among these mechanisms, the European Court of Human Rights stands out, which has predominantly contentious competence for the application and interpretation of the Convention and its protocols (Article 32 ECHR) + advisory opinions at the request of the Committee of Ministers (Article 47).

In summary, the system for the protection of human rights in Europe is an example of how international cooperation can contribute to the promotion and protection of human rights in a region. It offers a comprehensive set of legal

instruments and supervisory mechanisms that guarantee the effectiveness of human rights throughout the region, and is a model for other human rights protection systems around the world.

Regarding legitimacy, the European system initially adopted the dual system, where only the Commission and/or member states could bring cases before the European Court. However, the system evolved with the advent of Protocol 11 in 1998, which brought a series of procedural changes, including the possibility for victims, organizations, or any person to directly submit petitions to the Court.

> *Article 34. Individual applications The Court may receive applications from any person, non-governmental organization or group of individuals claiming to be the victim of a violation by one of the High Contracting Parties of the rights set forth in the Convention or the protocols thereto. The High Contracting Parties undertake not to hinder in any way the effective exercise of this right.*

This change is important for the enforcement of human rights, as the admissibility process carried out by the Commissions can be affected by political judgments, hindering the redress of affected individuals.

> *We have always found it strange that the European Convention coexists with both judicial components (decisions of the Court and Commission) and political components (decisions of the Committee of Ministers). It is indisputable that the judicial route represents the most advanced form of human rights protection. So why have such broad prerogatives of a politically composed body – the Committee of Ministers of the Council of Europe – which preceded the European Convention itself, been maintained over the years? Such prerogatives have never escaped the criticism of the most enlightened doctrine, which called for an end to the hybrid nature – neither judicial nor diplomatic – of this specific aspect of the original protection mechanism under the Convention. As for the other aspect, that of supervising the execution of the Court's judgments, there has been consensus in retaining this function by the Committee of Ministers, based on the understanding that this was not a function of the European Court* (TRINDADE, 2003, p. 140).

There is no doubt that Additional Protocol No. 11 was a major breakthrough in allowing victims, groups of victims, and non-governmental organizations to bring petitions before the European Court against human rights violations. Before that, only the Commissions were considered legitimate to file such action, in this opinion:

> *(...) However, it is indisputable that the availability of the right to individual petition ensures effectiveness to the international system of human rights protection. By ensuring that individuals submit their own complaints, the right of individual petition makes human rights effectiveness less dependent on other political deliberations that may motivate government action or inaction* (BUERGENTHAL, 1996, pp. 454-455, *apud* PIOVESAN, 2018, p. 164).

Indeed, the approval of Protocol No. 11 not only brought more agility to the process of protecting human rights in the European context, but has also ensured broader access to justice, as well pointed out by J.J. Gomes Canotilho:

> *With the ratification by Portugal of the European Convention on Human Rights and its Additional Protocols, with special emphasis on Additional Protocol No. 11 (...) Portuguese citizens can, under Articles 34 et seq. of that Convention, individually appeal, through a petition – the right of appeal to the European Court of Human Rights – to the European Court of Human Rights (Article 34). This petition or complaint may lead to the award by the Court of reasonable reparation where it is found that there has been a violation of the Convention or its Protocols and where the domestic law of the High Contracting Party concerned does not allow only imperfectly the consequences of such a violation to be remedied (Art. 41.)* (CANOTILHO, 2017, p. 507)

In summary, the complaints system can be: Individuals x States or States x States (Articles 33 and 34), the defendant's legitimacy will always be against a State, so any claim directed against an individual is inadmissible, in turn, the plaintiff's legitimacy can also be of the individual (Art. 34).

Requirements for admissibility (Art. 35) before the European Court are: a) Principle of subsidiarity (exhaustion of domestic legal remedies) – Art. 35/1; b) Deadline of 4 months (new Protocol 15, Art. 4); c) Principle of the request (qualification of the parties, cause of action, request); d) It cannot be abusive and must be minimally founded (statement of the violated right and minimum evidence) – Art. 35/3; e) Material criterion for admissibility of the request: significant harm resulting from a violation of a right, in light of the existence or not of a domestic legal remedy.

5 FINAL CONSIDERATIONS

Access to justice is not just the right to plead one's case before a judicial body, but rather the effective delivery of justice within a reasonable timeframe. Norberto Bobbio teaches that "the serious problem of our time, with regard to human rights, was no longer to found them, but to protect them" (BOBBIO, 2018, p. 24).

As the case of the workers at Fazenda Brasil Verde proves, the Brazilian State is often lacking in its provision of justice when it comes to protecting citizens' fundamental rights.

As Boaventura de Sousa Santos points out, there are two types of judicial slowness, systemic and active (SANTOS, 2015, p. 42/44). The former concerns the justice system as a whole, from the workload and formalities required to the number of available resources. In turn, active slowness concerns the real interest of public officials in delaying and/or paralyzing the case.

In the case of Fazenda Brasil Verde, both types of slowness occurred, since the defense of the farm owner has used (and continues to use) all legal subterfuges in an attempt to block the progress of investigative and criminal actions. Similarly, there is a general disregard by public entities to effectively try to end the problem of slave labor on the Fazenda Brasil Verde. This is evident since 1988, when the Pastoral da Terra had already denounced serious human rights violations, and the Ministry of Labor had already found irregularities in other inspections carried out in

1993, 1996 and 1997. Likewise, the Pastoral da Terra had already reported the facts to the Federal Police.

The case is even more emblematic because, in addition to the slowness that the case took by Brazilian authorities, it is necessary to point out that the Inter-American Commission also failed to provide justice within a reasonable timeframe. This is because the case lasted for more than eighteen years from the complaint (1998) until the issuance of the decision (2016).

There is no doubt that the Inter-American Court, despite the delay, was the only way to bring some compensation, albeit pecuniary, to the victims of slave labor. Because if it weren't for the Court, the victims would not have received anything and the investigations would have remained paralyzed.

Therefore, it is concluded that a reform is necessary in order to improve the system, also at the level of the Inter-American Court of Human Rights, in order to bring greater speed in the delivery of justice, transparency, and the right of petition of the victims, taking as a paradigm the system adopted in Europe.

In conclusion, this article has provided a critical analysis of the Inter-American System of Human Rights Protection, using the European system as a reference for comparison. It has explored the challenges faced by the Inter-American system in protecting human rights, with a focus on the issue of slow and inefficient handling of cases, and evaluated the potential benefits of adopting a more European-style approach to human rights protection in the Americas.

Based on the analysis, it can be concluded that there is a clear need for reform and improvement of the Inter-American System of Human Rights Protection. A more European-style approach to human rights protection in the Americas could provide a model for achieving greater effectiveness, efficiency, and transparency in the protection of human rights. The European system's emphasis on speedy access to justice for victims and on avoiding political interference could help to address some of the challenges facing the Inter-American system.

Overall, this article argues that the Inter-American System of Human Rights Protection can benefit from adopting a more European-style approach to human rights protection. This approach should prioritize the rights of victims and ensure that they have access to a timely and effective system of justice. By doing so, the Inter-American system can become more effective, efficient, and transparent in protecting the fundamental rights and freedoms of citizens across the Americas.

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