

The construction and restrictive factors of human rights protection mechanism in Latin America

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Abstract: As a "contradictory pioneer", Latin America is deeply influenced by Western cultural values on the one hand. It has a certain degree of "advancement" in terms of human rights concepts and has played an important role in promoting the formation of human rights concepts and international human rights norms. On the other hand, due to the influence of historical factors, Latin America also experienced systematic and large-scale human rights violations in the 1970s and 1980s. The combination of ideas and reality gave birth to a system with distinctive regional characteristics. Latin America's regional human rights protection mechanism has formed a multiple human rights protection system of "Declaration + Convention + Commission + Court". At the domestic level, it has also formed a response mechanism for human rights violations represented by truth commissions and human rights tribunals. At the same time, With the assistance of the United Nations human rights protection mechanism and third-party forces represented by non-governmental organizations, a multi-level human rights protection mechanism has gradually formed in Latin America. However, in the process of promoting and protecting the realization of human rights in the region, universal The current situation of poverty, the legacy of the immunity system, and national security ideology constitute internal constraints within the region, while the interaction between the United States and Latin America on human rights issues constitutes positive and negative influences from the outside. Overall, Latin America's human rights protection mechanisms Its development history has provided developing countries with rich experience that can be used for reference in building regional human rights mechanisms.

Keywords: human rights concept, human rights protection mechanism, international human rights norms, human rights committee,

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After World War II, with the adoption of the Charter of the United Nations and the Universal Convention on Human Rights, the human rights movement officially began the process of internationalization. With the United Nations human rights protection mechanism as the core, regional human rights protection mechanisms as the intermediary, and domestic human rights protection mechanisms as the fundamental. The international human rights protection system is gradually taking shape. In this system, regional human rights protection mechanisms are based on consensus among countries in a specific region, can better reflect the culture and value orientation of the region, and have relatively powerful enforcement mechanisms. Therefore, it occupies a key position in the international human rights protection system. Whether it is regional human rights protection mechanisms in Europe, Africa, Latin America, etc., or sub-regional human rights protection mechanisms represented by the ASEAN Intergovernmental Commission on Human Rights, they all serve to respect and promote this country. The development of the regional human rights situation has played an irreplaceable role. The human rights protection mechanism in Latin America has certain particularities, because this regional human rights protection mechanism combines complex components, including the local value orientation of Latin America and is also influenced by Latin America. Influenced by Western culture, it not only reflects the unique demands of developing countries in the field of human rights, especially economic and social rights, but also shows support and promotion of developed countries' human rights concepts such as civil and political rights and universal jurisdiction. Therefore, in the process of exploring the human rights protection mechanism in Latin America, the dichotomy between "Eastern and Western" countries or "North and South" countries does not apply. At the level of concepts and actions, Latin America is more like a "contradictory pioneer". There is firm support for the concept of human rights and many innovations, but at the same time, the history of large-scale human rights violations is in sharp contrast to the former. Therefore, the goal of this article is to explore the basic structure with local characteristics based on the background of the creation of Latin American human rights protection mechanisms. Compare with the operating mechanism and other regional human rights protection mechanisms, and finally determine its effectiveness based on both internal and external levels. Evaluate and analyze sexual interference factors.

1. The background of the establishment of human rights protection mechanisms in Latin America

In the second half of the 20th century, a large number of military governments in Latin American countries came to power and exercised high-pressure rule. History, the relationship between Latin America and international human rights norms is often misunderstood as a one-dimensional influence, that is, international human rights norms are an external interference for this region. Countries in the region interfere under external pressure. Choosing to abide by or violate relevant human rights norms, only in the process of norm expansion, Latin American countries gradually accept human rights norms and internalize them. However, this one-dimensional influence is not practical for Latin America. On the contrary, Latin America not only is the state not a passive recipient of international human rights norms, but it plays a key role in promoting the formation of international human rights norms. In the Latin American region, people

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In the process of the formation and improvement of the human rights protection mechanism, Latin American human rights concepts formed the cornerstone, and the legacy of colonial rule and the reality of large-scale human rights violations became the key

motivations for the creation and improvement of the human rights protection mechanism. (1) Realistic

background: Colonization The legacy of rule and the current situation of large-scale human rights violations. The fact that Latin American countries have experienced large-scale human rights violations has strong historical factors. This factor is concentrated in the historical legacy brought by Western colonialism. European colonists conquered Latin America with barbaric force. Later, Latin America was colonized in the form of ideological rule by cultivating local agents, implanting religious and cultural traditions, and spreading caste and class consciousness. Later, in the struggle for independence of Latin American countries in the 19th century, although The country has accepted concepts such as "freedom" and "liberation" in its own laws or practices, but still retains the legacy of colonialism. This legacy is reflected in two aspects: First, a repressive ideological system dominated by local agents The second is the chaotic economic situation. Therefore, some scholars call this stage of the establishment of modern Latin American countries an "unfinished revolution" . Ideological factors have exacerbated the current situation of social inequality. In terms of gender, race, and skin color, There are varying degrees of discrimination at all levels, and economic chaos is reflected in extreme urban-rural inequality and over-reliance on cocoa, sugar cane, minerals and other resources. This dual ideological and economic legacy ultimately leads to a key consequence, namely Extreme political instability. In the process of the war for independence, the national administrative and taxation departments were relatively weak, while the coercive institutions (such as the army) were too strong, thus forming a state of weak state and strong army, while those in power struggled to maintain Domestic order and stability relied too much on the use of force, which ultimately created a vicious cycle in which the state power used military means to oppress the people, and became the direct cause of large-scale human rights violations in the following decades.

After World War II, human rights violations in Latin American countries were characterized by long-term, large-scale, and high casualties. From a temporal perspective, repressive actions in Latin American countries swept the entire region in three waves in the late 20th century, showing obvious sub-regional In the 1970s, human rights violations reached their peak in South American countries such as Argentina, Chile, Uruguay, Paraguay, and Brazil. In the 1980s, the regimes of Central American countries such as Guatemala and El Salvador were criticized by the world for their brutal civil wars and extreme human rights violations. Attention has been drawn to the fact that in the 1990s, this kind of human rights violations turned to Andean countries, such as the large-scale human rights violations caused by Colombia during the anti-drug war, etc. From the perspective of the form of human rights violations, they mainly include indiscriminate killing, systematic torture, legal executions, enforced disappearances, internments and other forms. From the perspective of human rights violations,

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In terms of causes and motivations, the main purpose is to stabilize the regime and suppress opposition forces. For example, Pinochet's military regime in Chile. The mass detention, torture and massacre of dissidents at the National Stadium on September 11, 1973.

From 1976 to 1983, the Argentine military regime used secret detention and killing squads as its main means of repression.

"Dirty War", as well as the military, police and

A highly institutionalized oppression system in which prisons serve as executive agencies, often using the principle of national security as an excuse to suppress political to suppress dissidents, etc. Other human rights violations include the oppression of indigenous peoples' rights, the oppression of women's rights, etc.

Inaction on human rights and the disregard and violation of human rights in the anti-drug and anti-terrorist wars. From the perspective of human rights violations,

Judging from the extent, human rights violations in Latin American countries have caused huge casualties. From the data in Table 1, we can see that

It can be seen that the number of people deprived of their lives due to human rights violations is often in the tens of thousands.

Table 1 Number of deaths caused by human rights violations in Latin America (Unit: 10,000 people)

nation	Estimated number of deaths (median)
Colombia (1949-1962)	1.5
Guatemala (1966-1996)	1.5
El Salvador (1979-1982)	1.5
Nicaragua (1978-1990)	1.5
Colombia (1984-2007)	1.5
Peru (1982-1997)	1.5
Chile (1973-1987)	1.5
Argentina (1976-1980)	1.5

Source: Monty G Marshall al Violence and Conflict Regions 1946-2015

At its root, cases of massive human rights violations in Latin America can be understood using a basic framework. Explanation. First, the exclusionary ideology resulting from the legacy of colonialism or interference from external forces are the basis for human rights violations in Latin America, such as racist and discriminatory ideologies, anti-communist doctrine, anti-terrorism and anti-drug goals, national security doctrine and the creed of security supremacy, etc.

Blending. This exclusive ideology provides the state with a "hostile role" and thus its foundation.

Violating the human rights of specific groups for the above reasons provides ideological support and rational explanations. Secondly,

Due to the instability of the domestic political power, the country has made special measures out of the need for its own security and survival.

The choice is to suppress certain hostile actors. Finally, due to the internal democratic problems of some Latin American countries,

Vulnerability, it is difficult to regulate and restrict large-scale human rights violations, resulting in large-scale

Modeling the current situation of human rights violations

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(2) Conceptual background: Latin America, as a pioneer of human rights, based

on the current situation of large-scale human rights violations in Latin America in the 20th century, it is easy to regard human rights as an external interference factor in Latin American countries. However, looking back at history, we can find that Latin America has played an irreplaceable role in innovating the concept of human rights and promoting the internationalization of human rights. As early as the 16th century, the Spanish priest Bartolomé de las Casas witnessed the cruel treatment of his rulers by the Spanish Empire. After the war between the North and South American Indians, he wrote the book "A Brief Account of the Destruction of the West Indies", which revealed the cruel behavior of the Spanish colonists and called for equal treatment of the indigenous groups. Although this call could not be fully implemented at the conceptual level of the protection of individual rights. However, his discussion on the protection of Indian rights made him the first pioneer in history to propose the concept of "collective rights".

At the legal level, the laws of Latin American countries, especially the constitutions, have put forward a wealth of human rights concepts and innovations. When most Latin American countries became independent in the 19th century, the formulation of their post-colonial constitutions was largely inspired by the ideas of the European Enlightenment, the influence of the French "Declaration of Human Rights" and the American "Declaration of Independence". For example, individual rights and freedoms that are different from those of the state were absorbed from the U.S. Constitution, and the concepts of equality and civil obligations were absorbed from the constitutions of European countries. At the beginning of the 20th century, New innovations in human rights concepts have gradually appeared in the laws of Latin American countries. For example, in Mexico's 1917 Constitution, economic and social rights represented by the right to work and reasonable working conditions were first proposed. This innovation broke the only stipulations in previous countries. The shackles of civil and political rights gave economic and social rights the same legal status in the constitution as civil and political rights. Since then, many groundbreaking human rights concepts have been put forward in the constitutions of Latin American countries, such as the recognition of the rights of indigenous people and minority groups. The importance of collective rights, proposing the concept of combining rights and obligations, and emphasizing the importance of economic and social rights, etc. This kind of conceptual innovation helped Latin American countries participate in the drafting of international human rights legal instruments after World War II and promoted international human rights protection. The formation of the system provides solid conceptual support.

Latin America is a key participant in the formation of the international human rights system. However, based on the orientation of great power studies, Latin America's status is often ignored in the field of human rights research. After the end of World War II, the international community formed a link between human rights and democracy. This consensus had a particularly strong resonance in Latin America. However, at the Dumbarton Oaks Conference attended by the four major powers after the war, the final draft only mentioned the concept of human rights in one place. This directly caused dissatisfaction among many non-governmental organizations and Latin American countries. In order to solve this problem, Latin American countries held the Inter-American Conference on War and Peace in Mexico City in 1945. Human rights issues were repeatedly mentioned in the speeches and resolutions of the conference.

Process and final result" (3)

"Pioneer of Contradiction": The Gap between Ideas and Reality Although

Latin America has played a key role in promoting the development of human rights concepts and the formation of international human rights norms, in international law or international relations Research on international human rights issues has always ignored the Latin American actor. The reason is that there is a huge gap in the concept and practice of human rights in Latin American countries. As explained above on the background of human rights practice and concept, Latin American countries is more like a "contradictory pioneer" on human rights issues. On the one hand, Latin America has promoted the formation of new human rights concepts such as economic and social rights and collective rights that are crucial to developing countries, and also emphasizes the importance of citizens. Political rights cannot be ignored as human rights. On the other hand, Latin American countries used state power to set records of large-scale and systematic human rights violations that shocked the world in the last few decades in the second half of the 20th century. This gap is also the same This is reflected in specific cases. For example, during the discussion of the "Declaration of the Rights and Responsibilities of the Americans" at the Ninth Pan-American Congress in Bogotá, the famous Colombian left-wing political leader Jorgé Eliécer Gaitán was assassinated on the streets of Bogota. This resulted in large-scale riots, and the defense forces responded with the same violence, which ultimately resulted in the death of thousands of people and the razing of parts of the city. Ironically, during a campaign to promote human rights and responsibilities, advocate While promoting regional democracy and building a new regional human rights organization, the government ignored those sacred words outside the venue and trampled on the basic rights enjoyed by human beings. The Bogota incident also foreshadowed the subsequent decades of the Cold War. Latin American countries may violate people's basic human rights due to national security or other reasons. However, it is also this reality that urges Latin American human rights protection mechanisms to develop in a more complete direction and become a model of regional human rights protection mechanisms.

2. The construction of human rights protection mechanisms in Latin America

It is precisely based on the advanced human rights concepts in Latin America that the regional human rights protection mechanism in Latin America was quickly formed after World War II, and formed a multiple human rights protection system of "Declaration + Convention + Commission + Court". It was also precisely the development of Latin American countries after World War II. The record of large-scale human rights violations has prompted Latin America's regional human rights protection mechanisms to connect with the United Nations human rights protection mechanisms and transnational actors, accelerating the self-reform of the regional human rights protection mechanisms, and ultimately developing in a healthier and more complete direction. And in At the domestic level, Latin American countries have also successively established corresponding national regulations in response to past records of human rights violations.

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However, the Inter-American Commission on Human Rights is subject to two basic limitations: first, the Commission does not have the jurisdiction to accept individual communications; second, the Commission does not have the authority to initiate on-site investigations into a country on the general human rights situation or specific human rights cases. At the same time, during this period, the governments of many contracting states, which were formally democracies, were violating various human rights enumerated in the "American Declaration of Rights and Duties of Man", but the Committee was unable to exercise jurisdiction. In response to these In 1967, the Organization of American States adopted the Buenos Aires Protocol in accordance with the Charter of the Organization of American States, defining the Inter-American Commission on Human Rights as the "principal organ" of the Organization of American States. To empower the committee to accept individual communications. In addition, the committee will also publish an annual report every year, detailing the cases accepted by the committee during the year and providing its own opinions on the human rights situation in various countries in the Americas. The establishment of the Inter-American Commission on Human Rights Based on the consensus of Latin American countries on human rights protection, it represents the beginning of the process of formalization and institutionalization of human rights protection mechanisms in Latin America. As a "transitional arrangement" before American countries accept human rights treaties, the Inter-American Human Rights The Commission laid the foundation for the subsequent creation of regional human rights conventions and human rights courts.

With the effective operation of the Inter-American Commission on Human Rights, the drafting of the "American Convention on Human Rights" has entered the official agenda of the American countries. In November 1969, at the Inter-American Conference on Human Rights held in San Jose, Costa Rica (now translated as San Jose), 12 American countries The country adopted the American Convention on Human Rights (ACHR). This regional human rights convention finally came into effect in 1978. However, until 1977, only 6 countries had ratified this convention. Compared with the number of ratifying countries required for the convention to take effect, There are still 5 missing. The promotion of the "Convention"s entry into force process can be mainly attributed to the coming to power of the Carter administration in the United States and its adherence to human rights issues. In less than two years, Carter successfully made enough through lobbying or coercion. The American national governments have ratified the "American Convention on Human Rights", making the convention officially effective. The content of the "Convention" mainly includes two aspects: one is the substantive content, which is basically a repetition of the rights enumerated in the "Universal Declaration of Human Rights". The second is the institutional content, that is, the provisions for the establishment of the Human Rights Commission and the Human Rights Court. As a "transitional arrangement", the Inter-American Commission on Human Rights was finally formally formed after the "American Convention on Human Rights" came into effect, becoming a convention body and a charter body. The dual combination of the Inter-American Court of Human Rights as stipulated in the Convention was also formally established in 1979. Since then, the regional human rights protection mechanism in Latin America has been formally formed, forming a multiple combination of "Declaration + Convention + Commission on Human Rights + Court of Human Rights".

The Inter-American Commission on Human Rights does not require the author to prove family or other direct ties to the victim, which means that non-governmental organizations such as "Amnesty International" or "Human Rights Watch" can submit as an "individual" (individual) Complaints, and non-governmental organizations are also involved in most of the cases before the committee. See Thomas Buergenthal, "The Revised OAS Charter and the Protection of Human Rights" in *The American Journal of International Law* Vol 69 No 4 1975 pp 828-844.

Human rights protection system

Unlike the early Commission on Human Rights, the American Convention on Human Rights gave the Inter-American Commission on Human Rights At the political level, according to the Statute of the Inter-American Commission on Human Rights (IACHR Statute) and the "Rules of Procedure of the Inter-American Commission on Human Rights", the Inter-American Commission on Human Rights has the power to Take a series of actions in response to cases of human rights violations, including "quiet diplomatic means" and conduct on-the-spot investigations on the human rights situation in the State Party and make recommendations, including the publication of human rights reports on human rights issues Publicly condemn the perpetrators. At the legal level, the Human Rights Commission has the right to receive complaints from the state or individuals. submit a complaint and submit a committee opinion on the case, deciding whether to submit the case to an American country With the entry into force of the American Convention on Human Rights, the Commission on Human Rights and the Court of Human Rights Put into operation (see Table 2), the treaty system for human rights protection in Latin America has also begun to become more and more complete.

Table 2 Latin American human rights treaty system

years	Name of human rights instrument
1948	«American Declaration of Rights and Duties of Man»
1969	«American Convention on Human Rights»
1975	«Supplementary Protocol to the American Convention on Human Rights» (also known as the «San Salvador Protocol»)
1979	«Protocol on the Abolition of the Death Penalty»
1984	«Cartagena Refugee Declaration»
1985	«Inter-American Convention for the Prevention and Punishment of Torture»
1988	«Inter-American Convention against Enforced Disappearance»
1991	«Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women»
1994	«Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities»
1996	«Declaration of the Rights of Native Americans»

Note: Some contents of the convention have been updated.

Source: Author's own calculations based on the data provided in the document.

The regional human rights protection mechanisms in Latin America, together with the regional protection mechanisms in Europe and Africa, constitute There are three existing regional human rights protection mechanisms. In comparison, the European human rights protection mechanism has great advantages in judicial and

Generally, the Inter-American Commission on Human Rights has the following procedures for handling communications: admissibility assessment, national government response response to the case, the author's comments, the investigation proceedings, the Committee's recommendations, the Committee's report, the final judgment. When the Committee delivers its report At this stage, it will be decided whether to submit the case to the Inter-American Court of Human Rights for further processing.

The quasi-judicial process is the most developed, followed by Latin America, and Africa is relatively backward. Generally speaking, the Latin American human rights protection mechanism has the following differences from other regional human rights protection mechanisms. First, at the structural level of the mechanism, Latin American human rights protection mechanisms The mechanism includes the organizational forms of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. However, the establishment of the African Court of Human Rights lagged behind. In order to strengthen the relevant judicial power, Europe abolished the original European Commission on Human Rights and only retained the European Human Rights Commission. Secondly, in terms of the acceptance procedure, the Inter-American Court of Human Rights is different from the European Court of Human Rights. It cannot directly receive individual communications. Instead, it must go through the acceptance procedure of the Inter-American Commission on Human Rights. The final decision is whether to treat a certain person as a person. A specific case was transferred to the Inter-American Court of Human Rights, which means that many cases will not eventually enter the inter-American Court of Human Rights trial procedures. Thirdly, in terms of jurisdiction, the Inter-American Commission on Human Rights has the power to investigate human rights violations. Conducting on-the-spot visits and surveys in countries or regions that provide evidence, this visit and survey provides strong institutional support for local human rights activists. Fourth, in terms of legal effect, unlike Europe, the ruling of the Inter-American Court of Human Rights does not automatically incorporated into the domestic legal systems of Latin American countries. This results in the domestic courts and legislative procedures of the contracting states in the region not always following the relevant rulings of the Inter-American Court of Human Rights, thus weakening the authority of the system. Fifth, There are huge differences between regional mechanisms in the number of judged cases. For example, the Inter-American Court of Human Rights pointed out in its annual report that in 2018, the Inter-American Court of Human Rights only accepted 18 cases submitted by the Inter-American Commission on Human Rights. Since its establishment in 1979, the Court has received a total of 282 dispute applications. Since the reform of the European Human Rights Protection Mechanism in 1998, the number of cases received by the European Court of Human Rights and made judgments has increased rapidly. After 2005, the Court has received The number of cases in which judgments have been made has almost reached around 1,000 cases, which calls into question the availability and effectiveness of the Latin American human rights protection system.

(2) Domestic level: Innovation and reform of national human rights institutions

have been accompanied by the democratic transition that began in Latin America since the 1980s. Measures taken by Latin American countries to protect domestic human rights mainly focus on the following two paths: First, targeting past military regimes or The totalitarian government has committed large-scale human rights violations, resisting calls for its immunity system, and initiating accountability procedures to hold relevant personnel accountable in the form of truth commissions and human rights trials. Second, target specific domestic human rights protection requirements. Accelerate the construction of national human rights institutions (NHRIs) and reform old relevant domestic mechanisms to ensure effective protection of human rights.

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First of all, in the face of a large number of past records of human rights violations, the truth commissions established by Latin American countries have become the most important way to hold accountable these crimes. Truth commissions in various countries basically use retroactive means, such as collecting victim testimonies, The method of finding physical or other evidence and disclosing relevant documents plays two basic functions: recording and restoring facts and compensating victims. In the function of recording the truth, the final report issued by the truth commission has become a more authoritative official document. However, due to the The independence and availability of information of truth commissions in different countries are different, and their main areas of authorization and ultimate effectiveness are also different. Table 3 records the establishment time and related achievements of truth commissions in Latin America.

Table 3 List of Latin American truth commissions

Date of establishment of the country	truth commission name	publish report
Bolivia 1982	National Commission for the Investigation of Disappearances	none
Argentina 1983	National Commission on Disappearances	In 1984, more than 9,000 disappearance cases were recorded between 1976 and 1983.
Chile	1990 National Truth and Reconciliation Commission	1991 records related human rights violations from 1973 to 1990
El Salvador 1992	El Salvador Truth Commission	1993 records related human rights violations from 1980 to 1992
Guatemala 1994	Historical Clarification Commission	1999 records relevant human rights violations from 1962 to 1996
Haiti 1994	National Truth and Justice Commission	1996 Records of relevant human rights violations from 1991 to 1994
Ecuador	Truth and Justice Commission (created and then abandoned) Truth Commission	None
Paraguay 2003	Truth and Justice Commission	In 2008, hundreds of disappearance cases were recorded between 1980 and 2000.
Peru 2000	Truth and Reconciliation Commission	In 2003, more than 69,000 cases of disappearance and death were recorded between 1980 and 2000.
Uruguay 2000	National Peace Council	2002 records of disappearances from 1973 to 1985
Panama 2001	Truth Commission	2001 records related human rights violations from 1968 to 1989

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According to Table 3, it can be seen that there are large differences in the effectiveness of truth commissions in various countries.

For example, although Bolivia established its first truth commission in 1982, this commission was limited by the National Defense Commission.

The Ministry of National Defense was directly under the control of the Ministry of Defense, and the Ministry of National Defense was the main executor of past human rights violations. Therefore, Bolivia's truth commission was abandoned early, and no relevant human rights violation reports were issued. Similarly, Ecuador's first truth commission also They were forced to disband due to lack of political support. However, there are also truth commissions in many Latin American countries that play a role that cannot be ignored. For example, with the support of the then President of Argentina, Raúl Alfonsín, the Argentine Truth Commission to Investigate Disappearances passed various After collecting resources through various channels, the report "Never Again" (Nunca Más) was finally released in 1984, which detailedly recorded the massive human rights violations committed by the military totalitarian government in the past. As revealed in the report, Argentina's domestic The court charged and tried the leaders of the military groups from 1976 to 1982, thereby achieving accountability for the relevant personnel. It is worth noting that some truth commissions in Latin American countries were established with external assistance. For example, El Salvador's The Truth Commission was established with the assistance of the United Nations and became part of its peace agreement. The Commission's final report played a key role in the domestic peace process.

At the same time as the truth commission and its final report were released, accountability for human rights violations in Latin American countries, especially the trials of human rights violators, also began. The most representative of these is Argentina's investigation of high-level military personnel in the "dirty war" Since the start of the Argentine Human Rights Trial in 1985, many high-ranking military officers have been sentenced to life imprisonment. However, out of concern for national stability, the Argentine Congress passed two controversial bills in 1986 and 1987: « The Ley de Punto Final stopped further prosecutions for crimes including human rights violations committed during the "dirty war" and the Obedience Act stopped further prosecutions. cia Debida) determines human rights violations against low-ranking soldiers in the army They were not prosecuted because they were "just following orders." Subsequently, in 1990, Argentina's then President Carlos Menem announced an amnesty for Videla (Jorge Ra) during the "Dirty War". faél Videla) the military led by the general Members of the government, which meant that trials of human rights violators were ultimately rendered ineffective. But Argentina's pursuit of accountability continued. In 2005, the Argentine Supreme Court declared the Termination Act and the Submission Act unconstitutional. Claiming that the amnesty bill does not apply to crimes against humanity. In 2006, a former Buenos Aires police officer was sentenced for genocide. In 2007, the Argentine Federal Court overturned Menem's pardon order and restarted the "dirty" case. trial of human rights violators during the war. At the same time,

It is worth noting that some truth commissions in Latin American countries were established with external assistance. For example, El Salvador's The Truth Commission was established with the assistance of the United Nations and became part of its peace agreement. The Commission's final report played a key role in the domestic peace process.

At the same time as the truth commission and its final report were released, accountability for human rights violations in Latin American countries, especially the trials of human rights violators, also began. The most representative of these is Argentina's investigation of high-level military personnel in the "dirty war" Since the start of the Argentine Human Rights Trial in 1985, many high-ranking military officers have been sentenced to life imprisonment. However, out of concern for national stability, the Argentine Congress passed two controversial bills in 1986 and 1987: « The Ley de Punto Final stopped further prosecutions for crimes including human rights violations committed during the "dirty war" and the Obedience Act stopped further prosecutions. cia Debida) determines human rights violations against low-ranking soldiers in the army They were not prosecuted because they were "just following orders." Subsequently, in 1990, Argentina's then President Carlos Menem announced an amnesty for Videla (Jorge Ra) during the "Dirty War". faél Videla) the military led by the general Members of the government, which meant that trials of human rights violators were ultimately rendered ineffective. But Argentina's pursuit of accountability continued. In 2005, the Argentine Supreme Court declared the Termination Act and the Submission Act unconstitutional. Claiming that the amnesty bill does not apply to crimes against humanity. In 2006, a former Buenos Aires police officer was sentenced for genocide. In 2007, the Argentine Federal Court overturned Menem's pardon order and restarted the "dirty" case. trial of human rights violators during the war. At the same time,

The United Nations human rights special rapporteurs and working groups have played a key role in the process of protecting human rights in Latin America. For example, in 1980, the United Nations human rights special rapporteurs and working groups monitored and promoted the human rights situation in relevant countries. In response to the large-scale disappearances in the country during the "War", the United Nations established the Task Force on Enforced Disappearances. This working group of five independent experts launched thousands of investigations to find missing persons or their remains and contact the families of the victims. It has played an irreplaceable role in communicating with domestic governments and stimulating civil society's attention to enforced disappearances. In addition, many United Nations projects

The United Nations Refugee Agency (UNHCR), for example, has offices in many Latin American countries and has provided solid assistance to protect refugees and homeless people in this region. World Health Organization The Pan American Health Organization, the regional arm of the World Health Organization (WHO), has played an important role in improving regional health status and improving health inequalities based on race and class.

Function

The United Nations human rights protection mechanism is more of a "top-down" mechanism for countries in the region. This pressure from the top increases the cost of human rights violations, but it is not enough to promote the large-scale development of domestic human rights protection mechanisms. Reform. In order to achieve the goal of reform, joint pressure from multiple actors is needed, including not only international human rights protection mechanisms, but also the efforts of external states and non-state actors. In this process of promoting the reform of human rights mechanisms in Latin America, by Transnational advocacy networks (TANs) composed of international or regional organizations, international or domestic non-governmental organizations, local domestic human rights activists, domestic government agencies responsible for human rights and other actors have become key engines. Here we only use non-governmental organizations Take as an example the impact of organizations on human rights mechanisms in Latin America.

As international human rights NGOs serve as important "third-party forces", they can freely discover and criticize the specific human rights situation of a certain country at the international level, and this criticism provides important information for the international human rights monitoring mechanism. The methods they use The method is to urge the international community to "pay attention to relevant human rights violations", that is, to promote the establishment of international human rights standards and the implementation of international human rights law through the leverage of international organizations. Some scholars define the externalization process of human rights NGO human rights claims as "fly

¶ In 2006, the United Nations General Assembly passed a resolution that the Human Rights Commission established in 1946 was replaced by the new Human Rights Council. The newly established Human Rights Council can investigate specific countries or specific issues through a variety of procedures. See the Office of the United Nations High Commissioner for Human Rights Website <https://www.ohchr.org/EN/HRBodies/HRC/Pages/Home.aspx> [2019-05-19]

¶ "Transnational Initiative" https://www.ohchr.org/_layouts/15 [2019-05-19] Transnational Initiative

¶ Network refers to shared values, a special organizational network composed of common discourse and frequent exchanges of information and services. This type of network is active in various fields of global governance, and its role and influence channels have attracted more and more attention from scholars.

¶ "Transnational Initiative" https://www.ohchr.org/_layouts/15 [2019-05-19] Transnational Initiative

They believe that when the interaction channels between countries and domestic actors are blocked, a roundabout effect of transnational networks may be formed, that is, "NGOs will bypass their own governments and directly go to Allies in the international community seek help and exert pressure on the country from the outside. This phenomenon is most obvious in the field of human rights"yy

In Latin America, on the one hand, international human rights non-governmental organizations represented by Amnesty International (AI) and Human Rights Watch (HRW) have given full play to the role of this "third party force". They conduct on-the-spot investigations, publish annual reports, and provide It provides legal and other assistance to victims of human rights, puts pressure on infringing countries, and provides assistance to victims. Another non-governmental organization, the Washington Office on Latin America (WOLA), has a more critical influence on Latin America. It is composed of civil society groups and religious organizations and is committed to promoting human rights, democracy and socioeconomic justice in the region. It once sponsored the first U.S. delegation to oversee democratic elections in the region and helped draft a document to support the United States in exerting human rights pressure. relevant laws and criticized the violation of human rights by the U.S. anti-drug war in Latin America. It can be said that "the Washington Office on Latin America has played a crucial role in the U.S.'s impact on human rights policies in Latin America as a regional foreign country."y

But on the other hand, international human rights non-governmental organizations such as Amnesty International, Human Rights Watch, and "Freedom House" have strong government backgrounds in Western countries and have become important tools for Western countries to promote ideology in Latin America. International human rights organizations rely on their "authority" to "gender" and the right to speak. In Latin American countries, it actively shapes issues and guides the direction of domestic and regional public opinion through on-the-spot investigations and the publication of annual country reports. At the same time, through its consultative status on the United Nations Economic and Social Council, it cooperates with observers of the Human Rights Council. Identity, use "shadow reports" or conference speech opportunities to put pressure on the "authoritarian countries" regimes in Latin America that Western countries are dissatisfied with, seize the international moral high ground, and pave the way for Western countries to further promote democratization in Latin America. At the same time, through Through domestic, regional and international multi-level activities, international human rights NGOs have also exerted a lot of negative influence in shaping the political landscape and discourse environment of Latin American countries. Foundations in some European and American countries often use the banners of "democracy" and "freedom" to They put pressure on the government through the Latin American non-governmental organizations they sponsor, and even directly participate in or covertly organize anti-government activities. y Western non-governmental organizations such as "Amnesty International" even use methods such as the release of annual national human rights reports to interfere in Latin American countries for no reason. Internal affairs, subject to strong protests from some Latin American countries.

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y Fan Lei: "The relationship model between Latin American NGOs and governments", published in "Latin American Studies", Issue 4, 2010, Page 23.

All in all, the United Nations human rights protection mechanism provides top-down international pressure and normative guidance for the cause of human rights protection in Latin America, and the transnational human rights advocacy network represented by human rights NGOs provides this cause with internal and external support. Supervision and assistance. As the most critical intermediary force, the regional human rights protection mechanism in Latin America ultimately implemented international human rights norms and human rights protection at the national level, enabling the complex system of human rights protection in Latin America to operate effectively.

Three Main Factors Restricting Human Rights Protection in Latin America

Although human rights protection mechanisms from domestic to regional to global levels have been gradually systematized and continuously improved in Latin America, due to the particularity of culture and history in the region, differences in political systems and development levels of various countries, the United States cannot ignore Latin America. Due to geopolitical influences and other factors, Latin America still has shortcomings in truly respecting and protecting human rights in the region. Such obstacles that restrict the effectiveness of human rights protection include both internal factors influenced by the history and current situation in the region, as well as external countries. Interference factors. In order to deal with these factors that restrict the protection of human rights in the region, Latin American countries still need to work hard.

(1) Internal factors that restrict the protection of human rights in Latin

America When building a human rights protection mechanism in Latin America, three key constraints constitute internal obstacles to the protection of human rights in Latin America: First, widespread poverty and inequality in the region have become factors that lead to human rights protection in Latin America. The root of the violation. Secondly, along with the weak democratic mechanism at the practical level, an atmosphere of immunity always exists, opening the door to amnesty for the infringers. Finally, based on the exclusionary ideology, the deeply rooted national security concept has become Justifications for national governments to derogate from basic human rights.

As representatives of regional groups of developing countries, Latin American countries also have a large number of development problems. The large base of the poor population, the high poverty rate, the uneven distribution of wealth, the gradual widening of the gap between the rich and the poor, etc., have become serious problems faced by Latin America. This directly leads to the lack of social protection of basic human rights. The problem of unsatisfied specific human rights needs can easily be transformed into social contradictions and conflicts, ultimately exacerbating the instability of state power and reliance on state violence, and forming a Vicious cycle. In Latin America, an issue that is particularly worthy of attention is the relationship between democracy and human rights. The interaction between the two directly causes the first two constraints mentioned above. First, as a group of developing countries, Latin American countries have gone through long and arduous explorations on the road to democratization. Under the influence of Western culture and the intervention of Western countries, Latin American countries generally began to undergo democratic transformation as early as the 1980s. At the same time, under the leadership of the Organization of American States, The process of incorporating human rights norms into democratic principles also began to take place. In 1990, the Organization of American States' Declaration of Asunción clearly declared that representative democracy is the best political system to protect the American system and emphasized the importance of respecting human rights. In 1991 in Santiago, american countries held

The Organizational Conference was the first conference in history in which the presidents of all Latin American countries present were democratically elected except for Cuba. At this conference, the participating countries adopted the "Santiago Agreement", declaring that "each country shall ensure the "We have an inescapable responsibility to promote representative democracy and human rights." This commitment was implemented by the Organization of American States General Assembly Resolution 1080, which gave the General Assembly the right to convene meetings to conduct diplomatic intervention in countries where the democratic order has been undermined, thus This makes democratic regimes in the Americas commit to respond collectively to any threats to the constitutional order of relevant countries in the region.

After the "9 11" terrorist attacks in 2001, the General Assembly of the Organization of American States adopted a new "American Convention" in Lima. The Charter of Democracy» declares that "democracy is indispensable for the effective implementation of the universality, indivisibility and independence of fundamental freedoms and human rights" and emphasizes the collective action obligation to protect democratic regimes.

This collective protection of democratic systems highlights the importance that countries in the Americas, including Latin American countries, attach to democratic systems and their associated rights. This is reflected in practice in the Inter-American Commission on Human Rights and the Inter-American Conference on Human Rights. In the second half of the 20th century, the International Human Rights Court protected civil and political rights such as the right to life and freedom. However, this excessive focus on democracy and civil and political rights did not promote the true realization of domestic democracy at the practical level. In contrast, On the contrary, due to the neglect of the protection of economic, social and cultural rights, large-scale poverty and a huge gap between rich and poor have resulted in a low level of political participation of citizens in Latin American countries, and social exclusion of indigenous people, women and other groups. It has become a huge obstacle to the realization of democracy. Many citizens are excluded from government decision-making. The lack of supervision of power means that the degree of domestic rule of law is still low. Regarding the large-scale human rights violations caused by social injustice, This "incomplete democracy" in the absence of the rule of law has become a tool to protect infringers, especially the immunity system. Hidden under the immunity system is the top-down system including police and businessmen. Systemic corruption, including government officials and legislators. Therefore, although Latin American countries have achieved democracy at the electoral level, if officials are not restricted by their own voters and national laws, this democracy will ultimately be incomplete. The protection of human rights is even more incomplete. Finally, although the status of the military in Latin American countries has declined relatively,

under the ideology of national security, the military still exerts an important influence. With the development of non-traditional security concepts With the emergence of national security, the connotation of national security is also constantly expanding. Based on the reasons of national security, whether it is terrorists, drug lords or

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assisted a regional network of intelligence agencies called Operation Condor that provided cross-border

Human rights violations and other acts have provided solid assistance. Some scholars believe that human rights violations in Latin America have

In the decades since the outbreak of COVID-19, the U.S. government has sent "mixed signals" to leaders of Latin American countries.

It contains an ostensible condemnation of human rights violations by these countries, and at the same time reflects a direct acquiescence.

and encouragement, and this mixed signal ultimately led to systemic human rights violations in Latin America.

Table 4 U.S. human rights sanctions against Latin American countries in the 20th century

1960s-1970s	1980s	1990s
Cuba(1960-)	El Salvador (1987-1988) El Salvador (1990-1994)	
Chile (1975)	Nicaragua (1981-1990) Nicaragua (1992-1995)	
Uruguay (1976-1981) Haiti (1987-1990)		Peru(1991-1995)
Paraguay (1977-1983)	Panama (1987-1990) Colombia (1991-1995)	
Argentina (1977-1983)		Paraguay (1996)
Guatemala (1977-)		
El Salvador (1977-1981)		
Brazil (1977-1984)		
Bolivia (1979-1982)		

Foreign Policy Goals 1914-1999" Installation of International Economics 2006 Quoted from Sonia Cardenas

There is no doubt that ideology plays an important role in explaining the United States' attitude towards oppression and human rights violations in Latin American countries.

played a key role in anti-communism, national security doctrine, neoliberal economic theory,

Counter-terrorism can be used as a "special situation" to rationalize temporary human rights violations.

Reason. Just as the "domino" concept popular in the Cold War believes that any challenge to the status quo has

It may bring about the large-scale infiltration of communism. It is based on this concept that many countries have emerged targeting

The United States played a key leading role in the large-scale oppression of communism, especially in the 20th century.

From the 1960s to the 1980s, the "School of the Americas" (SOA) instilled national security concepts into the militaries of Latin American countries.

This served as the ideological basis for future large-scale human rights violations. Later, the United States launched a large-scale anti-drug war.

and the war on terrorism have provided a new round of ideological support for human rights violations in Latin American countries, thereby targeting

Foreign Policy Goals 1914-1999" Installation of International Economics 2006 Quoted from Sonia Cardenas

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This area poses a new obstacle to the protection of human rights.

Four Conclusions

The foundation of the human rights protection mechanism in Latin America lies in the traditional concepts of human rights and democracy and the emphasis on civil and political rights. With the support of the concept, democracy and human rights have become important issues of concern to Latin American countries, and the emphasis on civil and political rights has Attention is the best embodiment of this concept. In response to the painful history of systematic human rights violations, the Latin American human rights protection mechanism has constructed a multiple human rights protection mechanism of "Declaration + Convention + Human Rights Commission + Human Rights Court", and formed it at the domestic level The institutional setup of "truth commission + human rights trial" has been established. Generally speaking, the Latin American regional human rights protection mechanism, as a regional human rights protection mechanism built by developing countries, is at the forefront of the world on many levels and has provided It provides a clear reference for the developing countries group to build a regional human rights protection mechanism.

However, based on the reality of large-scale violations of human rights in Latin America, it cannot be ignored that the concept of human rights in Latin America and the construction of regional human rights mechanisms seem to present an obvious contradiction. On the one hand, Latin America has been influenced by Western concepts of human rights and democracy. It has a profound influence and is highly consistent with Western society in the definition of the connotation of human rights. In many aspects, it even surpasses the human rights content that Western countries are concerned about. This is reflected in the American Convention on Human Rights and the subsequent San Salvador Protocol. This is a good reflection. Latin American countries have also reached a high level of participation in international human rights norms, especially in core international human rights instruments. This is in sharp contrast to other developing countries or groups of countries. On the other hand, The traditional Western concepts of human rights and democracy have encountered serious "acclimatization" in this region. As a result, many totalitarian governments have been able to survive on this soil, and a culture of immunity prevails. A series of catastrophes that shocked the world have occurred in this region. Large-scale and systematic human rights violations seem to be incompatible with the advanced human rights concepts upheld by the region. A question derived from this phenomenon is whether the international human rights discourse and norms dominated by the Western discourse system are suitable for What are the development conditions and traditional norms of developing countries? On the premise that the level of national economic development and the quality of citizens have not yet reached the level of Western developed countries, will the blind pursuit of high standards and strict requirements of Western human rights concepts and norms lead to "The faster you run, the harder you fall"? And when Western countries interfere in the internal affairs of developing countries for humanitarian reasons or on the pretext of human rights, are they really like the situation in Latin American countries affected by US human rights diplomacy? Has it fundamentally improved the human rights situation in the region, or is it just a choice based on the national interests of Western countries, or is it wishful thinking? The lessons learned from the development of human rights mechanisms in Latin America seem to be able to find some answers to these questions.

(Editor-in-charge Wang Shuai)