RPPI
Revista Brasileira de Políticas Públicas e Internacionais

The Formulation of the Concept of "Public Policy with a Human Rights Perspective" by the Inter-American Commission on Human Rights: A Legal-Institutional Reconstruction (2009-2018)

Formulação do Conceito De "Política Pública com Perspectiva de Direitos Humanos" pela Comissão Interamericana de Direitos Humanos: Uma Reconstrução Jurídico-Institucional (2009-2018)

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DOI: 10.22478/ufpb.2525-5584.2026v11n1.70338

Recebido em: 28/05/2024
Aprovado em: 28/10/2026

Abstract: In this paper, we reconstruct the development of the concept of "public policy with a human rights perspective" within the Inter-American Commission on Human Rights (IACHR) between 2009 and 2018. We examine how institutional documents preceding the report "*Políticas públicas con enfoque de derechos humanos*", approved in September 2018, contributed to its formulation. The study adopts a qualitative, descriptive-analytical, and exploratory approach based on documentary analysis of the Commission's reports and strategic planning documents, supplemented by a review of Brazilian academic literature. Historical institutionalism serves as an interpretive framework for examining the temporal sequence of conceptual formulations, without seeking to demonstrate causal mechanisms of path dependence. The findings indicate that: (i) in 2009, the IACHR had already linked public policy to the realization of human rights in the context of citizen security; (ii) between 2016 and 2017, the Commission explicitly incorporated this public policy perspective into its institutional agenda; and (iii) in 2018, these guidelines were applied to internal forced displacement and subsequently systematized in a dedicated report. The study concludes that the September 2018 report "*Políticas públicas con enfoque de derechos humanos*" further developed and systematized earlier institutional formulations rather than establishing an entirely new conceptual paradigm.

Keywords: Public Policy; human rights; Inter-American Commission on Human Rights; historical institutionalism; documentary analysis.

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Resumo: Este artigo reconstrói o desenvolvimento do conceito de "política pública com perspectiva de direitos humanos" no âmbito da Comissão Interamericana de Direitos Humanos (CIDH), entre 2009 e 2018. Investigamos como documentos anteriores ao relatório "*Políticas públicas con enfoque de derechos humanos*", aprovado em setembro de 2018, contribuíram para sua formulação. Adota-se abordagem qualitativa, descritivo-analítica e exploratória, fundamentada na análise documental de relatórios e instrumentos de planejamento estratégico da Comissão, complementada por levantamento da literatura acadêmica brasileira, e utilização do neoinstitucionalismo histórico como orientação interpretativa para examinar a sequência temporal das formulações conceituais, sem pretensão de demonstrar mecanismos causais de dependência de trajetória. Os resultados indicam o seguinte: i) a CIDH, em 2009, já vinculava, no tema da segurança cidadã, a concepção de política pública à concretização dos direitos humanos; ii) entre 2016 e 2017, a Comissão incorporou expressamente essa perspectiva de política pública à sua agenda institucional; eiii) em 2018, essas orientações foram aplicadas ao tema do deslocamento interno forçado, sendo posteriormente sistematizadas em relatório. Conclui-se que o documento "*Políticas públicas con enfoque de derechos humanos*"de setembro de 2018 aprofundou e sistematizou formulações institucionais anteriores, em vez de inaugurar um paradigma conceitual inteiramente novo.

Palavras-chave: Políticas Públicas; Direitos Humanos; Comissão Interamericana de Direitos Humanos; neoinstitucionalismo histórico; análise documental.

1. INTRODUCTION

The work of international human rights bodies goes beyond examining violations in individual cases.Within the Inter-American Human Rights System, the Inter-American Commission on Human Rights (IACHR) also issues reports, recommendations, and other institutional documents through which it sets outstandards intended to guide states in promoting and protecting human rights.

Notably, some of these documents directly address the formulation, implementation, and evaluation of public policies. This dimension of the IACHR's work is particularly relevant because Inter-American human rights standards may shape the activities of domestic government institutions.

In Brazilian legal scholarship, this interaction is often examined through the lens of conventionality review, understood as the assessment of whether state acts and omissions comply with international human rights norms (Ramos, 2024). Such review may be carried out by international human rights bodies or domestic authorities, including before certain state measures are adopted.

In this context, legal norms are subject to two distinct standards of review: (i) constitutional review, which assesses whether a given norm is compatible with the Brazilian Federal Constitution; and (ii) conventionality review, which examines whether a norm formally or substantively complies with applicable human rights standards. The latter may be conducted domestically by Brazilian institutions or internationally by human rights committees or courts, such as the Inter-American Court of Human Rights (Ramos, 2024).

Beyond examining compliance with human rights obligations, it is also important to understand how international human rights bodies themselves conceptualize, at the institutional level, the design of public policies aimed at realizing those rights. More specifically, this requires examining how the IACHR has developed and refined its understanding of public policy, particularly the concept of "public policy with a human rights approach."

Historically, the IACHR has formed part of the institutional framework of the Inter-American Human Rights System, alongside the Inter-American Court of Human Rights. Established in 1959 within the Organization of American States (OAS) and subsequently incorporated into the institutional structure established by the OAS Charter, the Commission retained its existing institutional responsibilities while assuming additional functions under the American Convention on Human Rights when the Convention entered into force in 1978 (Organization of American States, 1969). Thus, alongside its work within the system of petitions and individual cases, the IACHR continued to perform its functions of promoting and protecting human rights within an expanded legal and institutional framework, including through the preparation of studies, reports, and recommendations[2].

In exercising this advisory role, the IACHR has produced studies and reports addressing a wide range of human rights issues. These publications have not been limited to identifying violations or issuing recommendations concerning specific

[2] See, for example, Article 41(c) of the American Convention on Human Rights (Pact of San José, Costa Rica): "The main function of the Commission shall be to promote respect for and defense of human rights. In the exercise of its mandate, it shall have the following functions and powers: [...] c. to prepare such studies or reports as it considers advisable in the performance of its duties." Similarly, Article 1(1) of the IACHR Rules of Procedure (IACHR, 2009b) establishes that the Commission serves as a consultative body on human rights within the Inter-American system.

situations, although such activities have generally been the primary focus of legal scholarship on the Commission's work.

Over time, the IACHR has also formally systematized standards concerning the formulation, implementation, and evaluation of public policies. These documents therefore constitute an important institutional source for examining how the Commission itself has defined the concept of "public policy" and developed its own conceptual frameworks.

A prominent example of the IACHR's work on public policy is its report*Public Policy with a Human Rights Approach* (OAS/Ser.L/V/II. Doc. 191). Approved by the Commission on September 15, 2018, the report is nonbinding and explains the rationale for its publication as follows:

> [...] in view of the importance of strengthening public policies, the key goal of the present report is to present a conceptual framework that would make it possible to steer the IACHR's work in the area of public policy with a human rights approach, in order to proactively contribute, with the states, to exerting structural impacts on preventing and avoiding the repetition of human rights violations.As a result, the IACHR has decided to issue the present report to provide effective tools to those in charge of planning, drafting, implementing, monitoring, or evaluating public policies, providing them with inter-American principles and standards on the subject, as well as a set of practical guidelines steering these actions by the state throughout the various stages of the cycle of drafting a public policy using a human rights approach. [...] Thus, by strengthening the institutional framework of the State and promoting public policies with a human rights approach, it is possible to move forward with a prevention and social transformation agenda to avoid a repetition of human rights violations. (Inter-American Commission on Human Rights [IACHR], 2018c, p. 11)

To assess whether the Commission established a genuinely new conceptual framework for public policy within the Inter-American Human Rights System in this

report, we draw on historical institutionalism as an interpretive lens to trace the development of the IACHR's conceptualizations of public policy over time. Accordingly, our objective is to examine how earlier institutional formulations relate to the conceptual approach subsequently systematized by the IACHR in 2018[3].

2. THEORETICAL FRAMEWORK AND METHOLOGICAL PROCEDURES

This study draws on legal approaches to public policy. More specifically, it builds on theoretical contributions concerning the "legal models" and "legal dimension" of public policy, commonly associated with what is known as the "Law and Public Policy approach."

Accordingly, public policies are understood as legal-institutional arrangements (Bucci, 2013) and as programs of government action arising from legally regulated processes. Within this framework, the state is the institution capable of coordinating and implementing the broad range of actions that constitute a given public policy (Bucci, 2023, pp. 104-105).

Given the interdisciplinary nature of the Law and Public Policy approach (Bucci, 2023), this study also engages with institutional analysis, particularly North's (2018) understanding of institutions as formal and informal rules that structure social interactions, with legal norms constituting one form of formal institution. To reconstruct the development of the IACHR's conceptualizations over time, we also draw on historical institutionalism, particularly its emphasis on temporality, sequencing, and antecedent institutional conditions in explaining processes of continuity and change (Collier & Collier, 1991; Mahoney, 2000).

Within the historical institutionalist tradition, Collier and Collier (1991) emphasize the importance of "antecedent conditions,""critical junctures," and "institutional legacies" in analyzing historical processes of change. Antecedent conditions refer to preexisting institutional configurations that provide a point of

[3] This article focuses exclusively on the role of the IACHR. The Inter-American Court of Human Rights' role in public policy has already been examined, particularly in legal scholarship, including studies by Oliveira (2010), Lascala (2011), Moura (2018), Leal and Lima (2019), Anjos (2020), Moraes (2022), and Moraes and Leal (2023).

reference for analysis. Critical junctures, in turn, are periods of transformation during which particular choices or processes of change may produce lasting consequences, while institutional legacies refer to outcomes whose persistence depends on subsequent processes of production and reproduction. Mahoney (2000) further develops the discussion of path dependence by distinguishing between self-reinforcing sequences, in which established institutional patterns are reproduced over time, and reactive sequences, characterized by successive, interconnected events.

In this study, these theoretical contributions are applied within a limited scope, serving as interpretive points of reference for reconstructing the documentary sequence through which concepts emerged and were consolidated within the IACHR. Accordingly, we do not seek to establish the existence of a critical juncture in the strict sense or to identify causal mechanisms of self-reinforcement. Instead, our focus is on examining how earlier institutional formulations relate to subsequent conceptual approaches, identifying continuities and substantive reformulations across the documents analyzed. Historical institutionalism thus informs the temporal dimension of our analysis (Pierson, 2004) without replacing the documentary analysis and conceptual comparison employed in this study.

The Brazilian public policy literature offers broad definitions of "public policy," generally emphasizing responses to problems considered relevant to the public, regardless of the area of government involved. As Secchi, Coelho, and Pires (2020, pp. 25, 39, 41) explain:

> Public policy is a guideline developed to address a public problem. [...] Public policy has two fundamental elements: public intentionality and a response to a public problem [...]. Any definition of public policy is arbitrary. [...] Public policy is [therefore] an abstract concept that takes shape through a variety of instruments [...]. (our translation)

By contrast, "public policies with a human rights approach" do not necessarily constitute a distinct policy sector. Rather, they may provide a cross-cutting normative framework for the design, implementation, and evaluation of public policies across different areas of government intervention. This is because human rights-related public

policies involve interconnections among sector-specific policies (intersectorality), given that human rights are inherently cross-cutting and encompass virtually all public policies within a democratic state governed by the rule of law, particularly those concerning rights essential to human life, including freedom, equality, and dignity (Ramos, 2024, p. 6).

Studies published during the 2010s in Brazil had already explored the possibility of incorporating a human rights approach into public policy. Vázquez and Delaplace (2011), for example, understood this approach as a cross-cutting framework applicable throughout the entire public policy cycle and grounded in the state's international obligations. Moving beyond conceptions focused exclusively on addressing specific sectoral problems, Vázquez and Delaplace (2011, pp. 40-41, 44, 47, 50) advocated the participation of rights holders, the establishment of evaluation and intersectoral coordination mechanisms, and coordination across different levels of government.

Similarly, Brazilian public affairs scholarship (*Campo de Públicas*) has employed the category of "human rights public policy *stricto sensu*," as illustrated by Ciconello (2016), to refer to policies traditionally identified as specifically concerned with human rights, particularly those targeting vulnerable or historically discriminated groups. As Ciconello explains:

> The human rights perspective should inform the formulation and monitoring of public policies and the provision of public services. Public administrators should conduct periodic assessments and evaluations and incorporate the various normative principles underlying the concept of human rights into the public policy planning cycle. *The aim of public planning from a human rights perspective is to establish high-quality policies and services that guarantee fundamental rights through equitable conditions of access.It can be argued that all public policies can be implemented from a human rights perspective*, including those concerning health, education, public security, labor, food security, social assistance, and culture, among others. Numerous international legal norms and guidelines issued by international organizations, such as the United Nations and

> the Organization of American States—some of which have been incorporated into our domestic legislation—establish objective criteria and guidelines for public authorities in promoting rights. *Furthermore, certain policies have traditionally been identified as human rights policies stricto sensu, namely those targeting vulnerable groups or groups with a history of discrimination.*(Ciconello, 2016, p. 172; our translation, emphasis added)

Taking the IACHR as our unit of analysis and historical institutionalism as the theoretical foundation, this study adopted three methodological procedures: (i) a review of recent literature on the Inter-American Human Rights System; (ii) an examination of normative guidance documents ("reports") issued by the IACHR between 2009 and 2018, beginning with the 2009 report that introduced the Commission's own conceptualization of "public policy" within the Inter-American system and ending with the 2018 report specifically devoted to the concept developed during that period; and (iii) the identification and categorization of the conceptualizations of "public policy" found in the IACHR's normative documents from 2009 to 2018.

The study therefore adopts a qualitative, descriptive-analytical approach, employing exploratory documentary analysis to investigate whether an inter-American human rights bodydeveloped and consolidated its own conceptual framework for public policy.

The literature review was conducted in two stages. The first involved searching the Brazilian Digital Library of Theses and Dissertations (BDTD) for master's theses and doctoral dissertations published between 2015 and 2025, across all academic disciplines.[4] The search required the simultaneous occurrence of the Portuguese terms "comissão interamericana" ("Inter-American Commission") and "políticas públicas" ("public policies"). The second stage involved searching the CAPES Journals Portal[5] for peer-reviewed articles published between 2015 and 2025 in Brazil, using only the Portuguese search term "comissão interamericana" and restricting the search to the subject areas of "Applied Social Sciences" and "Multidisciplinary Studies."

[4] Available at: https://bdtd.ibict.br/vufind/. Accessed October 6, 2026.
[5] Available at: https://www.periodicos.capes.gov.br/. Accessed October 6, 2026.

These searches yielded 57 academic works (18 master's theses, five doctoral dissertations, and 34 journal articles), none of which examined the development of the IACHR's conceptualizations of public policy.[6] The literature reviewed thus reveals a significant gap concerning the origins and evolution of the Commission's own conceptual frameworks for public policies aimed at realizing human rights.

3. RESULTS AND DISCUSSION

3.1. The Adoption of a State-Centered Concept of Public Policy (2009)

A review of the reports and practical guides issued by the IACHR over the past two decades[7] indicates that the Commission first articulated a general definition of public policy in its *Report on Citizen Security and Human Rights* (OAS/Ser.L/V/II. Doc. 57), issued on December 31, 2009.

In this report, addressing the issue of "citizen security," the IACHR conceptualized public policy as deliberate state action, adopting an affirmative, state-centered understanding of public policy in which the state is responsible for its implementation. The Commission explained:

> The IACHR indicates in its report that citizen security must be regarded as a public policy, understood as the guidelines or courses of action established by the authorities to achieve an objective and that serve to create or transform the conditions in which individuals or groups in society carry out their activities. *A public policy cannot be fully understood without establishing a nexus to human rights. The purpose of public policy is to ensure that these rights are respected in*

[6] The literature identified on the IACHR primarily addresses the implications of the Commission's decisions for Brazilian public policies. One example is Cláudia Moreira Arai's (2020) master's thesis, which examines how Brazil's international responsibility in the Maria da Penha case (Merits Report No. 54/2001) served as a critical juncture that brought domestic violence onto the government's policy agenda.

[7] These IACHR publications are available at the following official sources: Thematic Reports (https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/reports/thematic.asp); Compendiums (https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/reports/compendiums.asp); and Practical Guides (https://www.oas.org/en/iachr/jsForm/?File=/en/iachr/reports/guides.asp). Accessed October 14, 2026.

> *law and in practice, and in the conduct of state institutions and agents.*(IACHR, 2009a, Executive Summary, para. 4, p. ix; emphasis added)

The Commission thus adopted a definition of public policy specifically formulated in the context of public security ("citizen security"), providing a point of reference for comparison with subsequent formulations. For the purposes of this study, we therefore treat the concept introduced by the IACHR in 2009 as an antecedent conceptual formulation identified in the documentary corpus, against which the subsequent development of the Commission's conceptual frameworks for public policy can be examined.

3.2. The Concept of Public Policy with a Human Rights Approach as an Objective of the IACHR's Internal Strategic Planning (2016–2017)

Since 2011, the IACHR has produced strategic planning and internal management documents to guide the achievement of its institutional objectives. Its first five-year Strategic Plan, covering 2011–2015, was published under the title *50 Years Defending Human Rights: Results and Challenges*. This initial internal planning document did not establish a specific definition of "public policy" to serve as a normative framework for the Commission's institutional mandate (IACHR, 2011).

Subsequently, the Commission announced a second strategic planning initiative for 2016–2020,[8] which introduced a discussion of public policy terminology aimed at establishing a conceptual framework for strengthening member states' capacity to implement Inter-American human rights standards.

The same document also established a specific area of action devoted to promoting this type of public policy. Significantly, the Commission's 2016 concept note expressly referred to the formulation of "public policies consistent with human rights" (IACHR, 2016, p. 6). The document linked such policies to strengthening national capacities to implement Inter-American human rights standards and to providing technical assistance to member states.

[8] This document was issued as a general concept note explaining to member states that budgetary constraints prevented the development of a comprehensive strategic plan for 2016–2020. Consequently, no formal Strategic Plan was published in 2016, and the Commission's second full Strategic Plan was issued in 2017, covering the period 2017–2021.

> During the 2016-2020 period, the IACHR will promote public policies designed to strengthen respect for human rights as a central element of the process of strengthening national capacities to implement inter-American human rights standards. To this end, the IACHR will conduct activities to strengthen relationships with member States and will provide technical assistance to formulate *public policies consistent with human rights*(IACHR, 2016, p. 6; emphasis added)

Building on this conceptual development, the Commission's *Strategic Plan 2017–2021*, published in 2017, provided a more detailed conceptual framework and incorporated human rights-oriented public policies into its institutional objectives. In its introduction, the Commission highlighted its role in promoting constitutional reforms, legislation, and "public policies with a human rights focus" (IACHR, 2017, p. 11). It also emphasized the contribution of its recommendations to eliminating discriminatory practices, providing reparations, preventing recurring violations, and strengthening human rights protection.

> [...] *The IACHR has played a vital role in promoting the adoption of constitutional reforms, laws, and public policies with a human rights focus*, and judgments in accordance with inter-American norms and standards. Its recommendations have led States to eliminate discriminatory laws, policies, and practices; provide comprehensive reparations to victims; prevent the repetition of human rights violations; and strengthen the protection of these rights. (IACHR, 2017, p. 11, emphasis added)

In that discussion, it referred to "Public policies incorporating a focus on human rights" (IACHR, 2017, p. 40), explaining that such policies guide and coordinate state action to promote and protect rights, address politically defined problems, and strengthen the institutional capacity required to implement Inter-American human rights standards:

> In order to analyze how public institutions are responding to human rights issues, it will be important to understand how public policies, laws and institutions in general are set up, their characteristics, and how they are linked. Public and state institutions are understood as the spaces in which public policies are designed, executed and overseen; in all these spheres it is essential that the importance of the promotion and protection of human rights is underscored. *Public policies incorporating a focus on human rights guide and coordinate state action to protect and promote these rights, focused on solving issues that are politically defined within a social and economic context. Institutional strengthening in human rights is key to achieve full respect for and implementation of inter-American human rights standards.* (IACHR, 2017, p. 40; emphasis added)

Consistent with the overarching objective of strengthening the effectiveness of the Inter-American Human Rights System as a shared commitment among the states of the Americas, the Commission explicitly incorporated "public policies with a human rights approach" into Strategic Objective 3 of its *Strategic Plan 2017–2021* (IACHR, 2017, p. 45). This objective linked the strengthening of state institutions and human rights-oriented public policies to the promotion of democracy, human dignity, equality, justice, and fundamental freedoms, while also emphasizing capacity building among social and academic organizations and networks:

> Strategic Objective 3 aims to promote democracy, human dignity, equality, justice, and fundamental freedoms based on an active contribution to the strengthening of State institutions and *public policies with a human rights approach* in accordance with inter-American norms and standards and to the development of the capacities of social and academic organizations and networks to act in defense of human rights. (IACHR, 2017, p. 45; emphasis added)

3.3. Further Development of the Concept of "Public Policy with a Human Rights Approach" (2018)

The formulation identified in the 2009 report constitutes a significant conceptual antecedent of the approach subsequently developed by the IACHR. In its strategic planning documents from 2016 and 2017, the Commission explicitly incorporated this perspective into its institutional agenda through the concept of "public policies with a human rights approach."

An early application of this conceptual framework, introduced in 2017, can be identified in the thematic report *Internal Displacement in the Northern Triangle of Central America: Public Policy Guidelines* (OEA/Ser.L/V/II. Doc. 101), approved on July 27, 2018.

In this report, the Commission urged states within the Inter-American system to adopt public policies with a human rights approach, drawing on Inter-American standards concerning state obligations to prevent forced displacement, protect displaced persons, and provide humanitarian assistance to victims. The IACHR described the document as offering "practical public policy recommendations with a human-rights focus on internal displacement" (IACHR, 2018a, p. 9).

More specifically, the Commission presented recommendations concerning "public policies shaped by a human rights approach" (IACHR, 2018a, p. 55). These recommendations were intended to guide state action in addressing internal displacement while providing civil society organizations and internally displaced persons with tools to demand, support, influence, and monitor government measures, as follows:

> This document is an initiative of the Inter-American Commission to offer practical public policy recommendations with a human-rights focus on internal displacement, a situation that the Commission has been addressing through its various mechanisms for promotion and protection of human rights. […] In relation to the forced displacement issues in the countries of the so-called Northern Triangle of Central America analyzed in this report and in light of inter-American standards on the matter, following are recommendations designed to guide States as they formulate public policies shaped by a human

> rights approach and to provide tools to enable civil society and internally displaced persons to call for, work with, influence, and oversee actions taken by the State (IACHR, 2018a, pp. 9, 55; emphasis added)

Outside the corpus of the IACHR's internal strategic planning documents, we therefore find that the concept of "public policies with a human rights approach" first appeared in a sector-specific report addressing forced internal displacement. Indeed, this area of government intervention involves a complex, cross-cutting, and multicausal policy problem that intersects with other policy domains, including security, health, employment, and income. Addressing these interconnected challenges thus calls for a broad (*lato sensu*), multidisciplinary, and interdisciplinary approach to human rights policy.

Notably, in the companion document entitled *Practical Guide: Guidelines for the Formulation of Public Policies on Internal Displacement*, the Commission set out a more detailed methodological framework for designing and managing human rights-oriented public policies. In particular, it advocated the adoption of comprehensive, overarching public policies ("macro-policies") established through formal legislation by member states.

The guide thus lays out public policy guidelines aimed at preventing forced internal displacement in the Americas, recommending that the executive, legislative, and judicial branches recognize forced displacement as a "human rights problem."

Accordingly, the IACHR sets out the following recommendation for the executive and legislative branches of government regarding the prevention of forced internal displacement and the protection of internally displaced persons:

> Adopt a comprehensive public policy with a human rights perspective, formally enshrined in law, to prevent forced displacement and protect the rights of internally displaced persons. That policy needs to embody: The core principles of the human rights approach: equality and nondiscrimination, social participation, claim and access to justice

> mechanisms, the production of and access to information, priority protection for groups historically subjected to discrimination, and a gender, diversity, and intercultural perspective; Inter-American and universal standards for the protection of the human rights of internally displaced persons; The establishment and/or designation of a competent public institutional framework; A social participation mechanism for policy design, implementation, and evaluation; The design and incorporation of early warning systems for monitoring and drawing attention to situations involving risks and/or violence that could trigger the displacement of persons, and identification of the procedure for adopting prevention measures. All competent entities and civil society should participate in that system, which should be led by oversight bodies; The design and implementation of contingency plans to ensure response to mass internal displacements; Monitoring and evaluation; Inclusion of a budget allocation; Measures relating to the dissemination of information and access to it.(IACHR, 2018b, p. 15)

As these documents show, by 2018 the Commission had developed a conception of public policy explicitly linked to human rights, one that had grown increasingly comprehensive and systematic and was grounded in principles of social participation, equality, cross-cutting integration, and intersectoral coordination. In this respect, the concept of public policy with a human rights approach incorporated discussions familiar to the Brazilian field of public affairs (*Campo de Públicas*), particularly those concerning the "public policy cycle," as a means of giving effect to the international human rights commitments established within the Inter-American system.

3.4. Systematization of the Concept of "Public Policy with a Human Rights Approach" (2018)

On September 15, 2018, the IACHR approved its report *Public Policy with a Human Rights Approach* (OAS/Ser.L/V/II. Doc. 191). The 102-page report is organized into five chapters: (i) Chapter 1, "Introduction"; (ii) Chapter 2, "Principles of the Human Rights Approach and Public Policy"; (iii) Chapter 3, "Public Policy with a Human Rights Approach"; (iv) Chapter 4, "Impact of the IACHR's Work on Public Policy"; and (v) Chapter 5, "Conclusions."

The report sought to put the IACHR's Strategic Plan 2017–2021 into practice by setting out a consolidated conceptual framework for the entire Inter-American Human Rights System.

To this end, the Commission explicitly identified the research and systematization procedures undertaken in preparing the report: (i) a review of reports and documents issued by other organizations within the universal human rights system; (ii) an examination of publications and recommendations issued by the MERCOSUR Institute for Public Policies in Human Rights (IPPDH);[9] (iii) a review of thematic and country reports produced by the IACHR between 2008 and 2018; (iv) the preparation of technical fact sheets based on 292 reports issued by the Commission between 2000 and 2015, including cases referred by the IACHR to the Inter-American Court of Human Rights; and (v) the classification and systematization of 1,290 recommendations concerning the 35 OAS member states, organized under the categories of "reports,""recommendations," and "structural measures."

In the Commission's own words, the report's primary objective was:

> [...] to present a conceptual framework that would make it possible to steer the IACHR's work in the area of public policy with a human

[9]The MERCOSUR Institute for Public Policies in Human Rights (IPPDH) was established in 2009 through Common Market Council (CMC) Decision No. 14/09, within the framework of the Meeting of High Authorities on Human Rights and Ministries of Foreign Affairs of MERCOSUR and Associated States. Its permanent headquarters are located in Buenos Aires, Argentina. See "History – IPPDH." Available at: https://www.ippdh.mercosur.int/historia/?lang=pt-br. Accessed January 8, 2024.

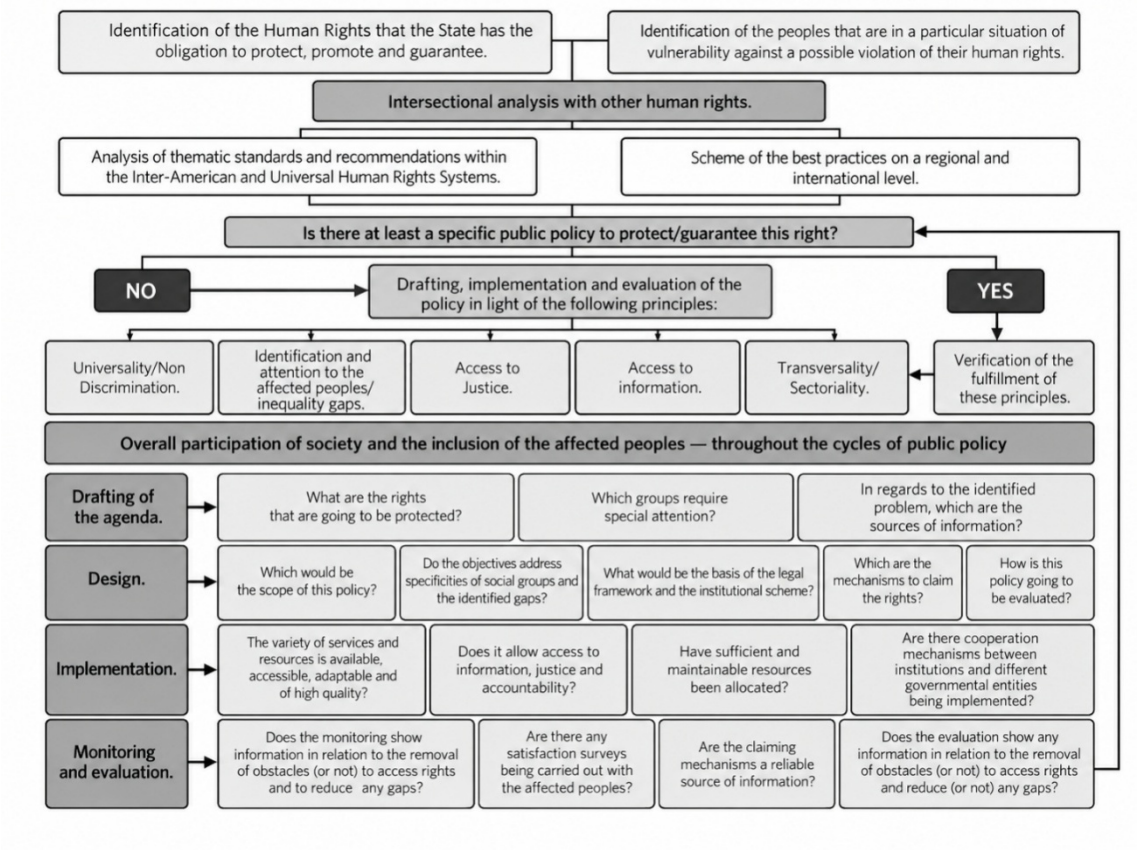
> rights approach, in order to proactively contribute, with the states, to exerting structural impacts on preventing and avoiding the repetition of human rights violations. (IACHR, 2018c, p. 11)

For this purpose, the Commission defines "public policy with a human rights approach" as follows:

> A public policy with a human rights approach is a series of decisions and actions that the state designs, implements, monitors, and evaluates—on the basis of an ongoing process of effective social inclusion, deliberation, and participation—for the purpose of protecting, promoting, respecting, and guaranteeing the human rights of all the persons, groups, and communities that comprise a society, under the principles of equality and nondiscrimination, universality, access to justice, accountability, transparency, and cross-cutting and intersectional perspectives. (IACHR, 2018c, pp. 45-46)

To this end, the report draws on the public policy cycle as a heuristic framework, building on contributions from the MERCOSUR Institute for Public Policies in Human Rights (IPPDH), the World Bank, and Vázquez and Delaplace (2011). Drawing on these contributions, the IACHR sets out its own analytical framework, illustrating how Inter-American human rights principles and standards can be incorporated into the different stages of the public policy cycle, as shown in Figure 1.

Figure 1 -Diagram of analysis of public policy on the basis of the contribution of the IAHRS



Note. Adapted from Public Policy with a Human Rights Approach (p. 50), by the Inter-American Commission on Human Rights, 2018.

Accordingly, we can conclude that the IACHR did not introduce the concept under examination for the first time in this report. Rather, it further developed and systematized the concept, adopting a broad (*lato sensu*) understanding of public policy in the field of human rights, insofar as these policies are intended to benefit "all the persons, groups, and communities that comprise a society" (IACHR, 2018c, p. 46).

Nevertheless, despite its broad scope, this conceptualization establishes boundaries regarding which forms of state action can be considered public policies. The Commission points out that isolated measures, legislative initiatives, and temporary institutional arrangements do not necessarily qualify as public policies, since such policies require a coordinated set of government actions aimed at ensuring the ongoing protection of rights. Thus, the broad (*lato sensu*) conception adopted in 2018 does not

dispense with the requirements of comprehensiveness and continuity in state intervention. As the Commission explains:

> The IACHR believes it is necessary to point out that, although the notion of public policy is sufficiently broad to incorporate the various ways in which member states establish them (plans, programs, policies), it is also important to set certain limits that prevent the excessively widespread use of the term.Because of the above, it is important to stress that special and/or provisional commissions or mechanisms established by the states for targeted circumstances, in order to oversee a specific situation, shall not necessarily be included under the term public policy. This is because public policies cannot be construed as circumstantial exercises but rather as a series of actions aimed at permanently guaranteeing a right.Likewise, the IACHR points out that isolated measures fail to provide the comprehensiveness that is needed to be considered a public policy, although they may contribute to the goal of strengthening the protection of human rights. [...]Along this same line, the Commission considers that not all legislative initiatives, amendments, or new laws comprise in themselves public policy, although it is important for them to benefit from the legal framework underpinning them and, in some cases, comprising their point of origin or structure supporting them. [...]Ultimately, the Commission would like to stress that it must not be assumed that all measures adopted by the branches of government are public policies on the basis of the notion presented herein, but rather that, in each case, the elements that comprise the policy and its enforcement within the sphere of the state's actions must be assessed. (IACHR, 2018c, pp. 46-47)

Furthermore, this conceptualization rests on two complementary pillars: the recognition of the state as the actor responsible for promoting, protecting, and guaranteeing human rights, and the recognition of individuals and social groups as rights holders who can assert their rights and participate in public decision-making, rather than merely receiving state-provided benefits (IACHR, 2018c, p. 20). In this

respect, the human rights approach goes beyond the scope of state intervention itself to encompass the legal standing of individuals and social groups vis-à-vis the state throughout the public policy cycle.

Finally, by bringing together a set of guiding principles for public policies with a human rights approach—including equality and nondiscrimination, universality, access to justice, accountability, transparency, cross-cutting approaches, and intersectoral coordination—the Commission further developed conceptual formulations already outlined in its *Strategic Plan 2017–2021*. In doing so, the IACHR explicitly linked public policy management to the fulfillment of states' obligations under international human rights law.

3.5. A Temporal Reconstruction of the IACHR's Concepts of Public Policy (2009-2018)

Our documentary analysis reveals a sequence of institutional formulations that allows us to trace the development of the concept of public policy with a human rights approach within the IACHR.

Figure 2 outlines the key milestones in this sequence, from the conceptual formulation identified in the 2009 report on citizen security to the systematic conceptual framework presented in September 2018. This descriptive-analytical diagram illustrates the temporal and conceptual relationships identified across the documents without presupposing the existence of causal mechanisms.

Figure 2 - The Development of the Concept of Public Policy with a Human Rights Approach within the IACHR (2009-2018)



Source: Author's own elaboration.

The sequence presented in Figure 2 indicates that the formulation adopted by the IACHR in 2018 did not emerge independently of its earlier institutional documents.

As discussed above, the 2009 report had already linked the concept of public policy to the realization of human rights, albeit within the specific context of "citizen security." Subsequently, the Commission's internal strategic planning documents from 2016 and 2017 explicitly incorporated a human rights approach as an institutional framework for the IACHR's work on public policy. In 2018, this approach was applied to the problem of forced internal displacement and subsequently systematized in a

dedicated report that set out a comprehensive definition and guiding principles. Taken together, the documents therefore suggest a process of conceptual expansion and progressive elaboration, rather than a clear break between fundamentally different conceptions of public policy in the field of human rights.

The subsequent use of the concept of "public policies with a human rights approach" can be identified in the report *Situation of Human Rights in Brazil* (OEA/Ser.L/V/II. Doc. 9), approved on February 12, 2021. In that report, the IACHR recommended strengthening the institutions responsible for designing, implementing, and evaluating human rights-oriented public policies, particularly under the heading "The institutional underpinning of human rights." This recommendation addressed the state's institutional capacity to govern and organize public policies, as follows:

> Chapter 8 – Conclusions and Recommendations
> [...]
> B. Recommendations
> The institutional underpinning of human rights
> 1. Strengthen the State and autonomous bodies responsible for formulating, implementing, and appraising public policies with human rights focus and geared to guaranteeing the rights of the most vulnerable groups[...] (IACHR, 2021, p. 190).

This reference provides evidence of the continued institutional use of the concept after 2018, although it does not establish that the Commission applied it uniformly across all its subsequent publications.

The documents examined thus show that the IACHR progressively incorporated this approach into its institutional work, particularly through its strategic planning documents from 2016 and 2017. They also indicate that the concept has been applied in a broad (*lato sensu*) sense, encompassing policies targeting different individuals and social groups. This broad scope is consistent with the distinction drawn by Ciconello (2016, p. 172) between the cross-cutting incorporation of a human rights approach into public policies generally and those traditionally identified as human rights policies *stricto sensu*, particularly policies targeting vulnerable groups.

In other words, our findings suggest that the concept of "public policies with a human rights approach" has come to encompass policies across different areas of government intervention, regardless of their specific policy domains or subject matter, rather than being limited to issues affecting vulnerable populations in the Americas.

4. CONCLUSION

This study sought to reconstruct the development and consolidation of the concept of "public policy with a human rights approach" within the Inter-American Commission on Human Rights (IACHR), drawing on an analysis of internal and institutional documents produced between 2009 and 2018.

Our findings indicate that the conceptual framework systematized in the report *Public Policy with a Human Rights Approach*, issued in September 2018, has significant antecedents in the Commission's earlier documents, particularly those related to its strategic planning.

The examination of the 2009 *Report on Citizen Security and Human Rights* revealed an understanding of public policy grounded in state action and the realization of human rights. Subsequently, between 2016 and 2017, the Commission's strategic planning documents explicitly incorporated the concept of "public policy with a human rights approach" into its institutional objectives, linking it to strengthening state capacities and implementing Inter-American human rights standards across member states.

In July 2018, the report *Internal Displacement in the Northern Triangle of Central America: Public Policy Guidelines* applied this approach to forced internal displacement, setting out specific recommendations for public policy formulation. Finally, in September of that year, the Commission presented a more comprehensive systematization of the concept in *Public Policy with a Human Rights Approach*, establishing principles and guidelines to inform the formulation, implementation, and evaluation of public policies by states.

These findings suggest that the September 2018 report's contribution lay not in introducing an entirely new concept of "public policy with a human rights approach," but rather in further developing and systematizing conceptual formulations that had already emerged within the IACHR's institutional framework.

Throughout this process, the concept gradually expanded in scope, particularly through the incorporation of principles concerning equality and nondiscrimination, social participation, transparency, cross-cutting approaches, and intersectoral coordination. It also brought together states' human rights obligations and the recognition of individuals as rights holders, while establishing boundaries that distinguish public policies from isolated or temporary state measures that would not, in themselves, qualify as comprehensive human rights-oriented public policies. In light of the distinction drawn by Ciconello (2016), the Commission's conceptualization aligns more closely with a broad (*lato sensu*) approach, under which human rights can guide public policies across different areas of government intervention, rather than being confined to policies specifically targeting vulnerable or historically discriminated groups.

From a legal-institutional perspective, the findings also highlight the importance of the IACHR's strategic planning documents for understanding its role in shaping and disseminating public policy frameworks. Beyond the thematic reports addressed to states, these internal instruments provide valuable insights into how particular conceptual formulations came to be incorporated into the Commission's institutional objectives and guidelines. In this respect, the study contributes to broadening the analysis of the Inter-American Human Rights System's institutional work beyond its mechanisms of international accountability, drawing attention to its role in developing minimum standards intended to guide national public policies.

Drawing on historical institutionalism as an interpretive framework allowed us to organize the documents chronologically and identify patterns of conceptual continuity and expansion. Building on these findings, future research could examine possible reformulations of the concept in documents issued after 2018, its reception by member states, and its influence on the design and implementation of specific national public policies.

Comparing the conceptual frameworks developed by the IACHR and the Inter-American Court of Human Rights also remains a relevant avenue for research, particularly to identify potential convergences and differences in their approaches to public policy. Such a research agenda could further deepen our understanding of how institutions within the Inter-American Human Rights System contribute to establishing standards for national public policies, while engaging with theoretical and analytical contributions from the Brazilian field of public affairs (*Campo de Públicas*).

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