

POLICY BRIEF



## Regionalized Governance in the Global South

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Coe and Nash's new minibook – [Regionalized Governance in the Global South](#) (CUP 2023) explores the division of labour and concentration of authority amongst inter-governmental organisations (IGOs) in Latin America and Africa. Our focus is on multilevel governance across global and regional IGOs in the domains of peace and security and human rights.

This policy brief is derivative from our minibook. It is meant to summarise the findings for a wide audience. The full minibook is available open access through Cambridge University Press at: <https://www.cambridge.org/core/elements/regionalized-governance-in-the-global-south/27ACE026649675E3A40E37989F9ACD10>

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## Key Findings:

- ▶ Peace and security governance is most regionalized in Africa whereas human rights governance is most regionalized in Latin America.
- ▶ On peace and security governance, the United Nations (UN) Security Council remains the body with primary responsibility for international peace and security as mandated in the UN Charter. However, the African Union (AU) has pushed for a reconceptualization of the role of regional organisations (ROs), preferring a model of authority built on cooperation and not hierarchy. The AU and other African ROs also take on significant peace and security tasks indicating ownership.
- ▶ There is no treaty that specifies a hierarchy amongst inter-governmental organisations (IGOs) in human rights governance. However, the more established Inter-American Human Rights System takes on far more ownership of human rights governance in Latin America compared to the UN and also likely has more authority due to its embeddedness in domestic legal systems.
- ▶ The specialisation of regional governance in different issue areas has significant implications for how regional IGOs interact with global IGOs and points to the need for exploring regional drivers in the development of regional institutions and authority.

## Peace and Security

Peace and security is an area of global governance where there is a codification of roles as set out in the UN Charter. The UN Security Council (UNSC) has “primary responsibility for the maintenance of international peace and security”.<sup>1</sup> ROs are afforded a role in helping to maintain international peace and security in Chapter VIII of the UN Charter, but Chapter VII grants the UNSC sole authority to decide on if a situation is a threat to international peace and to determine what if any enforcement actions are necessary to maintain peace.<sup>2</sup> Given this it is reasonable to assume that the UN would have primacy in peace and security. However, our research has shown that the AU increasingly challenges the primacy of the UN’s authority on peace and security matters and has taken on a significant share of peace and security tasks (labour).

### Africa

African IGOs have been building claims of authority through their constitutive documents and protocols as well as through their diplomatic engagement with the UNSC. Article 4(h) of the AU’s Constitutive Act asserts the rights of the Union to intervene in Member States in the event of war crimes, crimes against humanity, and/or genocide.<sup>3</sup> The Protocol Relating to the Establishment of the Peace and Security Council of the African Union (the PSC Protocol) further elaborates on the institutions and processes for peace and security in the African region. Notable in the PSC Protocol is that there are several provisions that mandate that the PSC should be guided by both the AU Constitutive Act and the UN Charter, but there is no indication that the AU PSC would seek prior authorisation from the UNSC should the AU ever invoke Article 4(h).<sup>4</sup> Gelot also notes the tensions in the PSC Protocol when highlighting Articles 16 and 17 that deal with the AU’s relationship with African Regional Mechanisms and the UN, particularly that the PSC Protocol contains contradictory language on whether the UN or the AU has primary responsibility for peace and security in Africa.<sup>5</sup>

The AU has also consistently engaged diplomatically with the UN on matters of authority and financing of peace and security. The AU has sought to re-imagine the focus on UN primacy and instead put forward a vision where the relationship between the UN and regional organisations is not driven by hierarchy but rather by mutual responsibility and collaboration.<sup>6</sup> This has resulted in annual consultative meetings, the creation of the UN Office to the AU, and multiple other initiatives to try to enhance UN-AU cooperation.<sup>7</sup>

Despite many positive initiatives, there are still areas of strain in the UN-AU relationship, notably around the issue of financing. The UN is the organisation with the capacity to fund large-scale peace missions, and this constitutes a source of authority. The AU has lobbied for years for "predictable and sustainable financing through UN assessed contributions for AU-led peace operations".<sup>8</sup> However, while progress has been made with the UN and AU recently agreeing on a framework, there are still many details to work out in practice.

While peace and security can encompass many tasks from conflict prevention to de-mining post-conflict, we focus on whether and how organisations are showing-up and signing-up for peace processes and peace missions. The degree to which organisations are taking on these tasks is how we conceptualise the labour or ownership of peace and security governance. In order to assess engagement in peace processes, we created an original dataset using peace agreements from Version 1 of the Peace Agreements Database (PA-X).<sup>9</sup> While analysing presence in peace agreements is not a perfect measure for engagement in peace agreements, we argue this analysis provides important insights. When IGOs facilitate or make commitments to monitor and/or implement an agreement, it is an indicator of ownership to push forward a peace process or support its fulfilment.

Between 1990 and 2014, African ROs, including the AU and regional economic communities (RECs), were far more likely than the UN to have witnessed or facilitated a peace agreement in the African region. African ROs were also more likely to commit to monitor or implement a peace agreement than the UN, and they were more likely to be thanked for their engagement in the peace process than the UN.<sup>10</sup> In the post-Cold War context, peace missions have become far more multilateral. However, the UN continues to be the primary body that mandates peace missions, mandating over double the missions that African ROs did between 1990-2016. That said, when it comes to implementing peace missions during the same period, African ROs and the UN are about even, implementing 34 and 36 missions respectively.<sup>11</sup> There is also increasingly a division of labour that has been negotiated in policy and practice between the UN and African ROs with African ROs taking on a first-responder role relying on a "generous interpretation of Chapter VIII of the UN Charter."<sup>12</sup> The UN is then able to take over should there be a need for a long-term presence.

## Latin America

The Organization of American States (OAS) is the hemispheric organisation for the Americas. It has 34 member states across the Americas and Caribbean, including the United States and Canada. The OAS does have hemispheric frameworks for peace and security, but given the disparate challenges across the large region and tensions between some member states, it does not have a significant peace and security portfolio.<sup>13</sup> The Organization emphasises multidimensional security threats, including transnational crime and smuggling and threats to the environment.<sup>14</sup> Unlike African ROs, the OAS does not have substantial conflict management powers. Neither the hemispheric nor any of the regional ROs in the Americas have legalised intervention, and there are no concerted efforts to challenge or reshape the primacy of the UNSC on peace and security. There is also no framework to manage the relationship between the OAS and regional ROs on peace and security matters. ROs in the hemisphere are also substantially less involved in the ownership dimension of governance compared to the UN in the Americas. ROs facilitated three peace processes compared to the UN facilitating 17, and they implemented or monitored only 16 compared to the UN's 40. ROs were also not significantly involved in implementing peace missions, with the OAS implementing only two missions between 1990 and 2016.<sup>15</sup>

### Key Points

- When comparing the extent of regionalized peace and security governance, Africa challenges the authority of global governance and takes on far more ownership of peace and security tasks than Latin America.
- African ROs have codified articles in their constitutive acts and protocols that allow for intervention under certain circumstances and have created institutions and a framework for cooperation amongst RECs, the AU, and the UN on peace and security.
- The AU has challenged the current conceptualisation of Article VIII of the UN Charter and has pushed for more of a role for ROs in peace and security. African ROs have been more engaged in peace processes than the UN between 1990-2014 and have taken on the implementation of roughly half of the peace missions in Africa between 1990-2016.

## Human Rights

Authority and ownership in human rights governance is far less codified than peace and security governance, and there is no international treaty that identifies any IGO as having primacy in this area. There are two models of accountability – state accountability and individual accountability, and there are both judicial and quasi-judicial bodies working in this realm. As the names indicate, state accountability mechanisms hold states accountable for human rights abuses and may mandate policy changes or reparations; whereas individual accountability mechanisms hold individual agents of the state criminally accountable for abuses. UN treaty monitoring bodies,<sup>16</sup> the Inter-American Commission on Human Rights, and the African Commission on Human and Peoples' Rights are all quasi-judicial bodies, and the International Criminal Court (ICC), Inter-American Court of Human Rights, and the African Court on Human and Peoples' Rights are all judicial bodies. Of these, only the ICC uses an individual accountability model.<sup>17</sup>

## Latin America

Latin America has robust human rights frameworks. The American Declaration on the Rights and Duties of Man (American Declaration) was adopted in 1948,<sup>18</sup> pre-dating by several months the Universal Declaration on Human Rights (UDHR). Latin American states and jurists were also pivotal in ensuring economic and social rights were part of the global discussion.<sup>19</sup> The first pillar of the Inter-American Human Rights System (IAHRS), the Inter-American Commission on Human Rights, was created in 1959 and gained greater authority to scrutinise human rights issues in 1965. The American Convention on Human Rights (ACHR) was adopted in 1969 and entered into force in 1978. It sets out specific rights that state parties to the Convention must protect, and it created the second pillar of the IAHRS, the Inter-American Court of Human Rights.<sup>20</sup> In the IAHRS, the Commission receives complaints and can then refer them to the Court in the event that a settlement cannot be reached. At the global level, the eight UN treaty bodies can all receive individual petitions related to the areas that they cover (e.g., discrimination against particular groups, prohibition of torture). The Rome Statute sets out the process for referring a case to the ICC, which can be done by any state party, the Prosecutor, or the UNSC.<sup>21</sup>



Delineating authority in human rights governance is far more complex than peace and security governance. Although the AU challenges the conception of UNSC authority, the UN Charter sets out a clear-cut hierarchy for the UN and ROs in peace and security. In the domain of human rights governance, global and regional organisations work in parallel, and there is not a treaty that identifies one IGO as having primacy over others. However, there are some important nuances in the Latin American and Caribbean (LAC) context that impact how authority plays out in practice. When it comes to judicial institutions, the Inter-American Court is the only court at the global or regional levels that can issue binding decisions against LAC states that are signatories to the ACHR and have accepted the Court's contentious jurisdiction.<sup>22</sup> The ICC is the Court with the mandate to prosecute individuals. However, the Inter-American Court's rulings prohibiting amnesties have led to domestic prosecution of individuals,<sup>23</sup> making the ICC's monopoly on individual accountability less clear cut in practice. Although controversial, the Inter-American Court has put forward the doctrine of conventionality control that stipulates national courts cannot apply norms that are in violation of the ACHR and must give deference to the Court's interpretation of the ACHR.<sup>24</sup> Overall this means the Inter-American Court is highly intrusive and embedded in domestic legal systems lending to its authority.

When it comes to quasi-judicial bodies, both the UN treaty monitoring bodies described previously and the Inter-American Commission have similar individual petition mandates. Both the global and regional levels can receive petitions from individuals and issue non-binding decisions. They can issue precautionary measures to prevent abuses, and there are mechanisms to monitor state compliance and undertake fact finding missions.<sup>25</sup> Thirty-one states are subject to the individual communications procedures of the Inter-American Commission, and individuals or groups submitting petitions must claim a violation of the American Declaration or the ACHR, if the relevant state has ratified it. The number of states subject to the individual communications procedures of a UN treaty-monitoring varies significantly. In order to be subject to individual communications a state must not only ratify the specific treaty but also separately recognise the competence of the relevant committee. Twenty LAC states are subject to individual communications procedures for the Human Rights Committee but only four states are subject to these procedures for the Committee on Enforced Disappearances.<sup>26</sup>

To analyse the ownership dimension of human rights governance, we looked at the caseloads for both judicial and quasi-judicial bodies. At the global level, no ICC cases have ever been brought for crimes in the Americas, whereas between 2002 and 2019, the Inter-American Commission referred 270 cases to the Inter-American Court. The Inter-American Court's caseload also increased three-fold compared to the 1990s. This is to some extent comparing apples to oranges given that the ICC deals with a very select number of crimes and the Inter-American Court has jurisdiction over any human right specified in the ACHR. However, it is an important indicator of judicial activity at global and regional levels. In addition, we see a similar pattern of far more activity happening at the regional levels in the quasi-judicial bodies. During the 2010-2020 period, the eight relevant UN treaty bodies together issued 46 decisions on the merits pertaining to LAC countries. During the same period, the Inter-American Commission issued 307 decisions.<sup>27</sup>

## Africa

Human rights governance in Africa is not as developed as in Latin America in large part because it is a much newer human rights system. The basis for the African Human Rights System (AfHRS) is the African Charter on Human and Peoples' Rights (Banjul Charter), which was adopted in 1981 and entered into force in 1986. The Banjul Charter sets out basic freedoms and rights as well as duties. It also created the African Commission on Human and Peoples' Rights, which is empowered to undertake research on human rights, conduct investigations, interpret the Banjul Charter, and help to resolve legal issues around rights.<sup>28</sup> The African Court on Human and Peoples' Rights was established with the 1998 Protocol to the Banjul Charter (the Protocol) and entered into force in 2004. Notably the Protocol defines the jurisdiction of the Court as being able to apply any human rights document to which the relevant state is a state party and not just the regional document, the Banjul Charter.<sup>29</sup> There have been subsequent attempts to update and expand the jurisdiction of the Court, notably the 2014 Malabo Protocol. However, the Malabo Protocol has not yet received the number of ratifications needed for it to enter into force.<sup>30</sup>

Fifty-four African states are subject to the petition procedures of the African Commission. Like the LAC region, the number of African states subject to the petition procedures of the UN treaty monitoring bodies varies. Thirty-six African states are subject to the petition procedures of the Human Rights Committee, whereas only one state is subject to the petition procedures of the Committee on Enforced Disappearances.<sup>31</sup>

During the 2012-2020 period, the eight UN treaty monitoring bodies issued 94 views while the African Commission issued 46, making it considerably less active compared to the UN bodies and its LAC counterpart.<sup>32</sup> When it comes to judicial bodies, 34 member states have ratified the Protocol establishing the African Court, and eight states have accepted the competence of the Court to hear cases brought by individuals and non-governmental organisations. For the other states, a case must first be considered by the Commission, and it is the Commission's decision on whether to refer it to the Court.<sup>33</sup> This is also how it works in the Inter-American system. The African Court has only been issuing rulings since 2009 with its first judgement on the merits in 2013. Only very recently has its number of rulings on the merits entered double digits. At the global level, almost all of the ICC's cases since it began operating have focused on situations in Africa,<sup>34</sup> leading to many critiques of the ICC and its disproportionate focus on Africa compared to other regions in the world. Overall, while the African region is striving to create innovative judicial institutions with unique mandates, these institutions have not come fully to fruition, and the institutions are under-utilised compared to their counterparts in the LAC region.

### Key Points

- ▶ The LAC region has been a pioneer in human rights governance. LAC states signed the American Declaration on the Rights and Duties of Man eight months prior to the signing of the UDHR, and LAC states and jurists were pivotal in pushing for the inclusion of economic and social rights in global forums.
- ▶ The IAHRs is comprised of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. The Commission and the Court have significant caseloads compared to global bodies active in the region.
- ▶ Human rights governance in Africa is far less developed compared to its LAC counterpart. The African Charter on Human and Peoples' Rights only came into force in 1986, and the African Court on Human and Peoples' Rights was only established in 2004 issuing its first decision on the merits in 2013, so it is a much newer system. The AfHRS has far fewer cases compared to global bodies in the region.

## Implications for Global Governance

One of the central questions that emerges from our research is why is the regionalization of governance uneven? We argue that this points towards regional drivers of institutional development rather than global or external drivers of development. This also means that regions make important contributions to global governance. For example, the Inter-American Court has developed areas of law through their rulings. Their rulings prohibiting amnesties have had an impact in Latin America but also globally in how we think about transitional justice and the rights of victims.<sup>35</sup> The Inter-American Court has also delivered key judgments on the rights of indigenous groups and the right to a healthy environment that could impact our understanding of ownership and how we deal with victims of climate change.<sup>36</sup> The AU has been pivotal in creating new models for dividing responsibility for and ownership of peace and security. Most recently this has translated into the UNSC adopting a resolution creating a mechanism to use UN money to help fund African-led peace missions. This is the culmination of 15 years of diplomacy and advocacy by African states.<sup>37</sup> Overall regions have and continue to make important contributions to global governance while developing governance in their own spheres of influence.

## Endnotes

<sup>1</sup> "Charter of the United Nations," October 24, 1945, chap. V, Article 24, <http://www.un.org/en/charter-united-nations/>.

<sup>2</sup> "Charter of the United Nations," chap. VII and VIII.

<sup>3</sup> "Constitutive Act of the African Union," May 26, 2001, <https://au.int/en/treaties/constitutive-act-african-union>.

<sup>4</sup> "Protocol Relating to the Establishment of the Peace and Security Council of the African Union," December 23, 2003, [https://au.int/sites/default/files/treaties/7781-treaty-0024\\_-\\_protocol\\_relating\\_to\\_the\\_establishment\\_of\\_the\\_peace\\_and\\_security\\_council\\_of\\_the\\_african\\_union\\_e.pdf](https://au.int/sites/default/files/treaties/7781-treaty-0024_-_protocol_relating_to_the_establishment_of_the_peace_and_security_council_of_the_african_union_e.pdf).

<sup>5</sup> Linnea Gelot, "African Regional Organizations, Peace Operations, and the UN: Legitimacy & Disengagement," in *African Regional Organizations, Peace Operations, and the UN: Legitimacy and Disengagement*, ed. Peter Wallensteen and Anders Bjurner (Routledge, 2015), 143.

<sup>6</sup> Walter Lotze, "Challenging the Primacy of the UN Security Council," in *African Actors in International Security: Shaping Contemporary Norms*, ed. Katharina P. Coleman and Thomas K. Tieku (Lynne Rienner Publishers, 2018), 220.

<sup>7</sup> Lotze, 225–27.

<sup>8</sup> "Securing Predictable and Sustainable Financing for Peace in Africa," 2016, 5, [www.peaceau.org/uploads/auhr-progress-report-final-020916-with-annexes.pdf](http://www.peaceau.org/uploads/auhr-progress-report-final-020916-with-annexes.pdf).

<sup>9</sup> For more information on PA-X: Christine Bell and Sanja Badanjak, "Introducing PA-X: A New Peace Agreement Database and Dataset," *Journal of Peace Research* 56, no. 3 (2019): 452–66.

<sup>10</sup> See figures 1–4 and Table 1 in section 2.2 of *Regionalized Governance in the Global South* (CUP 2023).

<sup>11</sup> See figures 5–6 in section 2.2 of *Regionalized Governance in the Global South* (CUP 2023).

<sup>12</sup> Cedric de Coning, Linnea Gelot, and John Karlsrud, "Towards an African Model of Peace Operations," in *The Future of African Peace Operations: From the Janjaweed to Boko Haram* (Zed Books, 2016), 2.

<sup>13</sup> Roberto Dominguez, "Security Governance in Latin America," in *Power Dynamics and Regional Security*, ed. Marcial A. G. Suarez, Rafael Duarte Villa, and Brigitte Weiffen (Palgrave Macmillan, 2017), 54–59.

<sup>14</sup> "Declaration on Security in the Americas" (Organization of American States, October 28, 2003), <http://www.oas.org/en/sms/docs/declaration%20security%20americas%20rev%201%20-%2028%20oct%202003%20ce00339.pdf>.

<sup>15</sup> See figures 6–9 and table 2 in across sections 2.2–2.4 of *Regionalized Governance in the Global South* (CUP 2023).

<sup>16</sup> These include the Human Rights Committee; Committee on the Rights of Persons with Disabilities; Committee on the Elimination of Discrimination against Women; Committee Against Torture; Committee on the Elimination of Racial Discrimination; Committee on the Rights of the Child; Committee on Economic, Social, and Cultural Rights; and Committee on Enforced Disappearances.

<sup>17</sup> See table 3 in section 3.1 of *Regionalized Governance in the Global South* (CUP 2023).

<sup>18</sup> "American Declaration of the Rights and Duties of Man," May 1948, <http://www.oas.org/en/iachr/mandate/Basics/declaration.asp>.

<sup>19</sup> Kathryn Sikkink, "Latin America's Protagonist Role in Human Rights," *International Journal on Human Rights* 12, no. 22 (2015): 207–18.

<sup>20</sup> "American Convention on Human Rights" (1969; repr., Organization of American States, July 18, 1978), <https://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm>.

<sup>21</sup> "Rome Statute of the International Criminal Court," July 1, 2002, <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>.

<sup>22</sup> As of February 2024, twenty states have recognized the Inter-American Court's contentious jurisdiction: Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, and Uruguay.

<sup>23</sup> Case of Barrios Altos v. Peru (Inter-American Court of Human Rights March 14, 2001).

<sup>24</sup> Christina Binder, "The Prohibition of Amnesties by the Inter-American Court of Human Rights," in *International Judicial Lawmaking*, ed. Armin von Bogdandy and Ingo Venzke (Springer Berlin Heidelberg, 2012), 307.

<sup>25</sup> See "Individual Communications," United Nations Office of the High Commissioner of Human Rights, accessed July 24, 2022, <https://www.ohchr.org/en/treaty-bodies/ccpr/individual-communications>; "Inter-American Human Rights System," International Justice Research Center, accessed June 24, 2022, [https://ijrcenter.org/regional/inter-american-system/#Inter-American\\_Court\\_of\\_Human\\_Rights](https://ijrcenter.org/regional/inter-american-system/#Inter-American_Court_of_Human_Rights).

<sup>26</sup> See table 4 in section 3.1 of Regionalized Governance in the Global South (CUP 2023).

<sup>27</sup> See sections 3.2.1 and 3.2.2 of Regionalized Governance in the Global South (CUP 2023).

<sup>28</sup> "African Charter on Human and Peoples' Rights," 1986, <https://www.achpr.org/legalinstruments/detail?id=49>.

<sup>29</sup> "Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights," January 25, 2004, <https://au.int/en/treaties/protocol-african-charter-human-and-peoples-rights-establishment-african-court-human-and>.

<sup>30</sup> "Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights," Not in force, <https://au.int/en/treaties/protocol-amendments-protocol-statute-african-court-justice-and-human-rights>.

<sup>31</sup> See table 5 in section 3.3 of Regionalized Governance in the Global South (CUP 2023).

<sup>32</sup> See section 3.4 of Regionalized Governance in the Global South (CUP 2023).

<sup>33</sup> "Basic Information," African Court on Human and Peoples' Rights, accessed May 31, 2022, <https://www.african-court.org/wpafc/basic-information/>. Please note the total ratifications have changed since drafting the original minibook. The updated totals are included in this brief.

<sup>34</sup> See figure 10 and section 3.4 of Regionalized Governance in the Global South (CUP 2023).

<sup>35</sup> Binder, "The Prohibition of Amnesties by the Inter-American Court of Human Rights."

<sup>36</sup> Maria Antonia Tigre, "Inter-American Court Recognizes the Right to a Healthy Environment of Indigenous Peoples in First Contentious Case," May 4, 2020, <https://www.iucn.org/news/world-commission-environmental-law/202005/inter-american-court-recognizes-right-a-healthy-environment-indigenous-peoples-first-contentious-case>; Enzamaría Tramontana, "The Contribution of the Inter-American Human Rights Bodies to Evolving International Law on Indigenous Rights over Lands and Natural Resources," *International Journal on Minority and Group Rights* 17 (2010): 241–63.

<sup>37</sup> Daniel Forti and Liesl Louw-Vaudran, "The Security Council Agrees to Consider Funding AU Peace Operations," *International Crisis Group* (blog), February 15, 2024, <https://www.crisisgroup.org/africa/african-union-regional-bodies/security-council-agrees-consider-funding-au-peace-operations#:~:text=In%20late%20December%202023%2C%20the,the%20agreement%20and%20its%20implications>.

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