

EDITOR'S PREFACE

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Almost half a century after the adoption of the Universal Declaration of 1948, we have now entered the age of human rights. There is hardly any subject which occupies so much space in the contemporary international agenda like that of human rights. The presence of these latter is acknowledged in all domains of human activity. After almost five decades of struggle, the principles of the international law of human rights seem to have at last reached the bases of national societies. The first two decades of experience in the area coincided largely with the legislative phase of elaboration of the international instruments of protection, a period also marked by the gradual assertion of the capacity to act of the international supervisory organs and by the crystallization of the international procedural capacity of individuals.

As we gradually moved into the phase of actual implementation of international treaties and instruments of protection, we witnessed the virtually universal recognition of the interrelatedness or indivisibility of all human rights (I World Conference on Human Rights). Just as the 1968 Teheran Proclamation contributed with such new global outlook of human rights, the 1993 Vienna Declaration and Programme of Action (adopted by the II World Conference on Human Rights) may likewise give its contribution to the development of the matter if its application is from now on concentrated on the means to secure the interrelatedness or indivisibility of human rights *in practice*, with special attention to discriminated persons, to vulne-

rable or disadvantaged groups, to the poor and the dispossessed, and the socially marginalized or excluded, in sum, to those in greater need of protection.

At global level, the current series of World Conferences at this end of century has contributed decisively to the widespread acknowledgement today that human rights permeate all areas of human action and the day-to-day life of every person. Thus, the 1992 United Nations Conference on Environment and Development (Rio de Janeiro) endeavoured to place human beings at the centre of concerns to achieve sustainable development. The 1993 World Conference on Human Rights (Vienna) upheld the legitimacy of the concern of the international community with the promotion and protection of human rights by all and everywhere. Furthermore, it generated an unprecedented global mobilization and world-wide dialogue, which are bound to foster the process of construction of a universal culture of observance of human rights.

In the 1994 International Conference on Population and Development (Cairo), populational issues were for the first time approached also from the perspective of human rights and sustainable development. The 1995 World Summit for Social Development (Copenhagen) addressed the core issues of alleviation and reduction of poverty (and expansion of productive employment), as well as enhancement of social integration (in particular of the more disadvantaged groups). The 1995 IV World Conference on Women (Beijing) produced a comprehensive Platform of Action for the promotion, protection and strengthening of the human rights of women. And we now wait for the outcome of the II United Nations Conference on Human Settlements (Habitat-II, Istanbul), to take place next year.

At regional level, endeavours are directed to the gradual improvement of the existing systems of protection, namely, the Inter-American, the European and the African systems. In the ambit of this latter, the possibility is being considered of the future creation of an African Court of Human Rights in order to complement the work of

the African Commission of Human and Peoples' Rights. In the framework of our system, greater co-ordination is being sought between the Inter-American Commission and Court of Human Rights. And in the context of the European system, Protocol n. 11 (of May 1994) to the European Convention on Human Rights provides for the merging of the European Commission and Court of Human Rights, leading to the creation of a single judicial organ of control, a new European Court of Human Rights, which would in the future operate as a true European Constitutional Court.

Each regional system functions in its own rhythm and lives its own historical moment. The existing regional systems have recently been followed by the 1994 Arab Charter on Human Rights, and the debate remains open as to the possibility that the Asian continent may count in the future on a regional system of human rights protection as well. The perspectives of regional systems of protection are naturally and necessarily considered within the framework of the universality of human rights. This latter, enriched by regional particularities, extends to both normative and operational levels (non-selectivity).

There remains of course a long way to go, as human rights violations continue to occur all over the world, but the prompt reaction and response to such violations are today much stronger than they used to be in the past. We are in fact privileged to live in a world where the legitimacy of the international community's concern with the promotion and protection of human rights by all and everywhere corresponds to a new *ethos*, universally acknowledged, bringing about obligations *erga omnes*. The present book is meant to address some of the issues of current concern in **The Modern World of Human Rights**.

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The initiative to pay tribute to someone who has given a considerable contribution to the cause of human rights promotion and protection, in particular in the American continent, could hardly find

a more adequate expression than in the present form of this book of essays. This *Festschrift* for Professor Thomas Buergenthal results from a decision of the Board of Directors of the Inter-American Institute of Human Rights to express recognition for all his work in the international protection of human rights. I am greatly honoured that the task of edition of the book has been entrusted to me. For two special reasons this book is very dear to me.

First, because I have known Professor Buergenthal since the early seventies, almost one decade before the creation of the Inter-American Institute of Human Rights and the regular functioning of the Inter-American Court of Human Rights. I first met him in Strasbourg, where he was teaching, when I decided to undertake the examinations of the International Institute of Human Rights and shortly before receiving from the hands of René Cassin the Institute's Diploma. Ever since I have had the privilege to count on Professor Buergenthal's constant attention and friendship. I have today the honour to be one of his successors in the Inter-American Court and the Executive Director of the Inter-American Institute of which he is founder and was the first President and is today the Honorary President. I keep a good memory of the experiences we have shared and of the long and substantial discussions we have had over the years on current issues and new trends in the international protection of human rights.

The second reason why this book is very dear to me lies in the overwhelmingly positive response I promptly received from all contributors, who not only forwarded their papers within the estimated time-limit (despite the burden of other responsibilities and pressure of time), but also spontaneously sent me their valuable suggestions and ideas concerning the selection and distribution of topics among them. The voluminous correspondence we have exchanged to this effect between the months of August 1994 and July 1995 discloses, at a time, the spirit of solidarity in the joint endeavours of this very distinguished group of human rights scholars from the American and the European continents who share the ideals of a noble cause, as well as the unanimous recognition, respect and high esteem for one of the most outstanding contemporary exponents of

the international law of human rights, Thomas Buergenthal. May I here express my gratitude for the dedication and enthusiasm of each of the contributors, who ultimately made this book possible.

With the selection of the topics to be addressed, I conceived the structure of the book as comprising six Parts, namely: Part I, on the Inter-American Institute and Professor Buergenthal himself; Part II, on the general framework and perspectives of the international protection of human rights; Parts III and IV, respectively on the normative and the procedural aspects of the international protection of human rights; and Parts V and VI, respectively on recent developments and special issues of the international protection of human rights. Being a firm supporter of linguistic diversity, I have kept the contributions untranslated, in the original idioms in which they were forwarded to me, as it is proper in publications of the kind.

Last but not least, I would like to add a word of thanks to Charles Moyer, María Lourdes González, Nicolás Boeglin and Natalia Doubles, of the Editorial Unit of the Inter-American Institute, and to Winston Salas, of the Joint Library of the Institute and the Inter-American Court of Human Rights, for their patient assistance in the proof-reading of the texts. The completion of this long-awaited *Festschrift* for Professor Thomas Buergenthal is quite gratifying to all of us who participated in this just and timely tribute to an admirable scholar and human being, to whom the cause of the international protection of human rights owes a great deal.

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Antônio Augusto CANÇADO TRINDADE
*Executive Director of the
Inter-American Institute of Human Rights*