Over the past two decades, legal thought and practice in Latin America have changed dramatically: new constitutions or constitutional reforms have consolidated democratic rule, fundamental innovations have been introduced in state institutions, social movements have turned to law to advance their causes, and processes of globalization have had profound effects on legal norms and practices. Law and Society in Latin America: A New Map offers the first systematic assessment by leading Latin American socio-legal scholars of the momentous transformations in the region. Through an interdisciplinary and comparative lens, contributors analyze the central advances and dilemmas of contemporary Latin American law. Among them are pioneering jurisprudence and legal mobilization for the fulfillment of socioeconomic rights in a highly unequal region, the rise of multicultural constitutionalism and legal struggles around identity politics, the globalization of legal education and practice, tensions between developmental policies and environmental justice, and the emergence of a regional human rights system. These and other processes have not only radically altered the institutional landscape of the region, but also produced academic and practical innovations that are of global interest and defy conventional accounts of Latin American law inherited from law-and-development studies. Painting a portrait of the new Latin American legal thought for an international audience, Law and Society in Latin America: A New Map will be of particular interest to students of comparative law, legal mobilization, and Latin American politics.

At the time of the adoption of the American Declaration on the Rights and Duties of Man in 1948, there was little indication that the Declaration would ultimately yield a highly institutionalized system comprised of a quasi-judicial Inter-American Commission and an authoritative Inter-American Court of Human Rights. Today, however, the Inter-American Human Rights System (IAHRS) has emerged as a central actor in the global human rights regime. This comprehensive volume explores the institutional changes and transformations that the IAHRS has undergone since its creation, offering contributions and insights from a variety of disciplines including history, law, and political science. The book shows how institutional change has affected and been affected by the System's normative leanings, rules of procedure and institutional design, as well as by the position of the IAHRS within the broader landscape of the Americas. The authors examine institutional change from a variety of angles, including the process of change in historical context, normative and legal developments, and the dynamic relationship between the IAHRS and other regional and international human rights institutions. This book was originally published as a special issue of The International Journal of Human Rights.

This book provides unique insights into the practice of democratic constitutionalism in one of the world's most legally and politically significant regions. It combines contributions from leading Latin American and global scholars to provide 'bottom up' and 'top down' insights about the lessons to be drawn from the distinctive constitutional experiences of countries in Latin America. In doing so, it also draws on a rich array of legal and interdisciplinary perspectives. Ultimately, it shows both the promise of democratic constitutions as a vehicle for social, economic and political change, and the variation in the actual constitutional experiences of different countries on the ground – or the limits to constitutions as a locus for broader social change.

Includes summaries of the proceedings of the sessions held during the year.
In this book, Alec Stone Sweet and Jud Mathews focus on the law and politics of rights protection in democracies, and in human rights regimes in Europe, the Americas, and Africa. After introducing the basic features of modern constitutions, with their emphasis on rights and judicial review, the authors present a theory of proportionality that explains why constitutional judges embraced it. Proportionality analysis is a highly intrusive mode of judicial supervision: it permits state officials to limit rights, but only when necessary to achieve a sufficiently important public interest. Since the 1950s, virtually every powerful domestic and international court has adopted proportionality analysis as the central method for protecting rights. In doing so, judges positioned themselves to review all important legislative and administrative decisions, and to invalidate them as unconstitutional when such policies fail the proportionality test. The result has been a massive - and global - transformation of law and politics. The book explicates the concepts of ‘trusteeship’, the ‘system of constitutional justice’, the ‘effectiveness’ of rights adjudication, and the ‘zone of proportionality’. A wide range of case studies analyse: how proportionality has spread, and variation in how it is deployed; the extent to which the U.S. Supreme Court has evolved and resisted similar doctrines; the role of proportionality in building ongoing ‘constitutional dialogues’ with the other branches of government; and the importance of the principle to the courts of regional human rights regimes. While there is variance in the intensity of proportionality-based dialogues, such interactions are today at the very heart of governance in the modern constitutional state and beyond.

This book presents a searching critique of excessive reliance on courts as ‘democracy-builders’ in states emerging from authoritarian rule.

The International Dimension of Human Rights includes extracts of judgments, reports and opinions of international supervisory organs and domestic judicial tribunals, as well as the work of scholars in this subject. This casebook has been divided into seven chapters that deal with the following topics: basic notions of international law; the relationship between international law and domestic law; the right to an effective remedy; the right to liberty and security of persons and the right not to be tortured; the right to a fair trial; economic, social and cultural rights; and other aspects of international protection of human rights, such as the rights of women, the rights of indigenous peoples and environmental rights. The casebook also includes the most relevant international treaties on human rights adopted by the Inter-American, universal and European systems.

Constitutionalism in the Americas unites the work of leading scholars of constitutional law, comparative law and Latin American and U.S. constitutional law to provide a critical and provocative look at the state of constitutional law across the Americas today. The diverse chapters employ a variety of methodologies – empirical, historical, philosophical and textual analysis – in the effort to provide a comprehensive look at a generation of constitutional change across two continents.

Includes summaries of the proceedings of the sessions held during the year.

This book examines the most recent trends in the constitutional and legal regulations in all Latin American countries regarding the amparo proceeding. It analyzes the regulations of the seventeen amparo statutes in force in Latin America, as well as the regulation on the amparo guarantee established in Article 25 of the American Convention of Human Rights.

Preface.

This thought-provoking book explores the emerging construction of a customary law of peace in Latin America and the developing jurisprudence of the Inter-American Court of Human Rights. It traces the evolution of peace as both an end and a means: from a negative form, i.e. the absence of violence, to a positive form that encompasses equality, nondiscrimination and social justice, including gendered perspectives on peace.

This volume brings together innovative work from emerging and leading scholars in international law and political science to critically examine the impact of the Inter-American Human Rights System (IAHRS). By leveraging a variety of theoretical frameworks and methodological approaches, the contributors assess the impact of the IAHRS on domestic human rights change in Latin America. More specifically, the book provides a nuanced analysis of the System’s impact by examining the ways in which the IAHRS influences domestic actors and political institutions advancing the realisation of human rights. This work will be of interest to students and scholars of human rights and Latin American politics, as well as to those engaged with the nexus of international law and domestic politics and the dynamics of international and regional institutions.

Working with progressive conceptual categories relating to indigenous property, cultural identity, the right to an adequate standard of living and healthcare, the Inter-American Court of Human Rights continues to build a justiciability to determine the social rights of marginalised individuals and groups in the Americas. In a context of interpretative tensions
of the social rights as political goals and direct effects provisions, Isaac de Paz González unveils the abilities, and the practices of the Inter-American Court’s contribution to the human rights practice in the Global South.

This book provides a reference guide to the case law of the Inter-American Court of Human Rights. Structured in two parts, it covers the case law on jurisdiction and procedure before the Court and the case law on the scope of particular rights, drawing comparisons with the case law of the European Court of Human Rights.

Moot Court competitions constitute an alternative model of human rights training, giving students the skills to contribute to the development of international human rights law and thus make them qualified advocates for human rights change in their home countries and abroad. By focusing on the perfection of oral as well as written skills, participants are more likely to be successful not only in cases brought before their home courts, but in front of international tribunals and other organs. Such competitions have opened the doorway for more human rights classes in law schools, more clinical training programs, more NGOs dedicated to human rights law, and overall more lawyers dedicated to participating in an expanded notion of a human rights community. As demonstrated in this volume, moot court competitions have revolutionized human rights legal education in Africa, Europe and the Americas.

C. Rules of Procedure

This ground-breaking collection of essays outlines and explains the unique development of Latin American jurisprudence. It introduces the idea of the Ius Constitutionale Commune en America Latina (ICCAL), an original Latin American path of transformative constitutionalism, to an Anglophone audience for the first time. It charts the key developments that have transformed the region and assesses the success of the constitutional projects that followed a period of authoritarian regimes in Latin America. Coined by scholars who have been documenting, conceptualizing, and comparing the development of Latin American public law for more than a decade, the term ICCAL encompasses themes that cross national borders and legal fields, taking in constitutional law, administrative law, general public international law, regional integration law, human rights, and investment law. Not only does this volume map the legal landscape, it also suggests measures to improve society via due legal process and a rights-based, supranational and regionally rooted constitutionalism. The editors contend that with the strengthening of democracy, the rule of law, and human rights, common problems such as the exclusion of wide sectors of the population from having a say in government, as well as corruption, hyper-presidentialism, and the weak normativity of the law can be combatted more effectively in future.

F. RIGHT TO LIFE.

Latin America offers a democratic and constitutional process, with the goals to respect fundamental human rights and control the excess of power. Nevertheless, the weaknesses of the rule of law’s institutions does not guarantee for all citizens the protection of old and new rights. In this sense, the Inter-American Fundamental Rights Conference organized by the Inter-American Network on Fundamental Rights and Democracy (RED-IDD) is an annual meeting of professors and researchers from the different universities of Latin America, addressing topics of particular importance regarding the possibilities and challenges of the consolidation of the constitutional state in the region. This book presents the minutes of the Fourth Inter-American Fundamental Rights Conference, and explores topics such as political rights and the consolidation of democracy in Latin America; impeachment and judicial guarantees; the challenges of freedom of information: and judicial protection and due process, amongst others.

A thoroughly revised second edition that incorporates the major changes made in the procedures and practice of the Inter-American Court. Jo M. Pasqualucci analyzes all aspects of the Court’s advisory jurisdiction, contentious jurisdiction and provisional measures orders through 2011. She also compares the practice and procedure of the Inter-American Court with that of the European Court of Human Rights, the Permanent Court of Justice and the United Nations Human Rights Committee. She evaluates changes in the Rules of Procedure of the Inter-American Court that entered into force on January 1, 2010, and which substantially change the role of the Inter-American Commission in contentious cases before the
Court. She also evaluates the challenges and means of State compliance with the Court’s innovative reparations orders. Featuring revisions to every chapter to address the major changes, this book will provide an important and updated resource for scholars, practitioners and students of international human rights law.

In ‘The Inter-American Human Rights System as a Safeguard for Justice in National Transitions’, Annelen Micus analyses the impact of the Inter-American Human Rights System on transitional justice processes in Latin America, with a focus on Argentina, Chile and Peru.

This edition of the Inter-American Yearbook on Human Rights, like the volumes that precede it, includes information concerning the activities of the Organization of American States in the promotion & protection of human rights. It begins with the composition of the Commission & Court, including the biographies of the members, 1988 activities of each body, reproductions of resolutions & reports by the Commission & historic correspondences & decisions by the Court. Also included is an update on the status of the American Convention on Human Rights, which reports the relation of each country to that instrument, followed by resolutions adopted in 1988 by the OAS General Assembly. The year 1988 distinguished itself particularly because the Inter-American Court of Human Rights made its first decision on a contentious case, the Velásquez Rodríguez case (Honduras). This historic decision is reproduced in Part Three of this volume. Another important 1988 development in the Inter-American system was the Protocol of San Salvador, or Additional Protocol to the American Convention on Human Rights for Economic, Social & Cultural Rights, reproduced in Part Four. Also included, in its entirety, is a report on the human rights situation in Haiti, a report requested by the Organization of American States Permanent Council in Resolution 502. The Inter-American Yearbook on Human Rights is completely bilingual (English & Spanish).

Ideas about law are undergoing dramatic change in Latin America. The consolidation of democracy as the predominant form of government and the proliferation of transnational legal instruments have ushered in an era of new legal conceptions and practices. Law has become a core focus of political movements and policy-making. This volume explores the changing legal ideas and practices that accompany, cause, and are a consequence of the judicialization of politics in Latin America. It is the product of a three-year international research effort, sponsored by the Law and Society Association, the Latin American Studies Association, and the Ford Foundation, that gathered leading and emerging scholars of Latin American courts from across disciplines and across continents.

There are many challenges that national and supranational judges have to face when fulfilling their roles as guardians of constitutionalism and human rights. This book brings together academics and judges from different jurisdictions in an endeavour to uncover the intricacies of the judicial function. The contributors discuss several points that each represent contemporary challenges to judging: analysis of judicial balancing of conflicting considerations; the nature of courts’ legitimacy and its alleged dependence on public support; the role of judges in upholding constitutional values in the times of transition to democracy, surveillance and the fight against terrorism; and the role of international judges in guaranteeing globally recognized fundamental rights and freedoms. This book will be of interest to human rights scholars focusing on the issues of judicial oversight, as well as constitutional law scholars interested in comparative perspectives on the role of judges in different contexts. It will also be useful to national constitutional court judges, and law clerks aiming to familiarise themselves with judicial practices within other jurisdictions.

Traditionally relegated because of political pressure and public expectations, courts in Latin America are increasingly asserting a stronger role in public and political discussions. This casebook takes account of this phenomenon, by offering a rigorous and up-to-date discussion of constitutional adjudication in Latin America in recent decades. Bringing to the forefront the development of constitutional law by Latin American courts in various subject matters, the volume aims to highlight a host of creative arguments and solutions that judges in the region have offered. The authors review and discuss innovative case law in light of the countries’ social, political and legal context. Each chapter is devoted to a discussion of a particular area of judicial review, from freedom of expression to social and economic rights, from the internalization of human rights law to judicial checks on the economy, from gender and reproductive rights to transitional justice. The book thus provides a very useful tool to scholars, students and litigants alike.

Part one of the Yearbook contains the composition, origin and jurisdictional basis, and activities of the Commission and the Court, as well as an update on the state of Conventions and Protocols on Human Rights, approved within the Inter-American system. Part two begins with the decisions adopted by the Commission regarding individual cases. Information on the draft declaration of the Inter-American Instrument on the Human Rights of Indigenous Peoples can be found, as well as a progress report on the project to promote and protect the right of women in the hemisphere to be free of discrimination. Chapter IV reports on the situation of human rights in Haiti. Part three deals with the work of the Court, and part four provides the texts of the General Assembly Resolutions concerning human rights. (adapted from introduction).