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Emanuel Carvalho's 'Interlegality and Interjustice: A Perusal of the African, European, and American Conventions on Human Rights' Digested for the Anglophone Reader

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Abstract. This is a digest for the English-speaking circles of learning. This conspectus develops across five thematic stations, traversing the compass, conceptual apparatus, operational conduct, systemic fruits, and the foundational substrate that order and substantiate Emanuel Carvalho's inquiry.
Keywords. ACHR; ACHPR; ECHR; Fair and Equitable Trial; Human Rights.

1. Purview

Carvalho's paper[1] builds on the emphasis placed on the value of the human condition since World War II and the subsequent adoption of political and legal instruments that champion peace, justice, freedom, equality, dignity, and solidarity as higher imperatives, indigenous and inalienable to humankind.

Fixing his gaze on the African Charter on Human and Peoples' Rights (ACHPR), the European Convention on Human Rights (ECHR), and the American Convention on Human Rights (ACHR), Carvalho explores the correlation between the principle of legality and the right to a fair and equitable trial, taking three regional human-rights instruments as his comparative corpus and examining within them the degree of interconnection between legality and fair trial.

While acknowledging the significance of other existing and historical instruments, Carvalho opts for a focus on these three instruments due to their standing as mature regional systems of human-rights protection suitable for comparison and their capacity to spark insightful reflections on interlegality and interjustice[2] when examined against the backdrop of their evolution, including that of their respective protocols, resolutions, and leading cases.

2. Notions

The author builds his paper around two key notions: the principle of legality and the right to a fair and equitable trial. The core question the author addresses is how these two notions are articulated within each of the three regional human-rights instruments he analyses.

Carvalho traces this notional relation through the guarantees that bring it to life. At a structural level, these comprise the rule of law, equality, liberty, dignity, publicity, reasonable timeframes, judicial independence, and unbiased judicial decision-making; procedurally, they include the presumption of innocence, the right to a defence, being provided with adequate information about the proceedings and understanding them, protection against self-incrimination and double jeopardy,[3] and the right to appeal to a higher judicial instance.

The ACHPR is interpreted in terms of equality as both a principle and a right; the ECHR is interpreted in terms of the connection between legality, justice, publicity, expediency, independence, and impartiality; and the ACHR is interpreted in terms of the interplay between personal liberty, legality, retroactivity, and judicial guarantees.

Carvalho does not switch notional focus from one instrument to another. Indeed, he approaches each instrument from the angle at which the correlation between the principle of legality and the right to a fair and equitable trial emerges most clearly: equality in the ACHPR, the fair-trial architecture in

[1] Carvalho Emanuel, 'Interlegalidade e Interjustiça: Uma Leitura das Convenções Africana, Europeia e Americana dos Direitos Humanos' (2026) 1 RDL 1 https://doi.org/10.21814/rdl.2026.st-02

[2] The overlap of legal guarantees accross the instruments (interlegality) and the corresponding convergence in the administration of justice (interjustice).

[3] Alongside formulas such as *ne bis in idem* (double jeopardy rule), Carvalho's paper conserves the technical Latin phrases that lend weight to a legal standpoint, notably *nullum crimen sine lege* ("no crime without law", i.e., nobody should be convicted for conduct that was not already a criminal offence when it was done), *nulla poena sine lege* ("no punishment without law", i.e., no punishment may be imposed without prior legal provision, nor may a more onerous penalty be applied than that which was prescribed at the time of the offence), and *novatio legis in mellius* ("a new law for the better", i.e., the more lenient later law benefits the accused), encapsulating the core principles of legality and fair trial on which his comparison hinges.

the ECHR, and the combined framework of personal liberty, legality, retroactivity, and judicial guarantees in the ACHR.

As he comes to a close, Carvalho breaks down his findings into an institutional area, pertaining to the administration of justice, and procedural one, concerning the rights and guarantees that shield individuals within legal proceedings.

3. Modus

Carvalho's approach is both doctrinal and comparative. Initially, an introductory point links human rights, equality before the law, and the rule of law. Next, the inquiry is broken down into three movements.

In the African movement, the author interprets the Charter through Articles 2, 3, 4, 7, and 26. After enumerating rights explicitly enshrined in the Charter, these are supplemented based on the work of the African Commission and five leading cases.[4] In so doing, Carvalho demonstrates that ensuring equal protection under the law and guaranteeing fair and equitable trials involves interpreting the ACHPR jointly with the guarantee of judicial independence.

In the European movement, Carvalho turns directly to Article 6 of the ECHR, splitting it in two: the overarching procedural attributes of a fair and equitable trial and the specific features of criminal procedure. Summarising the basic rights of defendants, underscoring the significant role of timely proceedings, and linking Article 6 to personal liberty (Art. 5), to legality (Art. 7), and to equality (Protocol No. 12 to the ECHR, Art. 1), the author also illustrates his reasoning based on Portuguese litigation before the European Court of Human Rights and the case *Konokov v. Latvia*.

In the American movement, Carvalho links trial fairness and equity with personal liberty (ACHR, Art. 7), legality and retroactivity (Art. 9), and judicial guarantees (Art. 8). First, attention is given to the conditions of detention and the right to challenge their lawfulness; then, to the general right to be heard by pre-existing independent and impartial tribunals; and finally, to the basic guarantees of criminal procedure. To give tangible form to the notions of timely proceedings, presumption of innocence, and the symbiosis of justice and democratic governance, jurisprudence from the Inter-American Court of Human Rights is invoked.[5]

The comparison proceeds by listing guarantees, mapping them across instruments, and noting the differences in how the three regional models express and actualise them.

4. Yield

Besides its role as a cornerstone of the administration of justice in a democratic rule of law, the author highlights the right to a fair and equitable trial, anchored in the principle of legality, as a definitive aspect of both the ACHPR, the ECHR, and the ACHR.

Upon comparing the three instruments, Carvalho singles out a shared set of prerogatives: the right to defence, including legal representation and due time and provisions; the right to information and understanding of the proceedings; the presumption of innocence; the right not to incriminate oneself; the right to be heard within a reasonable timeframe; and the guarantee of an impartial and independent tribunal. Based on these, the author establishes a meaningful sphere of interlegality and interjustice.

This common ground, though, does not translate in the same way across all three systems. The conventions differ in scope and in how their courts develop fair trial guarantees. Carvalho also notes a debated scholarly claim that Inter-American jurisprudence has influenced the European Court of Human Rights in some aspects of fair-trial doctrine such as the right to a fair trial within a reasonable timeframe, judicial impartiality, and the right to know the reasons for a summons to proceedings. The differences are also noted at the level of the instruments themselves: the ACHPR and the ECHR, unlike the ACHR, provide no expressly guaranteed right to confidentiality between lawyer and client, and the ACHPR, unlike the ECHR and the ACHR, is devoid of any express commitment to free legal aid.

The prospective approach[6] taken in the final section bears fruit, contending that the existing degree of interlegality and interjustice should spur cooperation among States to mitigate and, preferably, nullify unequal protection of human rights.

5. Roots

The foundations of Carvalho's paper lie in the scholarly voices he brings in to interpret the three instruments. At the broadest level, it is Aristotle who bridges the gap between law and justice, while Montesquieu is the driving force behind the preoccupation with the independence of the judiciary and the administration of justice.

The doctrinal scaffolding is bolstered by works on legality, retroactivity, fair trial, and criminal guarantees. Carvalho draws on the scholarship of authors such as Américo Taipa de Carvalho, Germano Marques Silva, J. J. Gomes Canotilho and Vital Moreira, Marco Carvalho Gonçalves, and Mário Ferreira Monte to inform his discussion of the presumption of innocence, defence rights, the right to a fair trial within a reasonable timeframe, and the institutional and procedural dimensions of a fair process.

The comparative horizon is broadened through guides, commentaries, and selected materials related to case law. Based on these sources, including studies by Joana Covelo de Abreu, Paulo Pinto de Albuquerque, and Soraya Nour Sckell on relations between legal systems, along with a study by Boaventura de Sousa Santos on legal pluralism, Carvalho transcends a superficial side-by-side reading of the instruments, revealing what the three regional systems have in common, where they diverge, and how they might lead to a wider consensus on what justice truly means.

[4] *Constitutional Rights Project (in respect of Lekwot & Others) v. Nigeria*, *Law Office of Ghazi Suleiman v. Sudan*, *Onyango v. Tanzania*, *Abubakari v. Tanzania*, and *Constitutional Rights Project (in respect of Akamu & Others) v. Nigeria.*

[5] Particularly the cases of *Furlan e Familiares c. Argentina* and *Suarez Rosero c. Ecuador.*

[6] A line of thinking bound up with multilateralism, to the concept of *interjusfundamentalidade* (the interconnectedness of fundamental rights), and to the role of parliaments as key platforms for building bridges between peoples and their justice systems.