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Inter-American Court of Human Rights



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# ANNUAL REPORT OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS TO THE GENERAL ASSEMBLY, 1980

GENERAL SECRETARIAT  
ORGANIZATION OF AMERICAN STATES  
WASHINGTON, D.C. 20006

# COURT

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## ORIGIN, STRUCTURE AND COMPETENCE OF THE COURT

### A. Creation of the Court

The Inter-American Court of Human Rights was brought into being by the entry into force of the American Convention on Human Rights (Pact of San José, Costa Rica), which occurred on July 18, 1978 upon the deposit of the eleventh instrument of ratification by a member state of the Organization. The Convention had been drafted at the Specialized Inter-American Conference on Human Rights, which took place November 7-22, 1969 in San José, Costa Rica.

The two organs provided for under Article 33 of the Pact are the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. They have competence on matters relating to the fulfillment of the commitments made by the States Parties to the Convention.

### B. Organization of the Court

In accordance with the terms of its Statute, the Inter-American Court of Human Rights is an autonomous judicial institution which has its seat in San José, Costa Rica and whose purpose is the application and interpretation of the American Convention on Human Rights.

The Court consists of seven judges, nationals of the member states of the Organization of American States, who act in an individual capacity and are elected from among "jurists of the highest moral authority and of recognized competence in the field of human rights, who possess the qualifications required for the exercise of the highest judicial functions in conformity with the law of the states of which they are nationals or the state that proposes them as candidates". (Article 52 of the Convention).

The judges serve for a term of six years. They are elected by an absolute majority vote of the States Parties to the Convention. The election is by secret ballot in a General Assembly of the Organization.

Upon entry into force of the Convention and pursuant to its Article 81, the Secretary General of the Organization requested the States Parties to the Convention to nominate candidates for the position of judge of the Court. In accordance with Article 53 of the Convention, each State Party may propose up to three candidates.

The judicial term runs from July 1 of the year in which a judge assumes office until June 30 of the year in which he completes his term. However, judges continue in office until the installation of their successors or to hear cases that are still pending. (Article 5 of the Statute).

Election of judges takes place, insofar as possible, at the OAS General Assembly immediately prior to the expiration of the term of the judges. In the case of vacancies on the Court caused by death, permanent disability, resignation or dismissal, an election is held at the next General Assembly. (Article 6).

In order to preserve a quorum of the Court, interim judges may be appointed by the States Parties. (Article 6.3).

In the event that one of the judges called upon to hear a case is the national of one of the states parties to the case, the other states parties to the case may appoint an ad hoc judge. If none of the states parties to a case is represented on the Court, each may appoint an ad hoc judge. (Article 10).

The judges are at the disposal of the Court and, pursuant to the Rules of Procedure, meet in two regular sessions a year and in special sessions when convoked by the President or at the request of a majority of the judges. Although the judges are not required to reside at the seat of the Court, the President renders his services on a permanent basis. (Article 16 of the Statute and Articles 11 and 12 of the Rules of Procedure).

The President and Vice President are elected by the judges for a period of two years and they may be reelected. (Article 12 of the Statute).

There is a permanent commission composed of the President, Vice President and a judge named by the President. The Court may appoint other commissions for special matters. (Art. 6 of the Rules of Procedure).

The Secretariat of the Court functions under the direction of the Secretary, who is elected by the Court.

#### C. Composition of the Court

The Court is composed of the following judges, in order of precedence:

Rodolfo Piza Escalante (Costa Rica), President  
Máximo Cisneros Sánchez (Peru), Vice President  
Huntley Eugene Munroe (Jamaica)  
César Ordóñez Quintero (Colombia)  
Carlos Roberto Reina (Honduras)  
Thomas Buergenthal (United States)  
Pedro A. Nikken (Venezuela)

The Secretary of the Court is Mr. Charles Moyer and the Deputy Secretary is Lic. Manuel E. Ventura.

D. Competence of the Court

The American Convention confers two distinct functions on the Inter-American Court of Human Rights. One involves the power to adjudicate disputes relating to charges that a State Party has violated the Convention. In performing this function, the Court exercises its so-called contentious jurisdiction. In addition, the Court also has power to interpret the Convention and certain other human rights treaties in proceedings in which it is not called upon to adjudicate a specific dispute. This is the Court's advisory jurisdiction.

1. The Court's contentious jurisdiction

The contentious jurisdiction of the Court is spelled out in Article 62 of the Convention, which reads as follows:

1. A State Party may, upon depositing its instrument of ratification or adherence to this Convention, or at any subsequent time, declare that it recognizes as binding ipso facto, and not requiring special agreement, the jurisdiction of the Court on all matters relating to the interpretation or application of this Convention.
2. Such declaration may be made unconditionally, on the condition of reciprocity, for a specified period, or for specific cases. It shall be presented to the Secretary General of the Organization, who shall transmit copies thereof to the other member states of the Organization and to the Secretary of the Court.
3. The jurisdiction of the Court shall comprise all cases concerning the interpretation and application of the provisions of this Convention that are submitted to it, provided that the states parties to the case recognize or have recognized such jurisdiction, whether by special declaration pursuant to the preceding paragraphs, or by special agreement.

As these provisions indicate, a State Party does not subject itself to the contentious jurisdiction of the Court by ratifying the Convention. Instead, the Court acquires that jurisdiction with regard to the State only when it has filed the special declaration referred to in paragraphs 1 and 2 of Article 62 or concluded the special agreement mentioned in paragraph 3. The special declaration may be made when a state ratifies the Convention or at any time thereafter; it may also be made for a specific case or a series of cases. But since the states parties are free to accept the Court's jurisdiction at any time in a specific case or in general, a case need not be rejected ipso facto when acceptance has not previously been granted, as it is possible to invite the State concerned to do so for that case.

A case may also be referred to the Court by special agreement. In speaking of the special agreement, Article 62.3 does not indicate who may

conclude such an agreement. This is an issue that will have to be resolved by the Court.

In providing that "only the States Parties and the Commission shall have the right to submit a case to the Court," Article 61.1 does not give private parties standing to institute proceedings. Thus, an individual who has filed a complaint with the Commission cannot bring that case to the Court. This is not to say that a case arising out of an individual complaint cannot get to the Court; it may be referred to it by the Commission or a State Party, but not by the individual complainant.

The Convention, in Article 63.1, contains the following stipulation relating to the judgments that the Court may render:

1. If the Court finds that there has been a violation of a right or freedom protected by this Convention, the Court shall rule that the injured party be ensured the enjoyment of his right or freedom that was violated. It shall also rule, if appropriate, that the consequences of the measure or situation that constituted the breach of such right or freedom be remedied and that fair compensation be paid to the injured party.

This provision indicates that the Court must decide whether there has been a breach of the Convention and, if so, what rights the injured party should be accorded. Moreover, the Court may also determine the steps that should be taken to remedy the breach and the amount of damages to which the injured party is entitled.

Paragraph 2 of Article 68 of the Convention exclusively concerns compensatory damages. It provides that the "part of a judgment that stipulates compensatory damages may be executed in the country concerned in accordance with domestic procedure governing the execution of judgments against the state."

In addition to regular judgments, the Court also has the power to grant what might be described as temporary injunctions. This power is spelled out in Article 63.2 of the Convention, which reads as follows:

In cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission.

This extraordinary remedy is available in two distinct circumstances: the first consists of cases pending before the Court and the second involves complaints being dealt with by the Commission that have not yet been referred to the Court for adjudication.

In the first category of cases, the request for the temporary injunction can be made at any time during the proceedings before the

Court, including simultaneously with the filing of the case. Of course, before the requested relief may be granted, the Court must determine if it has this necessary jurisdiction.

The judgment rendered by the Court in any dispute submitted to it is "final and not subject to appeal." Moreover, the "States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties." (Articles 67 and 68 of the Convention).

Enforcements of judgments of the Court are ultimately for the General Assembly of the Organization. The Court submits a report on its work to each regular session of the Assembly, specifying the cases in which a state has not complied with the judgments and making any pertinent recommendations. (Article 65 of the Convention).

## 2. The Court's Advisory Jurisdiction

The jurisdiction of the Inter-American Court of Human Rights to render advisory opinions is set forth in Article 64 of the Convention, which reads as follows:

1. The member states of the Organization may consult the Court regarding the interpretation of this Convention or of other treaties concerning the protection of human rights in the American states. Within their spheres of competence, the organs listed in Chapter X of the Charter of the Organization of American States, as amended by the Protocol of Buenos Aires, may in like manner consult the Court.
2. The Court, at the request of a member state of the Organization, may provide that state with opinions regarding the compatibility of any of its domestic laws with the aforesaid international instruments.

Standing to request an advisory opinion from the Court is not limited to the States Parties to the Convention; instead, any OAS Member State may ask for it as well as all OAS organs, including the Inter-American Commission on Human Rights, specialized bodies such as the Inter-American Commission of Women and the Inter-American Institute of Children, within their fields of competence. Secondly, the advisory opinion need not deal only with the interpretation of the Convention; it may also be founded on a request for an interpretation of any other treaty "concerning the protection of human rights in the American States."

The Court's advisory jurisdiction power enhances the Organization's capacity to deal with complex legal issues arising under the Convention. Its advisory jurisdiction therefore extends to the political organs of the OAS in dealing with disputes involving human rights issues.

Finally, Article 64.2 permits OAS Member States to seek an opinion from the Court on the extent to which their domestic laws are compatible with the Convention or with any other "American" human rights treaty.

Under the provision, this jurisdiction also extends to pending legislation. Resort to this provision could contribute very significantly to the uniform application of the Convention by national tribunals.

### 3. Acceptance of the jurisdiction of the Court

Although only Costa Rica has formally deposited the instrument accepting Court's competence in general and for all cases, the President of Venezuela in a speech delivered at the Court on June 17, 1980 announced that his government had begun the process to accept the jurisdiction of the Court. (See Appendix III). In addition, the new Constitution of Peru, which entered into force on July 28, 1980, contains a clause specifically accepting the provisions of Article 62.1 (See Appendix V) and the Executive Branch has recently set norms for the steps necessary to recognize the Court's jurisdiction. Other countries have indicated that they are in the process of accepting the jurisdiction of the Court.

A table showing the status of ratifications of the American Convention may be found at the end of this Report. (Appendix VI).

### E. Budget

The presentation of the budget of the Court is regulated by Article 72 of the American Convention which states that "the Court shall draw up its own budget and submit it for approval to the General Assembly through the General Secretariat. The latter may not introduce any changes in it." Pursuant to Article 26 of its Statute, the Court administers its own budget.

Upon the entry into force of the American Convention, the OAS General Secretariat drew up a draft budget of \$253,900 for the installation and activities of the Court from April 1, 1979 to the end of that year. However, the Sixth Special Session of the General Assembly reduced that amount to \$100,000 for the six-month period beginning July 1, 1979.

At its First Regular Session, held in September 1979, the judges of the Court decided to present the budget for the biennium 1980-81 in the alternative, depending on the decision of the General Assembly, in adopting the Statute of the Court, with respect to whether the Court would be permanent and regarding the incompatibilities of the judges. The Preparatory Commission of the Assembly decided, at its meeting on October 9, 1979, in compliance with Article 72 of the Convention, to refer the draft budget directly to the Assembly. The General Assembly, at its Ninth Regular Session, established in the Statute a temporary system of work and it requested the Court to present another budget, not to exceed \$200,000, to the Permanent Council. This was done by letter of November 8, 1979 and a budget in the amount of \$200,000 was subsequently approved by the Council.



For the year 1981, the Court has submitted a budget of \$437,000, which corresponds to the amount considered appropriate for the successful operation of the Court by a majority of the delegations at the 1979 General Assembly. The Subcommittee on Program and Budget discussed this budget at a series of meetings in June and July of 1980 and decided to send it, as presented by the Court, to the General Assembly for its consideration in accord with Article 72 of the Convention.

F. Relations with other organs of the system and with regional and worldwide agencies of the same kind

The Court has close institutional ties with its sister organ of the American Convention, the Inter-American Commission on Human Rights. These ties have been solidified by a series of meetings between members of the two bodies. The Court also maintains cooperative relations with other OAS bodies working in the area of human rights, such as the Inter-American Commission of Women and the Inter-American Juridical Committee. It has established especially strong ties with the European Court of Human Rights, the only other regional organization of this kind. Joint activities with the European Court are detailed at a later point in this report. The Court maintains cooperative relations with the pertinent bodies of the United Nations such as the Commission and Committee on Human Rights and the Office of the High Commissioner for Refugees.

II. ACTIVITIES OF THE COURT

A. Entry into force of the American Convention

The American Convention on Human Rights, drafted in November of 1969 at the Specialized Inter-American Conference on Human Rights held in San José, Costa Rica, and for that reason also known as the Pact of San José, entered into force on July 18, 1978 when Grenada became the eleventh member state of the OAS to deposit its instrument of ratification to the Convention.

Thus, an idea that had been discussed in the inter-American system as long ago as 1948 at the Ninth International Congress of American States became reality and the machinery was set in motion establishing the Inter-American Court of Human Rights. Pursuant to Article 81 of the Convention, during that same month of July the Secretary General of the Organization of American States requested the Governments of the States Parties to the Convention to present, within ninety days, their slates of candidates to the Court. At the end of that period, the Secretary General prepared a list in alphabetical order of the candidates presented and communicated it to the States Parties.

B. Election of the judges to the Court

Inasmuch as the Convention entered into force a few weeks after the celebration of the Eighth Regular Session of the OAS General Assembly and the next Assembly was not scheduled to be held until the last quarter of 1979, some states deemed it advantageous to hold the election of the judges of the Court and the members of the Commission during a Special General Assembly convoked to admit Dominica and Saint Lucia to the Organization in order to make sure that the election would take place before one and a half years had passed from the entry into force of the Convention.

On May 22, 1979, the States Parties to the Convention elected the following jurists to comprise the first Inter-American Court of Human Rights:

Thomas Buergenthal (United States)  
Máximo Cisneros Sánchez (Perú)  
Huntley Eugene Munroe (Jamaica)  
César Ordóñez Quintero (Colombia)  
Rodolfo Piza Escalante (Costa Rica)  
Carlos Roberto Reina Idiáquez (Honduras)  
M. Rafael Urquía (El Salvador)

At the same meeting, in accordance with Article 54.1 of the Convention, Judges Ordoñez, Piza Escalante and Urquía were chosen by vote for a three-year term.

C. Meeting of June of 1979

The newly-elected judges were convoked by the Secretary General of the OAS for an organizational meeting in Washington on June 29 and 30, 1979. The highlight of this two-day meeting was the election of Drs. Piza Escalante and Cisneros Sánchez as President and Vice President, respectively, of the Court. The judges, pursuant to Article 58 of the Convention, elected Manuel E. Ventura as the Interim Secretary of the Court. In addition, the Court decided to hold its First Regular Session in San José, Costa Rica during the month of September and to include at that time the appropriate ceremonies for its installation in that capital.

Dr. Urquía did not attend this meeting as he had declined to serve. The Court decided to refer to the General Assembly, through the Secretary General of the Organization, Dr. Urquía's position on the matter so that the States Parties might take cognizance of the matter and fill the vacancy.

The Court also established working committee to draw up a draft Statute, to prepare a draft budget, on relations with the host country, on the organization of the Court and to study the possibility of setting up an Institute of Human Rights.

D. Installation of the Court

Costa Rica had been recommended as the seat of the Court by the OAS General Assembly, meeting in its Eighth Regular Session, in view of a formal offer of the Government of that country. This resolution (No. 372) was adopted on July 1, 1978, a few weeks before the Convention entered into force. In accord with Article 58 of the Convention, this decision was ratified by the States Parties to the Convention when, on the occasion of the Sixth Special Session of the General Assembly, held in Washington in November of 1978, those States decided that the seat of the Court would be San José, Costa Rica.

The installation of the Court in Costa Rica took place in a series of acts which began on September 3, 1979 in the National Theater of San José, the site of the drafting of the American Convention almost ten years prior thereto. The ceremony of the National Theater was attended by the national authorities of Costa Rica including the President of the Republic and the heads of the other branches of government, the diplomatic corps, and representatives of different bodies active in the field of human rights. Among the distinguished guests from the Organization of American States were Ambassador Antonio Bermúdez Milla, President of the Permanent Council; Ambassador José Rafael Echeverría Villafranca, Permanent Representative of Costa Rica to the OAS; Jorge Luis Zelaya Coronado, Assistant Secretary General; Luis Demetrio Tinoco Castro, President of the Inter-American Commission on Human Rights and Edmundo Vargas Carreño, Executive Secretary of that body. Attending from the United Nations were Diego Cordovéz, Under-Secretary General for Economic and Social Affairs, representing the Secretary General and Augusto Willemsem Díaz of the Division of Human Rights; and Karel Vasak, Director of the Division of Human Rights and Peace of UNESCO. Judge Gerard Wiarda, Vice President of the European Court of Human Rights, represented that body.

In the following days the judges of the Court paid visits to the Presidency of the Republic, the Legislative Assembly, the Supreme Court of Justice and the Supreme Court of Elections of Costa Rica. They also visited the University of Costa Rica Law School and the Costa Rica Bar Association. The speeches given on these occasions have been published in a booklet on the installation of the Court.

E. First Regular Session

The principal activities carried out by the Court during its First Regular Session, held September 3-14, 1979, were the drafting of its Statute and the preparation of its budget for the biennium 1980-81.

According to Article 60 of the American Convention, the Court is to draw up its Statute and then submit it to the General Assembly for approval. The Court decided to present to the Assembly a draft Statute in the alternative. One version, following the precedent of the

International Court of Justice of the Hague, provided for full-time judges while the other, recognizing possible budgetary limitations, stipulated part-time judges with a full-time President. The idea behind the proposal of the full-time Court was to enable the judges to act with complete independence, a necessary attribute for the exercise of the judicial function.

Article 72 of the Convention states that the Court is to draw up its own budget and submit it for approval to the General Assembly. This budget was also submitted in the alternative, dependent on the decision taken by the Assembly in approving the Statute of the Court. Obviously, a full-time Court would require a different budget than one that operated on a part-time basis.

Among other decisions taken at the First Regular Session, the Court, responding to an invitation of the Council of Europe, designated Vice-President Cisneros to represent it at the celebration of the twentieth and twenty-fifty anniversaries of the European Court and Commission of Human Rights, respectively, which took place in Strasbourg, France on October 30, 1979. Judge Cisneros took part in this important ceremony and was one of the speakers in the special meeting commemorating the anniversary. He also met in working sessions with the judges of the European Court and staff members of the Council of Europe. As a result of these meetings, bases of cooperation between the two Courts were established and led to the visit of the judges of the European Court, details of which appear later in this Report.

In addition, the Court established a national commission for the creation of the Institute on Human Rights, set the period January 10-26, 1980 for its Second Regular Session and took a number of other decisions of an administrative nature.

#### F. Ninth Regular Session of the OAS General Assembly

The Court was represented at the Ninth Regular Session of the General Assembly of the Organization, held October 20-30 in La Paz, Bolivia, by its President, Dr. Rodolfo Piza Escalante, and by Judge Thomas Buergenthal, pursuant to a decision of the Court adopted at its First Regular Session.

There were three items on the agenda of the Assembly of special interest to the Court: the election of a judge to fill a vacancy on the Court; the approval of its Statute, for which the Court had submitted a draft; and the budget of the Organization of the biennium 1980-81 which would include funds for the Court.

With regard to the first point, the States Parties to the Convention, in accordance with Article 54 of the Pact of San José, elected Dr. Pedro A. Nikken (Venezuela) to complete the term of Dr. Urquía. Dr. Nikken is the Dean of the Law School of the Central University of Caracas.

In adopting the Statute of the Court (see Appendix I), the Assembly was unwilling to commit itself to either a full-time Court or a part-time Court with a full-time President. Instead, Article 16 of the Statute, as adopted, places the judges at the disposal of the Court, attending sessions, either regular or special, as often and for as long time as may be necessary.

The rejection of the Court's proposals had its effect on the draft budget presented by the Court. After much debate and a series of votes, and due to the lateness of the hour it proved impossible to approve a budget for the Court for the biennium 1980-81. Instead, the Assembly requested the Court to submit to the Permanent Council of the Organization for its approval a budget not exceeding \$200,000 for the year 1980. By note of November 8, 1979, a budget of \$200,000 was submitted to, and subsequently approved, by the Permanent Council. The budget for 1981 would then be presented to the General Assembly at its next regular session.

#### G. Second Regular Session

The Court held its Second Regular Session January 10-25, 1980 in San José, Costa Rica. The meetings took place in its temporary offices located in the building of the Supreme Court of Justice. All of the judges were present at this session: Rodolfo Piza Escalante (President), Máximo Cisneros Sánchez (Vice-President), Huntley Eugene Munroe, César Ordoñez Quintero, Carlos Roberto Reina, Thomas Buergethal and Pedro Nikken.

This session of the Court opened with the active participation of the judges in a meeting of experts in the field of human rights, which had been convened by the Court. This meeting was attended by some forty human rights specialists from twenty countries in Latin America, the Caribbean, Europe and North America. The experts recommended the establishment of an Inter-American Institute of Human Rights with its seat in San José and proposed that a working group be formed to draft the charter of the Institute. Additional details on the institute appear later in this report.

The Court also received a delegation of the European Court of Human Rights, which has its seat in Strasbourg, France. The European Court was represented by Judges Walter Ganshof Van der Meersch of Belgium, Dimitrios Evrigenis of Greece, Eduardo García de Enterría of Spain and its Registrar Marc-André Eissen.

During the three-day meeting, the judges exchanged points of view on future collaboration between the two Courts; analyzed the similarities and differences between the institutions and the substantive provisions of the European and American Conventions on Human Rights, which guide their respective activities, and discussed the problems of international adjudication as reflected in the practice of the European bodies. The

judges of both Courts also paid visits to the President of the Republic, the Foreign Minister, the judges of the Supreme Court of Justice and other high authorities of Costa Rica.

The judges of the Inter-American Court also held a joint meeting with members of the Inter-American Commission on Human Rights, all of whom had been invited to the meeting of experts to discuss the creation of a human rights institute. During the meeting a wide range of matters raised by the entry into force of the American Convention were analyzed, especially those concerning coordination between the two organs of the Convention.

Among the distinguished visitors who paid visits to the Court was the Assistant Secretary General of the Organization, Dr. Jorge L. Zelaya.

The Inter-American Court confirmed its previous election of Drs. Piza Escalante and Cisneros Sánchez as President and Vice-President, respectively. Their terms will expire on July 1, 1981. The Court also elected Charles Moyer, who had previously served as Assistant Executive Secretary of the Inter-American Commission on Human Rights, as its Secretary, and ratified the appointment of Lic. Manuel Ventura as Deputy Secretary.

Much of the session was devoted to the drafting of the Rules of Procedure of the Court. The series of meetings with the delegation of the European Court proved particularly helpful in this task, given the twenty years experience accumulated by the European Court. A lack of time prevented the Court from completing the Rules of Procedure. However, a set of rules was adopted to serve in the event that a case or advisory opinion was presented to the Court before the next regular session.

Work was also begun on the Agreement between the Court and the host country Costa Rica which includes, among other points, the privileges and immunities of the Court, the judges, the staff and those persons appearing before the Court. It was decided to complete the Agreement at the next meeting when more time would be available.

In addition, standards were set to deal with denunciations emanating from individuals addressed to the Court. It was resolved to declare them inadmissible for lack of jurisdiction and forward them to the Inter-American Commission on Human Rights, which is empowered under the American Convention to receive communications alleging violations of human rights.

Finally, various administrative decisions were taken, the most important of which established guidelines for a suitable building to house the Court.

#### H. First Special Session

This special session, held June 16-18, 1980 was convoked by President Piza in accordance with Article 22.3 of the Statute, as a result of a desire expressed by the President of Venezuela, Dr. Luis Herrera Campíns, to visit the Court as part of his official mission to Costa Rica. Because of prior commitments, Judges Munroe and Ordoñez were unable to attend this session.

President Herrera Campíns after meeting with the Court, delivered an address to an audience of high governmental authorities, Ambassadors of the OAS Member States residing in Costa Rica and special guests. During his speech, the President announced that the Government of Venezuela had initiated the process to accept the obligatory jurisdiction of the Court. The full text of President Herrera Campíns' speech may be found in Appendix III of this Report.

The visit of the President of Venezuela coincided with the occupation of its new premisses. On June 6, 1980 the Court moved from the temporary offices that had been made available to it by the Supreme Court of Justice in the Supreme Court building to suitable quarters in the residential area of Los Yoses, which are rented with funds provided by the Government of Costa Rica as part of its offer to have the seat of the Court in Costa Rica.

The judges of the Court took advantage of the meeting to review the draft text and a number of additional provisions of its Rules of Procedure and the Agreement between the Court and Costa Rica.

#### I. Third Regular Session

The Court held its Third Regular Session July 30 to August 9, 1980 in its offices in San José. All of the judges attended this session: Rodolfo Piza Escalante (President), Máximo Cisneros Sánchez (Vice-President), Huntley Eugene Munroe, César Ordóñez Quintero, Carlos Roberto Reina, Thomas Buergethal and Pedro Nikken.

During this session, the Court adopted its Rules of Procedure (see Appendix II) and completed work on the Agreement between the Court and the host country Costa Rica, which included important provisions such as those which guarantee that the decisions of the Court will have the same force as those handed down by the courts of the country, as well as the immunities of the judges and those persons appearing before the Court. This Agreement has been sent to the Government of that country so that it might be ratified in accordance with the laws of Costa Rica.

The Court also officially inaugurated its new home in the presence of the President Rodrigo Carazo, representatives of the other branches of government, the diplomatic corps and special guests. A copy of the address delivered by President Carazo for the occasion may be found in Appendix IV.

Finally, it was decided to hold the next regular session of the Court beginning January 12, 1981.

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In the interim between meetings, the judges of the Court and its staff carried out various activities related to their functions. Judges, in their personal capacity, attended seminars on human rights in Warsaw, Poland; México City, México; West Berlin, Germany; Panamá City, Panamá, Campobello, Canada, among others.

In addition, distinguished visitors such as the Foreign Minister of Dominican Republic, Dr. Emilio Ludovico Fernández, members of the diplomatic corps stationed in Costa Rica, law professors, etc. were received in the Court. Members of the staff have also met with students and other persons seeking information about the inter-American system of the protection of human rights, in general, and the Court, in particular.

J. Inter-American Institute of Human Rights

The Court in January 1980 invited some forty experts in the field of human rights from more than twenty countries of Latin America, the Caribbean, Europe and North America to a three-day meeting in San José to advise the Court on the necessity of establishing an Inter-American Institute of Human Rights and its possible activities. The group of specialists recommended that an Inter-American Institute should be created and that its seat should be San José, preferably in the same location as the Court. The group of experts also recommended that the Institute be a non-governmental autonomous body that would collaborate with the Court and with any other inter-governmental organization, but completely independent of these bodies; that in accepting financing--whether from international organizations, governments or private entities--the Institute would be governed by policies which would assure full institutional and academic integrity and independence; the Institute would be of an academic and educational nature and not an activist organization; its professional orientation would be multidisciplinary; it would function as a documentation center for the collection and dissemination of materials relating to human rights, especially in the Americas; and it would attempt to establish collaborative relations with other human rights institutes and with research and educational centers of a like nature.

In the final session, it was decided that a small working group should be formed to draft the Statute of the Institute. This working group, which met in San José in March of 1980 and was co-chaired by Thomas Buergethal and Carlos Roberto Reina (Inter-American Court) was composed of Marco Gerardo Monroy Cabra and Carlos Dunshee de Abranches (Inter-American Commission on Human Rights); Carmen Delgado Votaw (Inter-American Commission of Women); Gonzalo Ortíz Martín



(Inter-American Juridical Committee); Héctor Cuadra, Fernando Fournier, Eduardo Ortíz, Raúl Ferrero Costa, Héctor Gros Espiell, Judith Torney, Fabio Fournier, Hernán Montealegre, Fernando Volio and Jorge Montero (Academic institutions). This group draw up and approved a draft text of an Agreement with Costa Rica and a Statute for the Institute.

In a ceremony held on July 30, 1980 in the Casa Amarilla, the seat of the Ministry of Foreign Affairs of Costa Rica, in the presence of the judges of the Court, members of the diplomatic corps of the OAS member states and other interested parties, the Agreement was signed, on behalf of the Government of Costa Rica by the Foreign Minister, Lic. Rafael Angel Calderón Fournier, and by the Minister of Justice, Lic. Elizabeth Odio Benito, and, on behalf of the Court by its President, Dr. Rodolfo Piza Escalante. This Agreement has been duly ratified by the Legislative Assembly of Costa Rica.

Under its charter, the Institute is an autonomous international academic institution dedicated to education, research and promotion of human rights. The Institute is to be directed by an Executive Director, acting as chief executive, a Board of Directors, and a General Assembly. The first Board of Directors, is to be named by the President of the Court. The General Assembly consists of all members of the Institute and membership in the Institute is by invitation of the Board of Directors.

A commitment has already been received from the Government of Venezuela to make a grant of \$10,000 to the Institute. The Institute has also received an important donation of books on humanitarian law from the International Committee of the Red Cross in Geneva and on human rights from the United States Embassy in Costa Rica. A large collection of international law materials--a gift from the Central University Law School in Caracas--is being sent to the Institute. The Institute will also become the depository of an important collection of papers, archives and books donated by Miss Francis Grant of New York, relating to the struggle for representative democracy in the hemisphere during the last thirty years.

Funding for the activities relating to and of the Institute has been provided by non-OAS sources.

APPENDIX I

STATUTE OF THE  
INTER-AMERICAN COURT OF HUMAN RIGHTS

CHAPTER I

GENERAL PROVISIONS

Article 1: Nature and Legal Organization

The Inter-American Court of Human Rights is an autonomous judicial institution whose purpose is the application and interpretation of the American Convention on Human Rights. The Court exercises its functions in accordance with the provisions of the aforementioned Convention and the present Statute.

Article 2: Jurisdiction

The Court shall exercise adjudicatory and advisory jurisdiction:

1. Its adjudicatory jurisdiction shall be governed by the provisions of Articles 61, 62 and 63 of the Convention, and
2. Its advisory jurisdiction shall be governed by the provisions of Article 64 of the Convention.

Article 3: Seat

1. The seat of the Court shall be San José, Costa Rica; however, the Court may convene in any member state of the Organization of American States (OAS) when a majority of the Court considers it desirable, and with the prior consent of the state concerned.
2. The seat of the Court may be changed by a vote of the two-thirds of the States Parties of the Convention, in the OAS General Assembly.

CHAPTER II

COMPOSITION OF THE COURT

Article 4: Composition

1. The Court shall consist of seven judges, nationals of the member states of the OAS, elected in an individual capacity from among jurists of the highest moral authority and of recognized competence in the field of human rights, who possess the qualifications required for the exercise of the highest judicial functions under the law of the state of which they are nationals or of the state that proposes them as candidates.
2. No two judges may be nationals of the same state.

Article 5: Judicial Terms

1. The judges of the Court shall be elected for a term of six years and may be re-elected only once. A judge elected to replace a judge whose term has not expired shall complete that term.
2. A judicial term shall run from the first of July of the year in which a judge assumes office to the thirtieth of June of the year in which he completes his term. However, outgoing judges shall continue in office until their successors have been installed.
3. Judges shall serve until the end of their terms, subject to the provisions contained in the foregoing paragraph. Nevertheless, they shall continue to hear the cases they have begun to hear and that are still pending, and shall not be replaced by the newly elected judges in the handling of those cases.

Article 6: Election of the Judges - Date

1. Election of judges shall take place, insofar as possible, during the session of the OAS General Assembly immediately prior to the expiration of the term of the outgoing judges.
2. Vacancies of the Court caused by death, permanent disability, resignation or dismissal of judges shall, insofar as possible, be filled at the next session of the OAS General Assembly. However, an election shall not be necessary when a vacancy occurs within six months of the expiration of a term.
3. If necessary in order to preserve a quorum of the Court, the States Parties to the Convention, at a meeting of the OAS Permanent Council, and at the request of the President of the Court, shall appoint one or more interim judges who shall serve until such time as they are replaced by elected judges.

Article 7: Candidates

1. Judges shall be elected by the States Parties to the Convention, at the OAS General Assembly, from a list of candidates nominated by those states.
2. Each State Party may nominate up to three candidates, nationals of the state that proposes them or of any other member state of the OAS.
3. When a slate of three is proposed, at least one of the candidates must be a national of a state other than the nominating state.

Article 8: Election - Preliminary Procedures

1. Six months prior to expiration of the terms to which the judges of the Court were elected, the Secretary General of the OAS shall address a written request to each State Party to the Convention that it nominate its candidates within the next ninety days.
2. The Secretary General of the OAS shall draw up an alphabetical list of the candidates nominated, and shall forward it to the States Parties, if possible, at least thirty days before the next session of the OAS General Assembly.
3. In the case of vacancies on the Court, as well as in cases of the death or permanent disability of a candidate, the aforementioned time periods shall be shortened to a period that the Secretary General of the OAS deems reasonable.

Article 9: Voting

1. The judges shall be elected by secret ballot and by an absolute majority of the States Parties to the Convention, from among the candidates referred to in Article 7 of the present Statute.
2. The candidates who obtain the largest number of votes and an absolute majority shall be declared elected. Should several ballots be necessary, those candidates who receive the smallest number of votes shall be eliminated successively, in the manner determined by the States Parties.

Article 10: Ad Hoc Judges

1. If a judge is a national of any of the States Parties to a case submitted to the Court, he shall retain his right to hear that case.
2. If one of the judges called upon to hear a case is a national of one of the states parties to the case, any other state party to the case may appoint a person to serve on the Court as an ad hoc judge.
3. If among the judges called upon to hear a case, none is a national of the states parties to the case, each of the latter may appoint an ad hoc judge. Should several states have the same interest in the case, they shall be regarded as a single party for purposes of the above provisions. In case of doubt, the Court shall decide.
4. The right of any state to appoint an ad hoc judge shall be considered relinquished if the state should fail to do so within thirty days following the written request from the President of the Court.
5. The provisions of Articles 4, 11, 15, 16, 18, 19 and 20 of the present Statutes shall apply to ad hoc judges.

Article 11: Oath

1. Upon assuming office, each judge shall take the following oath or make the following solemn declaration: "I swear" - or "I solemnly declare" - "that I shall exercise my functions as a judge honorably, independently and impartially and that I shall keep secret all deliberation."
2. The oath shall be administered by the President of the Court, and, if possible, in the presence of the other judges.

CHAPTER III

STRUCTURE OF THE COURT

Article 12: Presidency

1. The Court shall elect from among its members a President and Vice President who shall serve for a period of two years; they may be re-elected.
2. The President shall direct the work of the Court, represent it, regulate the disposition of matters brought before the Court, and preside over its sessions.
3. The Vice President shall take the place of the President in the latter's temporary absence, or if the office of the President becomes vacant. In the latter case, the Court shall elect a new Vice President to serve out the term of the previous Vice President.
4. In the absence of the President and the Vice President, their duties shall be assumed by other judges, following the order of precedence established in Article 13 of the present Statute.

Article 13: Precedence

1. Elected judges shall take precedence after the President and Vice President according to their seniority in office.
2. Judges having the same seniority in office shall take precedence according to age.
3. Ad hoc and interim judges shall take precedence after the elected judges, according to age. However, if an ad hoc or interim judge has previously served as an elected judge, he shall have precedence over any other ad hoc or interim judges.

Article 14: Secretariat

1. The Secretariat of the Court shall function under the immediate authority of the Secretary, in accordance with the administrative standards of the OAS General Secretariat, in all matters that are not incompatible with the independence of the Court.
2. The Secretary shall be appointed by the Court. He shall be a full-time employee serving in a position of trust to the Court, shall have his office at the seat of the Court and shall attend any meetings that the Court holds away from its seat.
3. There shall be an Assistant Secretary who shall assist the Secretary in his duties and shall replace him in his temporary absence.
4. The staff of the Secretariat shall be appointed by the Secretary General of the OAS, in consultation with the Secretary of the Court.

CHAPTER IV

RIGHTS, DUTIES AND RESPONSIBILITIES

Article 15: Privileges and Immunities

1. The judges of the Court shall enjoy, from the moment of their election and throughout their term of office, the immunities extended to diplomatic agents under international law. During the exercise of their functions, they shall, in addition, enjoy the diplomatic privileges necessary for the performance of their duties.
2. At no time shall the judges of the Court be held liable for any decisions or opinions issued in the exercise of their functions.
3. The Court itself and its staff shall enjoy the privileges and immunities provided for the Agreement on Privileges and Immunities of the Organization of American States, of May 15, 1949, mutatis mutandis, taking into account the importance and independence of the Court.
4. The provisions of paragraphs 1, 2 and 3 of this article shall apply to the States Parties to the Convention. They shall also apply to such other member states of the OAS as expressly accept them, either in general or for specific cases.
5. The system of privileges and immunities of the judges of the Court and of its staff may be regulated or supplemented by multilateral or bilateral agreements between the Court, the OAS and its member states.

Article 16: Service

1. The judges shall remain at the disposal of the Court, and shall travel to the seat of the Court or to the place where the Court is holding its sessions as often and for as long a time as may be necessary, as established in the Regulations.
2. The President shall render his services on a permanent basis.

Article 17: Emoluments

1. The emoluments of the President and the judges of the Court shall be set in accordance with the obligations and incompatibilities imposed on them by Articles 16 and 18, and bearing in mind the importance and independence of their functions.
2. The ad hoc judges shall receive the emoluments established by regulation, within the limits of the Court's budget.
3. The judges shall also receive per diem and travel allowances, when appropriate.

Article 18: Incompatibilities

1. The position of judge of the Inter-American Court of Human Rights is incompatible with the following positions and activities
  - a. Members or high ranking officials of the executive branch of government, except for those who hold positions that do not place them under the direct control of the executive branch and those of diplomatic agents who are not Chiefs of Missions to the OAS or to any of its member states;
  - b. Officials of international organizations;
  - c. Any others that might prevent the judges from discharging their duties, or that might affect their independence or impartiality, or the dignity and prestige of the office.
2. In case of doubt as to incompatibility, the Court shall decide. If the incompatibility is not resolved, the provisions of Article 73 of the Convention and Article 20.2 of the present Statute shall apply.
3. Incompatibilities may lead only to dismissal of the judge and the imposition of applicable liabilities, but shall not invalidate the acts and decisions in which the judge in question participated.

Article 19: Disqualification

1. Judges may not take part in matters in which, in the opinion of the Court, they or members of their family have a direct interest or in which they have previously taken part as agents, counsels or advocates, or as members of a national or international court or an investigatory committee, or in any other capacity.
2. If a judge is disqualified from hearing a case or for some other appropriate reason considers that he should not take part in a specific matter, he shall advise the President of his disqualification. Should the latter disagree, the Court shall decide.
3. If the President considers that a judge has cause for disqualification or for some other pertinent reason should not take part in a given matter, he shall advise him to that effect. Should the judge in question disagree, the Court shall decide.
4. When one or more judges are disqualified pursuant to this article, the President may request the States Parties to the Convention, in a meeting of the OAS Permanent Council, to appoint interim judges to replace them.

Article 20: Disciplinary Regime

1. In the performance of their duties and at all other times, the judges and staff of the Court shall conduct themselves in a manner that is in keeping with the office of those who perform an international judicial function. They shall be answerable to the Court for their conduct, as well as for any violation, act of negligence or omission committed in the exercise of their functions.
2. The OAS General Assembly shall have disciplinary authority over the judges, but may exercise that authority only at the request of the Court itself, composed for this purpose of the remaining judges. The Court shall inform the General Assembly of the reasons for its request.
3. Disciplinary authority over the Secretary shall lie with the Court, and over the rest of the staff, with the Secretary, who shall exercise that authority with the approval of the President.
4. The Court shall issue disciplinary rules, subject to the administrative regulations of the OAS General Secretariat insofar as they may be applicable in accordance with Article 59 of the Convention.

Article 21: Resignations - Incapacity

1. Any resignation from the Court shall be submitted in writing to the President of the Court. The resignation shall not become effective until the Court has accepted it.



2. The Court shall decide whether a judge is incapable of performing his function.
3. The President of the Court shall notify the Secretary General of the OAS of the acceptance of a resignation or a determination of incapacity, for appropriate action.

## CHAPTER V

### THE WORKINGS OF THE COURT

#### Article 22: Sessions

1. The Court shall hold regular and special sessions.
2. Regular sessions shall be held as determined by the Regulations of the Court.
3. Special sessions shall be convoked by the President or at the request of a majority of the judges.

#### Article 23: Quorum

1. The quorum for deliberations by the Court shall be five judges.
2. Decisions of the Court shall be taken by a majority vote of the judges present.
3. In the event of a tie, the President shall cast the deciding vote.

#### Article 24: Hearings, Deliberations, Decisions

1. The hearings shall be public, unless the Court, in exceptional circumstances, decides otherwise.
2. The Court shall deliberate in private. Its deliberations shall remain secret, unless the Court decides otherwise.
3. The decisions, judgments and opinions of the Court shall be delivered in public session, and the parties shall be given written notification thereof. In addition, the decisions, judgments and opinions shall be published, along with judges' individual votes and opinions and with such other data or background information that the Court may deem appropriate.

#### Article 25: Rules and Regulations

1. The Court shall draw up its rules of Procedure.

2. The Rules of Procedure may delegate to the President or to Committees of the Court authority to carry out certain parts of the legal proceedings, with the exception of issuing final rulings or advisory opinions. Rulings or decisions issued by the President or the Committees of the Court that are not purely procedural in nature may be appealed before the full Court.
3. The Court shall also draw up its own Regulations.

Article 26: Budget, Financial System

1. The Court shall draw up its own budget and shall submit it for approval to the General Assembly of the OAS, through the General Secretariat. The latter may not introduce any changes in it.
2. The Court shall administer its own budget.

CHAPTER VI

RELATIONS WITH GOVERNMENTS AND ORGANIZATIONS

Article 27: Relations with the Host Country, Governments and Organizations

1. The relations of the Court with the host country shall be governed through a headquarters agreement. The seat of the Court shall be international in nature.
2. The relations of the Court with governments, with the OAS and its organs, agencies and entities and with other international governmental organizations involved in promoting and defending human rights shall be governed through special agreements.

Article 28: Relations with the Inter-American Commission on Human Rights

The Inter-American Commission on Human Rights shall appear as a party before the Court in all cases within the adjudicatory jurisdiction of the Court, pursuant to Article 2.1 of the present Statute.

Article 29: Agreements of Cooperation

1. The Court may enter into agreements of cooperation with such nonprofit institutions and law schools, bar associations, courts, academies and educational or research institutions dealing with related disciplines in order to obtain their cooperation and to strengthen and promote the juridical and institutional principles of the Convention in general and of the Court in particular.
2. The Court shall include an account of such agreements and their results in its annual report to the OAS General Assembly.

**Article 30: Report to the OAS General Assembly**

The Court shall submit a report on its work of the previous year to each regular sessions of the OAS General Assembly. It shall indicate those cases in which a state has failed to comply with the Court's ruling. It may also submit to the OAS General Assembly proposals or recommendations on ways to improve the inter-American system of human rights, insofar as they concern the work of the Court.

**CHAPTER VII**

**FINAL PROVISIONS**

**Article 31: Amendments to the Statute**

The present Statute may be amended by the OAS General Assembly, at the initiative of any member state or of the Court itself.

**Article 32: Entry into Force**

The present Statute shall enter into force on January 1, 1980.

APPENDIX II  
RULES OF PROCEDURE

Article 1

1. The purpose of these Rules is to regulate the organization and establish the procedures of the Court.
2. The Court may adopt such other Rules as are necessary to carry out its functions.
3. In the absence of a provision in these Rules, or in the case of doubt as to their interpretation, the Court shall decide.

Article 2  
(Definitions)

For the purposes of these Rules:

- a. the term "Convention" means the American Convention on Human Rights (Pact of San José, Costa Rica);
- b. the term "Statute" means the Statute of the Inter-American Court of Human Rights;
- c. the term "Court" means the Inter-American Court of Human Rights;
- d. the expression "Permanent Commission" means the commission composed of the President, Vice President and third Judge;
- e. the expression "Titular Judge" means any Judge elected in pursuance of Articles 53 and 54 of the Convention;
- f. the expression "Ad Hoc Judge" means any Judge appointed in pursuance of Article 55 of the Convention;
- g. the expression "Interim Judge" means any Judge appointed in pursuance of Articles 6.3 and 19.4 of the Statute;
- h. the expression "States Parties" means the States which have ratified or adhered to the Convention;
- i. the expression "Member States" means the Member States of the Organization of American States;
- j. the expression "Parties to the case" means the parties in a case before the Court;
- k. the term "Commission" means the Inter-American Commission on Human Rights;

- l. the expression "Delegates of the Commission" means the persons designated by the Commission to represent it in proceedings before the Court;
- m. the expression "Report of the Commission" means the report provided for in Article 50 of the Convention;
- n. the expression "General Assembly" means the General Assembly of the Organization of American States;
- o. the expression "Permanent Council" means the Permanent Council of the Organization of American States;
- p. the term "Secretary" means the Secretary of the Court;
- q. the term "Deputy Secretary" means the Deputy Secretary of the Court.

## TITLE I

### ORGANIZATION AND FUNCTIONING OF THE COURT

#### CHAPTER I THE PRESIDENCY

##### Article 3 (Election of the President and Vice President)

1. The President and Vice President are elected for a period of two years. Their terms begin on July 1 of the corresponding year. The elections shall be held on July 1 or as soon as possible thereafter.
2. The elections referred to in this Article shall be by secret ballot of the titular Judges who are present. If no Judge receives an absolute majority, a ballot shall take place between the two Judges who have received the most votes. In the case of a tie vote, the Judge having precedence in accordance with Article 13 of the Statute shall be deemed elected.

##### Article 4 (Functions of the President)

1. The functions of the President are:
  - a. to represent the Court legally and officially;
  - b. to preside over the meetings of the Court and to submit for its consideration the topics of the agenda;

- c. to rule on points of order that may arise during the discussions of the Court. If any Judge so requests, the point of order shall be submitted to a majority vote;
  - d. to direct and promote the work of the Court;
  - e. to present, at the beginning of each regular or special session, a report on the manner in which, during the recess between sessions, he has discharged the functions conferred upon him by these Rules;
  - f. to exercise such other functions as are conferred upon him by the Statute, these Rules or the Court.
2. The President may delegate the official representation of the Court to the Vice President or any of the Judges or, in their absence, to the Secretary or Deputy Secretary.

Article 5  
(The Vice Presidency)

1. The Vice President shall take the place of the President in the latter's temporary absence or if the office of President becomes vacant. In the latter case, the Court shall elect a new Vice President to serve out the term of the previous Vice President. The same procedure shall be followed if the Vice President is no longer a member of the Court or if he resigns before the end of his term.
2. In the absence of the President and the Vice President, their functions shall be assumed by the other Judges in the order of precedence established in Article 13 of the Statute.
3. The President shall not preside in proceedings before the Court when he is a national of one of the parties or in special situations in which he considers it appropriate. The same rule shall apply to the Vice President or any Judge who is called upon to exercise the presidency.

Article 6  
(Commissions)

1. The Permanent Commission is composed of the President, Vice President and a third Judge named by the President. The Permanent Commission assists and advises the President in the exercise of his functions.
2. The Court may appoint other commissions for special matters. In urgent cases, they may be appointed by the President.
3. In performing their functions, the commissions shall be governed, wherever relevant, by the provisions of these Rules.

CHAPTER II  
THE SECRETARIAT

Article 7  
(Election of the Secretary)

1. The Court shall elect its Secretary. The candidates must possess the legal knowledge and the experience necessary to carry out the functions of the position and must have a knowledge of the working languages of the Court.
2. The Secretary shall be elected for a period of five years and may be reelected. He may be freely removed at any time by the vote of no less than four Judges. The vote shall be by secret ballot.
3. The Secretary shall be elected in the manner provided for in Article 3.2 of these Rules.

Article 8  
(Deputy Secretary)

1. The Deputy Secretary shall be appointed at the proposal of the Secretary in the manner provided for in the Statute. He shall assist the Secretary in the performance of his functions and substitute for him in his temporary absence.
2. If the Secretary and the Deputy Secretary are absent, the President may appoint an Acting Secretary.

Article 9  
(Oath of the Secretary and Deputy Secretary)

The Secretary and the Deputy Secretary shall take an oath before the President of the Court.

Article 10  
(Functions of the Secretary)

The functions of the Secretary are:

- a. to communicate the decisions, advisory opinions, resolutions and other rulings and announce the times fixed for the hearings of the Court;
- b. to deal with the correspondence of the Court;

- c. to act as administrative head of the Court, under the authority of the President;
- d. to plan, direct and coordinate the work of the staff of the Court;
- e. to prepare, under the authority of the President, the draft programs, regulations, and budgets of the Court;
- f. to attend all meetings of the Court held at the seat or away from it;
- g. to carry out the decisions assigned to him by the Court or the President;
- h. to ensure that minutes are taken of all meetings of the Court;
- i. to perform any others established by the Statute, these Rules, the Court, or the President.

CHAPTER III  
INTERNAL FUNCTIONING OF THE COURT

Article 11  
(Regular sessions)

The Court shall meet in two regular sessions each year, one at the beginning of each semester, on the dates decided upon by the Court at the immediately preceding session. In exceptional circumstances, the President may change the dates of the meeting.

Article 12  
(Special sessions)

1. Special sessions may be convoked by the President or at the request of a majority of the Judges.
2. In the cases mentioned in Article 63.2 of the Convention, any Judge may request that the Court be convened in the manner specified in the preceding paragraph.

Article 13  
(Quorum)

The quorum for the deliberations of the Court is five Judges.



Article 14  
(Hearings, deliberations and decisions)

1. The hearings shall be public, unless the Court shall in exceptional circumstances decide otherwise.
2. The Court shall deliberate in private. Its deliberations shall remain secret, unless the Court decides otherwise. Only the Judges shall take part in the deliberations. The Secretary or his substitute may be present. No other person may be admitted except by special decision of the Court and after having taken an oath.
3. Any question which is to be voted upon shall be formulated in precise terms in the working languages. If a Judge so requests, the text shall be distributed before the vote is taken.
4. The minutes of the deliberations of the Court shall be limited to a record of the subject of the discussions and the decisions taken. They shall also record the dissenting votes, if any, as well as the declarations made for the record that do not refer to the basis of the vote.

Article 15  
(Decisions of the Court - Voting)

1. The President shall present, point by point, matters for discussion and for a vote. Each Judge shall vote either in the affirmative or the negative; abstentions shall not be permitted.
2. The votes shall be cast in the inverse order to the order of precedence established in Article 13 of the Statute.
3. The decisions of the Court shall be made by a majority of the Judges present.
4. If there is a tie vote, the President shall have a second and casting vote.

Article 16  
(Interim Judges)

Interim Judges, appointed in pursuance of Articles 6.3 and 19.4 of the Statute, shall, during the period of their appointment, enjoy the same rights and functions as titular Judges, except for the limitations expressly established.

Article 17  
(Ad Hoc Judges)

1. In a case arising under Article 10.2 or 10.3 of the Statute the President shall invite the States mentioned in that Article to appoint an ad hoc Judge within the thirty-day period specified in the Statute. He shall also inform them of the provisions relating thereto.
2. When it appears that two or more States have a common interest, the President shall invite them to appoint a single ad hoc Judge in conformity with Article 10 of the Statute. If within the thirty-day period specified in Article 10.4 of the Statute no agreement has been communicated to the Court, each State may submit a candidate within the next fifteen days. When this period has elapsed, the President shall choose by lot the ad hoc Judge to represent those States and he shall communicate the result to the interested parties.
3. A State which fails to exercise its rights within the period provided for shall be deemed to have waived them.
4. The Secretary shall communicate the appointment of the ad hoc Judges to the parties.
5. Ad hoc Judges shall take an oath at the opening of the first meeting devoted to the consideration of the case for which they have been appointed.

Article 18  
(Disqualifications)

Disqualifications of the Judges and related matters shall be governed by the provisions of Article 19 of the Statute.

TITLE II - PROCEDURE

CHAPTER I  
GENERAL RULES

Article 19  
(Official languages)

1. The official languages of the Court are those of the Organization of American States.

2. The working languages are those of the nationalities of the Judges and, whenever required, those of the parties as long as they are the official languages.
3. The working languages shall be determined at the beginning of the proceedings in each case.
4. The Court may authorize any party, agent, advocate, adviser, witness, expert, or other person who appears before it to use his own language if he does not have sufficient knowledge of an official language. The Court shall, in that event, make the necessary arrangements for the interpretation of the statements of such persons into the working languages mentioned in the preceding paragraph.
5. In all cases the authentic text shall be designated accordingly.

Article 20  
(Representation of the Parties)

The parties shall be represented by agents who may have the assistance of advocates, advisers, or any other person of their choice.

Article 21  
(Representation of the Commission)

The Commission shall be represented by the delegates whom it designates. These delegates may, if they so wish, have the assistance of any person of their choice.

Article 22  
(Communications, notifications and summonses addressed  
to persons other than the agents of the parties or  
delegates of the Commission)

1. If, for any communication, notification or summons addressed to persons other than the agents of the parties or delegates of the Commission, the Court considers it necessary to have the assistance of the government of the State on whose territory such communication, notification or summons is to have effect, the President shall address an appropriate request to that government to obtain the same.
2. The same procedure shall apply when the Court wishes to undertake or arrange for an investigation in the territory of a State for the purpose of establishing the facts or procuring evidence, or when it orders the appearance of a person resident in, or having to cross, that territory.

Article 23  
(Interim measures)

1. At any stage of the proceedings involving cases of extreme gravity and urgency and when necessary to avoid irreparable damage to persons, the Court may, in matters it has under consideration, adopt whatever provisional measures, based on the provisions of Article 63.2 of the Convention, it deems appropriate.
2. With respect to matters not yet submitted to it, the Court may act at the request of the Commission.
3. Such request may be presented to the President or any Judge of the Court by any means of communication.
4. If the Court is not sitting, the President shall convoke it immediately. Pending the meeting of the Court, the President, in consultation with the Permanent Commission or with the Judges, if possible, shall call upon the parties, whenever necessary, to act so as to permit any decision of the Court regarding the request for provisional measures to have its appropriate effect.
5. The Court may at any time determine, proprio motu or at the request of one of the parties, whether the circumstances of the case require the adoption of provisional measures.

Article 24  
(Procedure by default)

1. When a party fails to appear in or to continue with a case, the Court shall, proprio motu, subject to the provisions of Article 42 of these Rules, take whatever measures are necessary to complete consideration of the case.
2. When a party, having the right to enter a case, does so at a later stage, it shall take the proceedings at that stage.

CHAPTER II  
INSTITUTION OF THE PROCEEDINGS

Article 25  
(Filing of the application)

1. A State Party which intends to bring a case before the Court in accordance with the provisions of Article 61 of the Convention shall file with the Secretary an application, in twenty copies, indicating the object of the application, the human rights involved, and the name and address of its agent, including, if pertinent, its objections to the opinion of the Commission. On receipt of the application, the Secretary shall immediately request the report of the Commission.

2. If the Commission intends to bring a case before the Court in accordance with the provisions of Article 61 of the Convention, it shall file with the Secretary, together with its report, in twenty copies, its duly signed application which shall indicate the object of the application, the human rights involved, and the names of its delegates.

Article 26  
(Communication of the application)

1. On receipt of the application provided for in Article 25 of these Rules, the Secretary shall notify the Commission whenever the application is submitted under Article 25.1 as well as the States concerned in the case, transmitting copies thereof to them.

2. The Secretary shall inform the other States Parties and the Secretary General of the OAS of the receipt of the application.

3. When giving the notice provided for in paragraph 1, the Secretary shall request the States concerned to designate, within a period of two weeks, an agent who shall have an address for service at the seat of the Court to which all communications concerning the case shall be sent. If the State does not do so, a decision shall be deemed to have been notified twenty-four hours after it was rendered.

Article 27  
(Preliminary objections)

1. A preliminary objection must be filed, in twenty copies, no later than the expiration of the time fixed for the beginning of the written proceedings with respect to the party making the objection.

2. The preliminary objection shall set out the facts and the law on which the objection is based, the submissions and a list of the documents in support; it shall mention any evidence which the party may wish to produce. Copies of the supporting documents shall be attached.

3. The receipt by the Secretary of a preliminary objection shall not cause the suspension of the proceedings on the merits. The Court, or the President if the Court is not sitting, shall fix the time-limit within which the other party may present a written statement of its observations and submissions.

4. The Court shall, after having received the replies or comments of every other party and of the delegates of the Commission, give its decision on the objection or join the objection to the merits.

CHAPTER III  
EXAMINATION OF THE CASES

Article 28  
(Stages of the proceedings)

The proceedings before the Court shall consist of a written and an oral part.

Article 29  
(Fixing of time-limits)

Before the Court meets, the President shall ascertain the views of the agents of the parties and the delegates of the Commission or, if they have not yet been appointed, the Chairman of the Commission, regarding the procedure to be followed. He shall then direct in what order and within what time-limits, memorials, counter-memorials and other documents are to be filed.

Article 30  
(Written proceeding)

1. The written part of the proceedings in a case shall consist of a Memorial and a Counter-Memorial.
2. The Court may, in special circumstances, authorize additional written submissions consisting of a Reply and a Rejoinder.
3. A Memorial shall contain a statement of the relevant facts, a statement of law, and the submissions.
4. A Counter-Memorial shall contain an admission or denial of the facts stated in the Memorial; any additional facts, if necessary; observations concerning the statement of law in the Memorial; a statement of law in answer thereto; and the submissions.
5. The Reply and Rejoinder, whenever authorized by the Court, shall not merely repeat the contentions of the parties, but shall be directed to bringing out the issues that still divide them.
6. The Memorials, Counter-Memorials and accompanying documents shall be deposited with the Secretary in twenty copies. The Secretary shall send copies of this documentation to the agents of the parties and the delegates of the Commission.

Article 31  
(Joinder of cases)

1. In the event that two cases are presented which have common elements, the Court shall decide whether to join the cases.
2. The Court may at any time direct that the proceedings in two or more cases be joined.

Article 32  
(Oral proceedings)

When the case is ready for hearing, the President shall, after consulting the agents of the parties and the delegates of the Commission, fix the date for the opening of the oral proceedings.

Article 33  
(Conduct of the hearings)

The President shall direct the hearings. He shall prescribe the order in which the agents, the advocates or advisers of the parties, and the delegates of the Commission, as well as any other person appointed by them in accordance with Article 21, shall be called upon to speak.

Article 34  
(Inquiry, expert opinion and other  
measures for obtaining information)

1. The Court may, at the request of a party or the delegates of the Commission, or proprio motu, decide to hear as a witness, expert, or in any other capacity, any person whose testimony or statements seem likely to assist it in carrying out its functions.
2. The Court may, in consultation with the parties, entrust any body, office, commission, or authority of its choice with the task of obtaining information, expressing an opinion, or making a report upon any specific point.
3. Any report prepared in accordance with the preceding paragraph shall be sent to the Secretary and shall not be published until so authorized by the Court.

Article 35

(Convocation of witnesses, experts and other persons)

1. Witnesses, experts, or other persons whom the Court decides to hear, shall be summoned by the Secretary. If they are called by a party, the expenses of their appearance shall be fixed by the President and borne by that party. In other cases, such expenses shall be fixed by the President and borne by the Court.
2. The summons shall indicate:
  - a. the name of the party or parties;
  - b. the object of the inquiry, expert opinion, or any other measure for obtaining information ordered by the Court;
  - c. any provisions for the payment of the sum due to the person summoned.

Article 36

(Oath or solemn declaration by witnesses and experts)

1. After the establishment of his identity and before giving evidence, every witness shall take the following oath or make the following solemn declaration:

"I swear" - or "I solemnly declare upon my honor and conscience" -  
"that I will speak the truth, the whole truth and nothing but the truth."

2. After the establishment of his identity and before carrying out his task, every expert shall take the following oath or make the following solemn declaration:

"I swear" - or "I solemnly declare" - "that I will discharge my duty as an expert honorably and conscientiously."

3. This oath shall be taken or this declaration made before the Court or before any of its Judges who have been so delegated by the Court.

Article 37

(Objection to a witness or expert; hearing of a person for purpose of information)

The Court shall decide any dispute arising from an objection to a witness or expert. If the Court considers it necessary, it may nevertheless, hear, for purposes of information, a person who cannot be heard as a witness.



Article 38  
(Questions put during the hearing)

1. Any Judge may put questions to the agents, advocates, or advisers of the parties, to the witnesses and experts, to the delegates of the Commission, and to any other person appearing before the Court.
2. Subject to the control of the President, who has the power to decide as to the relevance of the questions put, the witnesses, experts, and other persons referred to in Article 34, may be examined by the agents, advocates or advisers of the parties, by the delegates of the Commission, and by any person appointed by them in accordance with Article 21.

Article 39  
(Failure to appear or false evidence)

1. When, without good reason, a witness or any other person who has been duly summoned, fails to appear or refuses to give evidence, the Secretary shall, on being so required by the President, inform the State to whose jurisdiction such witness or other person is subject. The same provision shall apply when a witness or expert has, in the opinion of the Court, violated the oath or solemn declaration mentioned in Article 36.
2. The States may not try any person on account of their testimony before the Court. The Court may, however, request the States to take the measures provided for in their domestic legislation against those who, in the opinion of the Court, have violated the oath or solemn declaration.

Article 40  
(Minutes of hearings)

1. Minutes shall be made of each hearing, they shall be signed by the President and the Secretary.
2. These minutes shall include:
  - a. the names of the Judges present;
  - b. the names of the agents, advocates, advisers, and delegates of the Commission present;
  - c. the names, description and residence of the witnesses, experts, or other persons heard;
  - d. the declarations expressly made for insertion in the minutes on behalf of the parties or the Commission;

- e. a summary record of the questions put by the Judges and the responses thereto;
  - f. any decision by the Court delivered during the hearing.
3. Copies of the minutes shall be given to the agents of the parties and the delegates of the Commission.
  4. The minutes shall be deemed to constitute the certified record.

Article 41  
(Transcript of the hearings)

1. The Secretary shall ensure that a transcript of the hearings be made.
2. The agents, advocates, and advisers of the parties, the delegates of the Commission and witnesses, experts, and other persons mentioned in Articles 21 and 34, shall receive the transcript of their arguments, statements or evidence, to enable them, subject to the control of the Secretary, to make corrections within the time-limits fixed by the President.

Article 42  
(Discontinuance)

1. When the party which has brought the case before the Court notifies the Secretary of its intention not to proceed with the case and when the other parties agree to such discontinuance, the Court shall, after having obtained the opinion of the Commission, decide whether it is appropriate to approve the discontinuance and, accordingly, to strike the case off its list.
2. When, in a case brought before the Court by the Commission, the Court is informed of a friendly settlement, arrangement or other fact of a kind to provide a solution of the matter, it may, after having obtained the opinion, if necessary, of the delegates of the Commission, strike the case off its list.
3. The Court may, having regard to its responsibilities, decide that it should proceed with the consideration of the case, notwithstanding the notice of discontinuance, friendly settlement, arrangement or other fact referred to in the two preceding paragraphs.

Article 43  
(Question of the application of Article 63.1 of the Convention)

If proposals or observations on the question of the application of Article 63.1 of the Convention have not been presented to the Court in the

document instituting the proceedings, they may be presented by a party or by the Commission at any stage of the written or oral proceedings.

Article 44  
(Decisions)

1. The judgments, advisory opinions, and the interlocutory decisions that put an end to a case or proceedings, shall be decided by the Court.
2. The other decisions shall be taken by the Court, if it is sitting or, if not, by the President, pursuant to the instructions of the Court.

CHAPTER IV  
JUDGMENTS

Article 45  
(Contents of the judgment)

1. A judgment shall contain:
  - a. the names of the Judges and the Secretary;
  - b. the date on which it was delivered at a hearing in public;
  - c. a description of the party or parties;
  - d. the names of agents, advocates or advisers of the party or parties;
  - e. the names of the delegates of the Commission;
  - f. the statement of the proceedings;
  - g. the submission of the party or parties and, if any, of the delegates of the Commission;
  - h. the facts of the case;
  - i. the legal arguments;
  - j. the operative provisions of the judgment;
  - k. the allocation, if any, of compensation;
  - l. the decision, if any, in regard to costs;
  - m. the number of Judges constituting the majority;
  - n. a statement as to which text is authentic.

2. Where the Court finds that there is a breach of the Convention, it shall give in the same judgment a decision on the application of Article 63.1 of the Convention if that question, after being raised under Article 43 of these Rules, is ready for decision; if the question is not ready for decision, the Court shall decide on the procedure to follow. If, on the other hand, the matter has not been raised under Article 43, the Court shall determine the period within which it may be presented by a party or by the Commission.
3. If the Court is informed that an agreement has been reached between the victim of the violation and the State Party concerned, it shall verify the equitable nature of such agreement.

#### Article 46

(Delivery and communication of the judgment)

1. When the case is ready for a decision, the Court shall meet in private, take a preliminary vote, name one or more rapporteurs among the Judges of the respective majority and minority, and fix the date of the deliberations and final vote.
2. In the final deliberation, the Court shall take a final vote, approve the wording of the judgment, and fix the date of the public hearing at which it shall be communicated to the parties.
3. Until the aforementioned communication, the votes and details thereof, the texts, and the legal arguments shall remain secret.
4. The judgments shall be signed by all of the Judges who participated in the voting and the dissents and concurring opinions shall be signed by the Judges supporting them. A judgment shall, however, be valid if signed by a majority of the Judges.
5. An order of communication and execution, sealed and signed by the President and the Secretary, shall appear at the end of the judgment.
6. The originals of the decisions shall be placed in the archives of the Court. The Secretary shall send certified copies to the party or parties, the Commission, the Chairman of the Permanent Council, the Secretary General, and any other person directly concerned.
7. The Secretary shall transmit the judgment to all the States Parties.

#### Article 47

(Publication of judgments, decisions and other documents)

1. The Secretary shall be responsible for the publication of:
  - a. judgments and other decisions of the Court;

- b. documents relating to the proceedings, including the report of the Commission, but excluding any particulars relating to the attempt to reach a friendly settlement;
  - c. the transcripts of the public hearings;
  - d. any other document whose publication the President considers useful.
2. Documents deposited with the Secretary and not published shall be accessible to the public unless otherwise decided by the President, either on his own initiative, at the request of a party, the Commission, or any other person concerned.

#### Article 48

(Request for an interpretation of a judgment)

1. Requests for an interpretation allowed under the terms of Article 67 of the Convention shall be presented in twenty copies and shall indicate precisely the points in the operative provision of the judgment on which interpretation is requested. It shall be filed with the Secretary.
2. The Secretary shall communicate the request to any other party and, where appropriate, to the Commission, and shall invite them to submit, in twenty copies, any written comments within a period fixed by the President.
3. The nature of the proceedings shall be determined by the Court.
4. A request for interpretation shall not suspend the effect of the judgment.

#### CHAPTER V ADVISORY OPINIONS

#### Article 49

(Interpretation of the Convention)

1. The request for an advisory opinion provided for in Article 64.1 of the Convention shall be instituted by means of an application that shall state the specific questions on which the opinion of the Court is sought.
2. If an interpretation of the Convention is requested by:
  - a. A Member State - the application shall indicate the provisions to be interpreted, the considerations giving rise to the consultation, and the name and address of the agent of the applicant;

- b. An OAS organ - the application shall indicate the provisions to be interpreted, how the consultation relates to its sphere of competence, the considerations giving rise to the consultation, and the name and address of its delegates.

#### Article 50

(Interpretation of other treaties)

1. If an interpretation is requested of other treaties concerning the protection of human rights in the American states, as provided for in Article 64.1 of the Convention, the application shall indicate the name of, and parties to, the treaty, the specific questions on which the opinion of the Court is sought, and the considerations giving rise to the consultation.
2. In case of an application submitted by one of the OAS Organs referred to in Article 64.1 of the Convention, the provisions of Article 49.2 (b) of these Rules shall apply, mutatis mutandis.

#### Article 51

(Interpretation relating to domestic laws)

1. The request for an advisory opinion, provided for in Article 64.2 of the Convention, shall be instituted by means of an application that shall identify:
  - a. the domestic laws, the provisions of the Convention and/or international treaties forming the subject of the consultation;
  - b. the specific questions on which the opinion of the Court is sought;
  - c. the name and address of the applicant's agent.
2. Ten copies of the domestic laws referred to in the preceding paragraph shall accompany the application.

#### Article 52

1. Upon receipt of the request for an advisory opinion, under Articles 49 and 50 of these Rules, the Secretary shall transmit copies thereof to any State which might be concerned in this matter, as well as to the Secretary General of the OAS for transmission to the organs mentioned in Article 64.1 of the Convention. He shall likewise inform the aforementioned and the Commission that the Court is prepared to receive within a time-limit fixed by the President their written observations. These observations or other relevant documents shall be filed with the Secretariat in forty copies and shall be transmitted to the Commission, to the States and to the other bodies mentioned in Article 64.1 of the Convention.

2. At the conclusion of the written proceedings, the Court shall decide upon the format of the oral proceedings, and fix the order of presentation and time-limits for the hearing.

#### Article 53

When the circumstances require, the Court may apply any of the rules governing contentious proceedings to advisory proceedings.

#### Article 54

1. The hearings on advisory opinions shall be public.
2. When the court has completed its deliberations and adopted its advisory opinion, it shall be read in public and shall contain:
  - a. a statement of the questions submitted to the Court;
  - b. the date on which it is delivered;
  - c. the names of the Judges;
  - d. a summary of the proceedings;
  - e. a summary of the considerations giving rise to the request;
  - f. the conclusions of the Court;
  - g. the legal arguments;
  - h. a statement indicating which text of the opinion shall be deemed authoritative.
3. A Judge may, if he so wishes, attach his individual opinion to the advisory opinion of the Court, whether he dissents from the majority or not, and may record his concurrence or dissent.

#### FINAL TITLE

#### CHAPTER VI AMENDMENTS TO THE RULES

#### Article 55

These Rules may be amended or supplemented by the vote of an absolute majority of the titular Judges of the Court.

(These Rules are a corrected version of the Provisional Rules of Procedure which appear in the English version of OAS document OEA/Ser.G/CP/doc. 1113/80 of October 15, 1980.)

APPENDIX III

ADDRESS DELIVERED BY DR. LUIS HERRERA CAMPINS, PRESIDENT OF  
THE REPUBLIC OF VENEZUELA, AT THE SEAT OF THE  
INTER-AMERICAN COURT OF HUMAN RIGHTS  
San José, Costa Rica, June 17, 1980

I would like to express my appreciation, on behalf of my country, for the invitation extended to me to participate in the inauguration of the seat of the Inter-American Court of Human Rights.

Costa Rica has always demonstrated its unalterable resolve to safeguard the observance of human rights in the American hemisphere. Hence, it should be no surprise to anyone that the Court has its seat here. This is an appropriate setting for it, and, as President of Venezuela, I feel honored at having been invited to attend this inauguration. This will be a place where freedom and the dignity of mankind in the hemisphere will be watched over.

We must again express the need for deep reflection on human rights, which is an aspiration of all men. It is a desire of mankind without qualifications and irrespective of national origin. It is a promise that is made every day but is also broken everyday in many places.

Mankind cries out and struggles for the enjoyment of the natural rights to life, free will, freedom of conscience, freedom of creation, and all those rights that have been incorporated down through the historical, cultural evolution of humanity.

The Universal Declaration of Human Rights, adopted by the United Nations, is a common responsibility, which should evoke with steadfast resolve appropriate to noble causes the need for constant improvement of the institutions and mechanisms that give it practical validity.

The signing of the Declaration of Human Rights on December 10, 1948, gave great impetus to the mechanisms for safeguarding the rights of the person, even though it is not legally binding on the states. It was, however, from that time on that conventions to give the fullest and most specific safeguards and protection to the basic freedoms and rights of man were drafted.

The constant vigilance of the public and private agencies working actively to defend human rights have, although they lack the legal instruments required to impose effective sanctions, performed a useful labor, because the States have been very sensitive to their moral condemnations.

The diversity of economic and social development and cultural and ideological differences have made it difficult to establish common procedures that are universally consistent. Consequently, regional agencies have emerged to safeguard human rights within the framework of



the Council of Europe, the Organization of American States and the Arab League.

It is easy to understand why these regional mechanisms for protecting human rights were established first in Europe and then in the Americas. The member countries of the Council of Europe have similar levels of culture and development: values, ideas and similar goals, a common heritage worthy of being preserved. These include the spiritual and moral values that are the source of the principles of individual liberty, political liberty and the preeminence of law on which every true democracy is founded. The definition and protection of human rights became of special interest and importance in a region shaken by the atrocities perpetrated before and during the Second World War by totalitarian regimes.

These offenses against personal dignity were all the more reprehensible for having been committed by civilized men rather than by primitive mentalities.

In the Americas, which have less homogeneity than Europe, there are also common values and aspirations of democracy and freedom.

The OAS was set up in 1948, but the original efforts to achieve cooperation had their genesis many years before: as far back as 1826, a congress was convened in Panama at the initiative of the liberator, Simón Bolívar, to lay the bases for friendship and cooperation among the countries of the American hemisphere.

We cannot speak of European or American human rights. The rights and freedoms that are the birthright of all men cannot be restricted to nationals of those regions. However, the development of these regional systems for protection has produced benefits. They have served and continue to serve as stimuli for establishing mechanisms to protect the rights of man, while at the same time demonstrating that, despite limitations, it is possible and desirable to create and progressively develop effective institutions and procedures that create awareness in, and stimulate the faith of, the peoples in international action and solidarity to attain the effective observance of individual rights and liberties.

Many difficulties and obstacles have had to be overcome for the defense of human rights to begin to produce results.

The idea has become progressively strengthened in the course of an arduous, trying and obstacle-strewn process to achieve solidarity, cooperation and integration. First came the American Declaration of the Rights and Duties of Man in 1948. Later, the Inter-American Commission on Human Rights was established at the Fifth Meeting of Consultation of Ministers of Foreign Affairs (Santiago, Chile, August 1959), which undertook to protect and promote those rights.

The conceptual approach of the Declaration of Santiago continues to apply:

"Harmony among the American republics can be effective only insofar as human rights and fundamental freedoms and the exercise of representative democracy are a reality within each one of them..."

No one can deny that there are great difficulties in achieving respect for human rights in our hemisphere. It is the responsibility of the democratic governments of the Americas to work tirelessly to expand and consolidate those rights. Our political system has made great efforts to implement a participatory democracy in which man can express his fullest creative potential in terms of his personal development, of his integration into the community, and of the overall situation in which he lives. Man, the supreme and inestimable resource, should be the basic focus of social, public and private activities. Joining forces and overcoming difficulties on behalf of man is the daily goal of democracy. Under that system, human rights achieve their true dimensions and grandeur. They make possible the ever-ascending operation of a responsible and perfectible community of free men.

In his admirable encyclical "Redemptor Hominis," His Holiness John Paul II masterfully covers the topic of human rights:

"The man of today seems ever to be under threat from what he produces, that is to say from the result of the work of his hands and, even more so, of the work of his intellect and the tendencies of his will.

All too soon, and often in an unforeseeable way, what this manifold activity of man yields is not only subjected to "alienation", in the sense that it is simply taken away from the person who produces it, but rather it turns against man himself, at least in part, through the indirect consequences of its effects returning on himself. It is or can be directed against him. This seems to make up the main chapter of the drama of present-day human existence in its broadest and universal dimension. Man therefore lives increasingly in fear."

This continuous anguish extends throughout the globe. Man is no longer fearful of nature and unchecked natural forces that he endeavors to overcome and dominate. It is man who appears to wish to destroy nature, which generously has provided him the setting for his life, through the development of an uncontrolled technology that does not fit the universal and truly humanistic plan. He gives the impression that he wants not only to use things--the air, water, land, but to destroy them by a gradual or accelerated irrational use of them. In the name of progress and transformation for multiple uses, he increasingly attacks the ecology and the most basic aspects of humanity, producing deterioration both in the physical and in the social and moral environments.

The Pope asks with good reason:

The first reason for disquiet concerns the essential and fundamental question: Does this progress, which has man for its author and promoter, make human life on earth "more human" in every aspect of that life? Does it make it more "worthy of man"? There can be no doubt that in various aspects it does. But the question keeps coming back with regard to what is most essential--whether in the context of this progress man, as man, is becoming truly better, that is to say more mature spiritually, more aware of the dignity of his humanity, more responsible, more open to others, especially the neediest and the weakest, and readier to give and to aid all.

We see personal and national egoism, as expressed in prepotency and hegemony, growing in place of social love and solidarity for a human projection that may definitively win the future. Man must return to the objective requirements of justice, moral order and social love to achieve the postulates of the liberators, which consist of "the priority of ethics over technology, in the primacy of the person over things, and in the superiority of spirit over matter...What is in question is the advancement of persons, not just the multiplying of things that people can use." Hence, it is by trying to "be more" instead of simply to "have more," that man recovers his proper and essential personal dignity that is transcendent and governed by liberty that makes him a constant co-creator of a world of infinite possibilities and choices. Those of us who believe in the primacy of the spirit and in its concrete projection to convert itself into history, and those of us who struggle for a full observance of human rights are waging a battle to move from a society of fear to a society of hope, to rescue man from the clutches of fear, and to create a state of affairs in which he will rejoice in his creations because of their goodness and not be horrified at his works.

Democracy is the common road for our march of the peoples. The Declaration of Santiago, Chile, rightly affirms that:

"The existence of anti-democratic regimes constitutes a violation of the principles on which the Organization of American States is founded, and a danger to united and peaceful relationships in the hemisphere."

It also states:

"some of the principles and attributes of the democratic system in this hemisphere, so as to permit national and international public opinion to gauge the degree of identification of political regimes and governments with that system, thus contributing to the eradication of forms of dictatorship, despotism, or tyranny, without weakening respect for the right of peoples freely to choose their own form of government."

I repeat with pride and sincerity that one of the guiding principles of our Venezuelan foreign policy is the institutionalization of freedom and democracy. On this solemn occasion, I would like to affirm once again that only the institutionalization of democratic freedoms ensures a broad and proper functioning of the guarantees of protection of human rights. Real and essential freedom goes beyond the scope of formal freedoms. The existence of the latter does not necessarily mean the existence of the real and essential freedom of man. However, the absence of formal liberties is an unequivocal sign that real and essential freedom of the person does not exist.

Democracy, as a political form and a way of life, is based on the social organization of the people and their participation in achieving the common good through social justice and ensuring by their vigilance the full enjoyment of liberty and the absolute respect for human rights.

Today, we are giving the Inter-American Commission on Human Rights an effective instrument for internationally safeguarding the basic rights of the individual. The transcendental importance of this step is obvious.

All of the constitutions of the countries of the world set forth in their statement of principles the rights, liberties and guarantees of their citizens. As we did when we signed the American Convention on Human Rights in this city in 1969, we recognize that such basic principles, far from being national principles of each state, arise from the inherent attributes of the human condition, and hence the constitutional guarantees embodied by the state in the law of nations must be accompanied by international protection and monitoring that will provide an inestimable reinforcement and complement for them. With regard to the treaty that was forged here, I am pleased to recall that two of the ministers of my Executive Cabinet (Gonzalo Garcia Bustillos and Jose Luis Zapata, Ministers of the Office of the President of the Republic and of the Department of Information and Tourism, respectively) actively participated in and signed this progressive and highly meritorious legal instrument. Thus my government once again ratified its historic dedication to the cause of human rights. Moreover, the other member of the Venezuelan delegation at that time, the former Foreign Minister, Marcos Falcon Brinceño, now the distinguished opposition member of the legislature, has done me the honor to accompany me on this visit to Costa Rica.

The drama of rights, liberties and guarantees lies in the diverse and even contradictory, opportunistic and self-interested interpretation that some nations give them.

Problems do not arise, then, in enunciating principles nor in the legal guarantees the states may provide, but in the interpretation and application given to those concepts. There is a grave danger of falling into conceptual anarchy in interpreting principles whose meaning must be unequivocal, if one endeavors to exactly reflect the inalienable attributes of the "human condition."

Venezuela has persevered in its efforts to keep the respect, defense and promotion of human rights from being the subject of declarations lacking any real content and has instead tried to make them a permanent and basic support of its political system and its internal and international projections. In the international protection of these rights in the American sphere, we have firmly supported the work of the Inter-American Commission on Human Rights, whose jurisdiction in safeguarding the regime deriving from the Pact of San Jose, we recognized expressly and for an indefinite period at the time we deposited our instrument of ratification.

To that same end, my government has initiated proceedings to recognize that the competence and jurisdictional power of this Court to try cases involving the interpretation or application of the American Convention on Human Rights, which entered into effect on July 18, 1978, is binding as a matter of law. In this way, we hope to contribute with sincerity and effectiveness to ensuring the full exercise of the rights and liberties recognized in the Convention. This declaration, which is subject to the normal reciprocity recognized by international law, will be formulated in the terms established by the Convention, once the applicable constitutional procedure is carried out. The Court can count on Venezuela's continuing commitment to contribute always to its effectiveness and improvement.

We act always in accord with the Universal Declaration of Human Rights in the conviction that ". . . the ideal of the free human being, free from fear and want can only be attained if conditions are created to enable each person to enjoy his economic, social and cultural rights as well as his civil and political rights. . ."

I believe, therefore, that our repudiation and our condemnation of silence and ambiguity when repression of freedom or violation of human rights are concerned must be more vigorous and categorical than ever.

History shows us that freedom is not a gracious concession. It is rather the result of a constant struggle to win it and defend it. We know about that struggle in our hemisphere. Today, more than ever, we must ensure our freedom with our joint effort, with our firm resolve to reject any dominance or hegemony that seeks to suppress or endanger our sovereignty and our national identity, and with our solidarity and support for all peoples struggling to obtain, preserve or recover their right to freedom.

This solidarity is more effective when the requirement for justice for others is backed by a national climate of effective social justice.

Freedom, the greatest gift in the natural order that the Creator has given human beings, is essential to human dignity. The road to its realization passes through the social organization of the people via democracy that guarantees and ensures the participation required.

Essential to the dignity of nations is independence, which, at the international level, leads to respecting the people rather than manipulating or using them, because sovereignty is not divisible and depends, not on the size and wealth of nations, but on respect for the universal concepts of justice and the courage to defend it.

We must recognize in the Inter-American Commission on Human Rights and in this Court, which from this day on will have a worthy seat in Costa Rica, a propitious achievement of the nations of the hemisphere, which is a product of their constant and sincere efforts to deal with reality. It is at the same time the point of departure toward more advanced goals, by perfecting through its mechanisms the attainment of the common good and the strengthening of peace and international coexistence: a difficult coexistence and an elusive peace that slips from our grasp.

APPENDIX IV

ADDRESS BY THE PRESIDENT OF THE REPUBLIC,  
RODRIGO CARAZO ODIO, AT THE INAUGURATION OF THE SEAT OF THE  
INTER-AMERICAN COURT OF HUMAN RIGHTS, SAN JOSE, COSTA RICA  
AUGUST 7, 1980

Members of the Inter-American Court of Human Rights, representatives of the highest authorities of Costa Rica, distinguished members of the diplomatic corps, ladies and gentlemen:

The President of the Court was correct when he said that Costa Rica is proud to participate to the extent of its capabilities, to the fullest extent of its limited capabilities, in the operation of this Court.

The Court represents for us the attainment of one of the long-cherished aspirations of the Costa Rican people, and institutionalization of Western Christian civilization. It constitutes a step taken by mankind through international agencies to ensure human dignity.

This building that is being inaugurated today with the formality appropriate to the Court reflects the potential benefits for human beings in the Americas that this Court will provide when it comes into full operation.

It is often said these days that people are tired of romantic declarations, of empty declarations that are not brought to fruition in positive achievements. The period in which we are living cannot continue to be merely a time of hope for the Americas but must become a time of actual accomplishment. Ladies and gentlemen, protection of human rights must become a reality. Let no image be put forth of a progressive nation when human rights are violated to maintain it. Let no one believe that a nation can be called democratic if it tramples on the dignity of human beings. Let false titles, especially the generic titles used by many nations to hide behind, be done away with.

The Inter-American Court of Human Rights is an instrument that will show us where the reality behind the declarations is, where the full meaning of protection for the basic rights of human beings is, where freedom is fully exercised, and where the intent is to eliminate the basic conditions of life for individuals. The Court--and I believe this is why it has budget problems, if the distinguished judges will excuse my saying so--serves as a finger, I will not say an accusing finger but rather a finger that points to the responsibilities of OAS member countries. So I would like today to make an earnest and heartfelt appeal to all member nations of this Organization to provide the budget support required to strengthen this Court.

Let it continue to show where respect for human rights is lacking. Let it continue to indicate by its mere presence, as the President said just now--and very likely its presence will be silent because of the absence of cases, which is nothing but lack of jurisdiction, which in turn is nothing but the failure of countries to submit themselves to the judgments this Court might make--let this silent presence, then, show us two roads: the road of frankness in accepting our responsibility to govern, and the road of civilization, the road that gives men the opportunity to know where to seek that fundamental protection.

We are inaugurating this building under a good omen. I am sure that all of you present today at this ceremony are aware that on July 28 the Constitution of the Republic of Peru entered into full force. Since the text of that constitution has not yet been widely circulated, I would like to read several articles from it:

The third paragraph of Article 22 states: "Systematic teaching of the constitution and of human rights is compulsory at all levels in both civil and military educational institutions." Article 80 states "It is the primary duty of the State to defend national sovereignty, guarantee the full observance of human rights, promote the general welfare based on justice and the integral and balanced development of the country, and eliminate all forms of exploitation of man by man and of man by the State." Article 105 states: "The provisions contained in human rights treaties have constitutional standing and may not be amended except by the procedure required for amending the Constitution." Under the general and interim provisions, Article XVI states--and this does honor both to those present here today and to the Inter-American Court of Human Rights --as follows: "The American Convention on Human Rights of San José, Costa Rica is ratified, including Articles 45 and 62, referring to the competence of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights."

Thus, we are happy to note that the jurisdiction of this Court has been given the high level of constitutional standing in the Republic of Peru. We must make of this declaration an expression of the desire of all countries in the Americas that anyone who raises the standard of liberty and democracy supported on violation of human rights should know that he is committing an act of betrayal and that anyone who claims to achieve the material well-being of peoples based on lack of respect for the thought and conduct of human beings should know that he cannot speak of well-being under such conditions.

Let this building be not only the material seat of this Court but also the materialization of the great American dream, which was set forth by Bolívar, which moved Martí, which has always lived in the spirit of free men, may this Court be a permanent institution that will put us to the test every day and protect us against all violations of the basic elements of the individual's life, those elements that constitute his spiritual and material integrity.



Members of the Court, the Government of Costa Rica ratifies its desire to collaborate with the Court, to support it, and to submit fully to its decisions. It is a source of pride for us to have been the first to do so. It is a source of satisfaction for us that this is the Court's seat. It is for us one more proof of our eternal responsibility that you --today here in San José--be the basic instrument for attaining the American reality that all of us hope will be achieved someday.

Thank you very much.

APPENDIX V

CONSTITUTION OF PERU

TITLE VIII

GENERAL AND TRANSITORY PROVISIONS

SIXTEENTH - ...

"The American Convention on Human Rights of San José, Costa Rica is ratified, including Articles 45 and 62, referring to the competence of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights."

APPENDIX VI

AMERICAN CONVENTION ON HUMAN RIGHTS  
"PACT OF SAN JOSE, COSTA RICA"

Signed at San José, November 22, 1969, at the  
Inter-American Specialized Conference on  
Human Rights

<u>SIGNATORY COUNTRIES</u>	<u>DATE OF DEPOSIT OF THE INSTRUMENT OF RATIFICATION OR ADHERENCE</u>
Barbados <sup>1</sup>	
Bolivia <sup>2</sup>	July 19, 1979 <sup>2</sup>
Chile <sup>3</sup>	
Colombia	July 31, 1973
Costa Rica*	April 8, 1970
Dominican Republic <sup>3,4</sup>	April 19, 1978
Ecuador <sup>3</sup>	December 28, 1977
El Salvador	June 23, 1978 <sup>3,5</sup>
Grenada <sup>6</sup>	July 18, 1978
Guatemala	May 25, 1978 <sup>5</sup>
Haiti <sup>2</sup>	September 27, 1977 <sup>2</sup>
Honduras	September 8, 1977
Jamaica <sup>7</sup>	August 7, 1978 <sup>3</sup>
Mexico	March 24, 1981 <sup>**</sup>
Nicaragua	September 25, 1979
Panama	June 22, 1978
Paraguay	
Peru <sup>8*</sup>	July 28, 1978
United States <sup>9</sup>	
Uruguay <sup>5</sup>	
Venezuela	August 9, 1977 <sup>3,5</sup>

\* Costa Rica and Peru deposited, at the General Secretariat on July 2, 1980 and January 21, 1981, respectively, instruments recognizing the competence of the Inter-American Commission of Human Rights and the jurisdiction of the Inter-American Court of Human Rights, in accordance with Articles 45 and 62 of the Convention.

\*\* Date of receipt of the instrument of accession. It contains two interpretative statements and one reservation. The necessary procedure will be taken in conformity with the Vienna Convention on the Law of Treaties.

1. Signed at the General Secretariat on June 20, 1978.
2. Adhered.
3. With a declaration.
4. Signed at the General Secretariat on September 7, 1977.
5. With a reservation.
6. Signed at the General Secretariat on July 14, 1978.
7. Signed at the General Secretariat on September 16, 1977.
8. Signed at the General Secretariat on July 27, 1977.
9. Signed at the General Secretariat on June 1, 1977.

The original instrument is deposited with the General Secretariat, which is also the depository of the instruments of ratification.

The Convention entered into force on July 18, 1978, the date on which Grenada deposited its instrument of ratification, constituting the eleventh ratification required by the Convention. With respect to any state that ratifies or adheres thereafter, the Convention will enter into force on the date of the deposit of its instrument of ratification or adherence.

March 24, 1981