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**INTER-AMERICAN COURT OF HUMAN RIGHTS**



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INTER-AMERICAN COURT OF HUMAN RIGHTS**

**1999**

**SAN JOSE, COSTA RICA**

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## I. ORIGIN, STRUCTURE AND JURISDICTION OF THE COURT

### A. ESTABLISHMENT OF THE COURT

The Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court" or "the Tribunal") was created by the entry into force of the American Convention on Human Rights or the "Pact of San Jose, Costa Rica" (hereinafter "the Convention" or "the American Convention") on July 18, 1978, when the eleventh instrument of ratification by a Member State of the Organization of American States (hereinafter "the OAS" or "the Organization") was deposited. The Convention was adopted at the Inter-American Specialized Conference on Human Rights, which took place from November 7 to 22, 1969, in San Jose, Costa Rica.

The two organs for the protection of human rights provided for under Article 33 of the Pact of San Jose, Costa Rica, are the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") and the Court. The function of these organs is to ensure the fulfillment of the commitments made by the States Parties to the Convention.

### B. ORGANIZATION OF THE COURT

In accordance with the terms of the Statute of the Court (hereinafter "the Statute"), the Court is an autonomous judicial institution which has its seat in San Jose, Costa Rica, and has as its purpose the application and interpretation of the Convention.

The Court consists of seven judges, nationals of the Member States of the OAS, 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 state of which they are nationals or of the state that proposes them as candidates" (Article 52 of the Convention). Article 8 of the Statute provides that the Secretary General of the OAS shall request the States Parties to the Convention to submit a list of their candidates for the position of judge of the Court. In accordance with Article 53(2) of the Convention, each State Party may propose up to three candidates.

The judges are elected by the States Parties to the Convention for a term of six years. The election is by secret ballot. Judges are elected by an absolute majority vote in the OAS General Assembly shortly before the expiration of the terms of the outgoing

judges. Vacancies on the Court caused by death, permanent disability, resignation or dismissal shall be filled, if possible, at the next session of the OAS General Assembly (Article 6(1) and 6(2) of the Statute).

Judges, whose terms have expired, shall continue to serve with regard to cases that they have begun to hear and that are still pending (Article 54(3) of the Convention).

If necessary, in order to maintain a quorum of the Court, one or more interim judges may be appointed by the States Parties to the Convention (Article 6(3) of the Statute). "If a judge is a national of any of the States Parties to a case submitted to the Court, [that judge] shall retain [the] right to hear that case. 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. 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" (Article 10(1), 10(2) and 10(3) of the Statute).

States Parties to a case are represented in the proceedings before the Court by the agents they designate (Article 21 of the Rules of Procedure).

The judges are at the disposal of the Court and hold as many regular sessions a year as may be necessary for the proper discharge of their functions. They may also meet in special sessions when convened by the President of the Court (hereinafter "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 shall render his services on a permanent basis (Article 16 of the Statute).

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

There is a Permanent Commission of the Court (hereinafter "the Permanent Commission") composed of the President, the Vice President and any other judge whom the President considers convenient according to the needs of the Court. The Court may also create other commissions for specific matters (Article 6 of the Rules of Procedure).

The Secretariat functions under the direction of a Secretary, who is elected by the Court (Article 14 of the Statute).

### **C. COMPOSITION OF THE COURT**

The following judges, listed in order of precedence, sat on the Court through 16 September 1999:

Hernán Salgado-Pesantes (Ecuador), President  
 Antônio A. Cançado Trindade (Brazil), Vice President  
 Máximo Pacheco-Gómez (Chile)  
 Oliver Jackman (Barbados)  
 Alirio Abreu-Burelli (Venezuela)  
 Sergio García-Ramírez (Mexico)  
 Carlos Vicente de Roux-Rengifo (Colombia)

Following the election on 16 September of a new President and Vice President, the composition of the Court changed as follows (given in order of precedence):

Antônio A. Cançado Trindade (Brazil), President  
 Máximo Pacheco-Gómez (Chile), Vice-President  
 Hernán Salgado-Pesantes (Ecuador)  
 Oliver Jackman (Barbados)  
 Alirio Abreu-Burelli (Venezuela)  
 Sergio García-Ramírez (Mexico)  
 Carlos Vicente de Roux-Rengifo (Colombia).

The Secretary of the Court is Manuel E. Ventura-Robles (Costa Rica), and the Deputy Secretary is Renzo Pomi (Uruguay).

Respondent states have exercised their right to appoint an *ad hoc* judge in nine of the cases currently pending before the Court (article 55.1 of the Convention). These judges *ad hoc*, along with their nationalities and the cases for which they were appointed, are:

<b>Case</b>	<b>Judge <i>ad hoc</i></b>
Paniagua Morales <i>et al.</i> .....	Edgar E. Larraondo-Salguero (Guatemala)
Blake .....	Alfonso Novales-Aguirre (Guatemala)
Cantoral Benavides, Durand y Ugarte and Castillo Petruzzi <i>et al.</i> .....	Fernando Vidal-Ramírez (Peru)
Cesti Hurtado .....	José Alberto Bustamante-Belaúnde <sup>1</sup> (Peru)
Baena Ricardo <i>et al.</i> .....	Rolando A. Reyna-Rodríguez (Panama) <sup>2</sup>
Mayagna Awas Tingni Indigenous Community .....	Alejandro Montiel-Argüello (Nicaragua)
Las Palmeras .....	Julio A. Barberis (Argentina)
Cantos.....	Julio A. Barberis (Argentina)
Trujillo Oroza.....	Charles N. Brower (United States of America)

<sup>1</sup> On 3 March 1999, Peru designated Mr. José Alberto Bustamante-Belaúnde as *ad hoc* judge; who resigned from this position the following August 12.



## D. JURISDICTION OF THE COURT

The Convention confers contentious and advisory functions on the Court. The first function involves the power to adjudicate disputes relating to charges that a State Party has violated the Convention. The second function involves the power of the Member States to request that the Court interpret the Convention or "other treaties concerning the protection of human rights in the American States." Within their spheres of competence, the organs listed in the Charter of the OAS may in like manner consult the Court.

### 1. The Contentious Jurisdiction of the Court

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, or under 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 members 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 a special agreement.

Since States Parties are free to accept the Court's jurisdiction at any time, a State may be invited to do so for a specific case.

Pursuant to Article 61(1) of the Convention, "[o]nly the States Parties and the Commission shall have the right to submit a case to the Court."

Article 63(1) of the Convention contains the following provision relating to the judgments that the Court may render:

[i]f the Court finds that there has been a violation of a right or freedom protected by

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<sup>2</sup> By resolution of 22 January 1999, the Court declared Mr. Rolando Adolfo Reyna-Rodríguez unable to exercise this position of *ad hoc* judge in this case, based on the provisions of Articles 10 and 19 of the Statute of the Inter-American Court and Articles 18.1 and 19 of its Rules of Procedure.

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.

Paragraph 2 of Article 68 of the Convention provides "[t]hat 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."

Article 63(2) of the Convention provides that:

[i]n 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.

The judgment rendered by the Court in any dispute is "final and not subject to appeal." Nevertheless, "[i]n case of disagreement as to the meaning or scope of the judgment, the Court shall interpret it at the request of any of the parties, provided the request is made within ninety days from the date of notification of the judgment" (Article 67 of the Convention). The States Parties "undertake to comply with the judgment of the Court in any case to which they are parties" (Article 68 of the Convention).

The Court submits a report on its work to the General Assembly at each regular session, and it "[s]hall specify, in particular, the cases in which a state has not complied with its judgments" (Article 65 of the Convention).

## **2. The Advisory Jurisdiction of the Court**

Article 64 of the Convention 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.

The standing to request an advisory opinion from the Court is not limited to the States Parties to the Convention. Any OAS Member State may request such an opinion.

Likewise, the advisory jurisdiction of the Court enhances the Organization's capacity to deal with questions arising from the application of the Convention because it enables the organs of the OAS to consult the Court within their spheres of competence.

### **3. Recognition of the Contentious Jurisdiction of the Court**

Twenty States Parties have recognized the contentious jurisdiction of the Court. They are Costa Rica, Peru<sup>3</sup>, Venezuela, Honduras, Ecuador, Argentina, Uruguay, Colombia, Guatemala, Suriname, Panama, Chile, Nicaragua, Paraguay, Bolivia, El Salvador, Haiti, Brazil, Mexico and Dominican Republic<sup>4</sup>.

The status of ratification and accessions to the Convention can be found at the end of this report (**Appendix XLVII**).

## **E. BUDGET**

Article 72 of the Convention provides 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.

## **F. RELATIONS WITH OTHER SIMILAR REGIONAL ORGANIZATIONS**

The Court has close institutional ties with the Commission. These ties have been strengthened through meetings between the members of the two bodies, held at the recommendation of the General Assembly. The Court also maintains cooperative relations with the Inter-American Institute of Human Rights, established by an agreement between the Government of Costa Rica and the Court, which entered into force on November 17, 1980. The Institute is an autonomous, international academic institution with a global, multidisciplinary approach to the teaching, research and

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<sup>3</sup> In a communication dated 9 July 1999, (see paragraph II.C.3 below), Peru filed a document with the General Secretariat of the OAS in Washington D.C., stating that it "withdraws its declaration of recognition of the elective clause submitting to the contentious jurisdiction of the Inter-American Court of Human Rights." This withdrawal "shall go into effect immediately and shall apply to all cases in which Peru has not responded to a petition filed before the Court." The Court examined the effect of this declaration on the Ivcher Bronstein and Tribunal Constitucional cases to which this declaration referred, and to which Peru, as of that date, had not responded. As a result, the Court declared that the attempt of the State of Peru to withdraw from the binding jurisdiction of the Court, effective immediately, was inadmissible, and resolved to continue hearing and processing both cases see paragraph II.C.3 below.

<sup>4</sup> On 25 March 1999, the State of the Dominican Republic deposited with the General Secretariat of the OAS its instrument recognizing the contentious jurisdiction of the Inter-American Court, *ipso facto* and requiring no special agreement.

promotion of human rights. The Court also maintains institutional ties with the European Court of Human Rights, which was established by the Council of Europe and has functions similar to those of the Inter-American Court.

## **JURISDICTIONAL AND ADVISORY ACTIVITIES OF THE COURT**

### **A. FORTY-THIRD REGULAR SESSION OF THE COURT**

The Court held its Forty-third Regular Session from 18 to 29 January 1999 at its seat in San Jose, Costa Rica, with the following members: Hernán Salgado-Pesantes (Ecuador), President; Antônio A. Cançado Trindade (Brazil), Vice President; Máximo Pacheco-Gómez (Chile); Oliver Jackman (Barbados); Alirio Abreu-Burelli (Venezuela); Sergio García-Ramírez (Mexico) and Carlos Vicente de Roux-Rengifo (Colombia). For the Suárez Rosero case, the President of the Court, Judge Hernán Salgado-Pesantes, in view of his status as an Ecuadorian national, yielded the presidency to Vice President Antônio A. Cançado Trindade (Brasil) to preside over the Court in this case against the State of Ecuador. Also present were the Secretary of the Court, Manuel E. Ventura-Robles, and the Deputy Secretary, Renzo Pomi.

During this session, the Court considered the following matters:

**1. Suárez Rosero Case (Ecuador):** Reparations. The Court deliberated on this occasion under the gavel of Vice-President Judge Antônio A. Cançado Trindade, as the President of the Court, Judge Hernán Salgado-Pesantes, had relinquished the presidency for the purposes of this case against the state of Ecuador, in consideration of his own status as an Ecuadorian national. It issued a judgment on 20 January 1999 (**Appendix I**), specifying reparations and costs that the State of Ecuador must pay to Mr. Rafael Iván Suárez Rosero and his family, pursuant to the provisions of the judgment of 12 November 1997. According to the earlier judgment, the State of Ecuador must pay fair compensation to the victim and his family and reimburse them for expenses incurred in their representations before the authorities of Ecuador.

**2. Blake Case (Guatemala):** Reparations. The Court passed a judgment on 22 January 1999 (**Appendix II**), setting reparations and costs in this case, pursuant to the provisions of its judgment of 24 January 1998. At that time, it had decided that the State of Guatemala was obliged to make reparations to the family of Mr. Nicholas Chapman Blake due to the violation of his Right to a Fair Trial (Article 8.1 of the American Convention in relation to Article 1.1 of the same), and his Right to Humane Treatment (Article 5 of the American Convention in relation to Article 1.1 of the same). Judge Cançado Trindade offered the Court a separate opinion, and *ad hoc* judge Novales-Aguirre gave a separate concurring opinion. Both were appended to the judgment.

**3. Cesti Hurtado Case (Peru):** Preliminary objections. On 26 January 1999 (**Appendix III**), the Court rejected the preliminary objections filed by the State of Peru as without merit, and decided to continue hearing the case. In a Resolution of 19 January 1999 (**Appendix IV**), the Court also accepted a request by Mr. David Pezúa Vivanco to resign from his designation as *ad hoc* judge, which he felt was incompatible with his position as Executive Secretary of the Executive Commission of the Judicial Branch of the State of Peru. In his place, the State of Peru designated Mr. José Alberto Bustamante-Belaúnde, who subsequently resigned from the position on 12 August 1999.

**4. Baena Ricardo et al. Case (Panama):** Preliminary objections. On 27 January 1999, the Court held a public hearing on preliminary objections filed by the State of Panama. It heard arguments from the state, the Inter-American Commission, and a witness brought by the State of Panama.

In its resolution of 22 January 1999 (**Appendix V**), the Court disqualified Mr. Rolando Adolfo Reyna-Rodríguez from serving as *ad hoc* judge in the case, pursuant to the provisions of Articles 10 and 19 of the Statute of the Inter-American Court and Articles 18.1 and 19 of the Rules of Procedure.

**5. Villagrán Morales et al. Case (Guatemala):** Merits. On 28 and 29 January, the Court held a public hearing on the merits of this case, receiving testimony from the witnesses called by the parties.

**6. Provisional Measures:** The Court studied reports by the states and comments by the Commission on provisional measures in several cases. On 29 January 1999 (**Appendix VI**), the Court passed a resolution on the Clemente Teherán et al. case, ordering the State of Colombia to retain the provisional measures enjoined in the Court's 19 June 1998 decision; investigate the incidents alleged in the complaints that had culminated in the order for provisional measures, as well as possible involvement in illegal groups by some of the people covered by the measures; hear the views of the petitioners and inform them of the status of implementation of the measures; and continue filing bimonthly reports on measures adopted. It also ordered the Commission to file its observations to the state's reports within six weeks of receipt of each report.

**7. Other matters:** The Court reviewed and approved its 1998 Annual Report, to be submitted to the Twenty-ninth Regular Session of the General Assembly of the OAS. The Court also considered a number of other items awaiting its attention.

## **B. FORTY-FOURTH REGULAR SESSION OF THE COURT**

From 23 May through 3 June 1999, the Court held its Forty-fourth Regular Session at its seat in San Jose, Costa Rica, with the following members: Hernán Salgado-Pesantes (Ecuador), President; Antônio A. Cançado Trindade (Brazil), Vice President; Máximo Pacheco-Gómez (Chile); Oliver Jackman (Barbados); Alirio Abreu-Burelli (Venezuela); Sergio García-Ramírez (Mexico) and Carlos Vicente de Roux-Rengifo (Colombia). Also participating in the Cesti Hurtado case was *ad hoc* judge José Alberto Bustamante-Belaúnde, designated for this purpose by the State of Peru. Mr. Fernando Vidal-Ramírez served as *ad hoc* judge in the Durand y Ugarte and Castillo Petruzzi cases, by designation of the State of Peru. The *ad hoc* judge designated by the State of Colombia for the Las Palmeras case was Mr. Julio A. Barberis. Finally, in the Mayagna (Sumo) Awas Tingni Community case, Mr. Alejandro Montiel-Argüello served as *ad hoc* judge, appointed by the State of Nicaragua. Also present were the Secretary of the Court, Manuel E. Ventura-Robles, and the Deputy Secretary, Renzo Pomi.

During the session, the Court considered the following matters:

1. **Cesti Hurtado Case (Peru):** Merits. On 24 May, the Court held a public hearing on the merits of this case. A witness called by the Inter-American Commission made a statement concerning his knowledge of the incidents covered by the complaint. The Court also heard a statement from a witness and an expert witness called by the state and received closing oral arguments from the Commission and the State of Peru.
2. **Durand and Ugarte Case (Peru):** Preliminary objections. On 28 May, the Court passed judgment on the preliminary objections, raised by the State of Peru (**Appendix VII**). In its judgment, the Court decided to dismiss the first, second, third, fourth, fifth, sixth and seventh preliminary objections raised by the State of Peru and to proceed with the merits of the case.

Judge Vidal-Ramírez offered the Court his dissenting opinion which is attached to this judgment.

3. **Suárez Rosero Case (Ecuador):** Preliminary objections. The Court deliberated on this case under the gavel of Vice-President Judge Antônio A. Cançado Trindade, as the President of the Court, Judge Hernán Salgado-Pesantes, had disqualified himself from the Presidency for the purposes of this case against the State of Ecuador, in consideration of his own status as an Ecuadorian national. On 29 May 1999, based on Article 67 of the American Convention, the Court gave judgment on the request for interpretation of the Court's judgment on reparations. The Court stated in its interpretation (**Appendix VIII**): that the request for interpretation of its 20 January 1999 judgment on the Suárez Rosero case, lodged by the State of Ecuador, was admissible and that the payments ordered by the Court for Mr. Rafael Iván Suárez Rosero and Mrs. Margarita Ramón de Suárez should be paid in full. It was incumbent on the State of Ecuador to apply all mechanisms necessary to ensure that this obligation was met expeditiously and efficiently, under the conditions and within the

period set in the judgment, and above all to take appropriate measures to ensure that any deductions made on monetary transactions by entities of the Ecuadorian financial system, in accordance with the law, would not impair the right of the beneficiaries to receive the total amount of damages awarded to them; that the payment ordered by the Court for the child Micaela Suárez Ramón would be placed in full in the trust fund mentioned in paragraph 107 of the judgment and would not be subject to any form of taxes at the time the trust fund was set up, or to any form of tax withholding; that the attorneys of Mr. Suárez Rosero must receive full payment for court fees and expenses ordered by the Court in its judgment, and that this payment would not be subject to any form of deduction or taxes at the time of payment.

**4. Castillo Petrucci et al. Case (Peru):** Merits. On 30 May 1999, the Court passed judgment on the merits of this case (**Appendix IX**). It decided unanimously that the State of Peru had violated Articles 7.5, 8.1, 8.2.b,c,d and f, 25, 7.6, 1.1 and 2 of the American Convention, to the detriment of Jaime Francisco Sebastián Castillo Petrucci, María Concepción Pincheira Sáez, Lautaro Enrique Mellado Saavedra and Alejandro Luis Astorga Valdez. It found, by a vote of seven to one, that Peru had violated Articles 9, 8.2.h, 8.5 and 5 of the Convention. It decided unanimously that the state had not violated Article 20 of the Convention and that the alleged violation of Article 8.3 had not been proven. It further declared unnecessary any consideration of the alleged violation of Article 51.2 of the Convention. Finally, the Court decided unanimously in its judgment: to declare invalid the interim proceedings lodged against the victims and to order that the victims be guaranteed a new trial in which due process of law were fully respected; to order the state to take appropriate measures to reform legal provisions declared in this judgment to be in violation of the Convention and to ensure that all persons under the state's jurisdiction enjoyed the rights enshrined therein; and to order the state to pay a total of US\$10,000 (ten thousand United States dollars), or its equivalent in Peruvian currency, to family members of the victims who could vouch for fees and expenses incurred in this case.

Judge de Roux-Rengifo provided the Court with his concurring opinion, and Judge Vidal-Ramírez delivered a partially concurring and partially dissenting opinion; both were appended to the judgment.

**5. Las Palmeras Case (Colombia):** Preliminary objections. On 31 May 1999, the Court held a public hearing on preliminary objections raised by the State of Colombia and considered the arguments of the state and the Inter-American Commission.

**6. Mayagna (Sumo) Awas Tingni Community Case (Nicaragua):** Preliminary objections. On 31 May 1999, the Court held a public hearing on the preliminary objection filed by the State of Nicaragua in this case. The Court heard the arguments by the State of Nicaragua and the Commission.

**7. Loayza Tamayo Case (Peru):** Interpretation of Judgment. On 3 June 1999, pursuant to Article 67 of the American Convention, the Court issued an opinion interpreting the judgment on reparations in this case. In its interpretation (**Appendix X**), the Court decided that the request for interpretation was admissible only with respect to the payment of fees and expenditures awarded to Ms. Carolina Maida Loayza Tamayo, who should receive full cash payment of fees and expenses ordered by the Court in the judgment; and that this amount should not be subject at the time of payment to tax deductions or liabilities.

**8. Provisional Measures in the James *et al.* Case (Trinidad and Tobago):** The Court studied briefs submitted by Trinidad and Tobago and the Inter-American Commission on the situation of some of the beneficiaries of the measures. On 25 May 1999, the Court resolved (**Appendix XI**) that the State of Trinidad and Tobago must take provisional measures on behalf of 20 persons sentenced to die, who were under the protection of the 11 May 1999 resolution of the President of the Court. The Court also ordered the state to preserve the measures taken on behalf of Mr. Anthony Briggs and the other beneficiaries. Judge Cançado Trindade and Judge de Roux-Rengifo offered concurring opinions, attached to the resolution.

On 27 May 1999, the Court handed down a second resolution extending the measures to include seven additional persons under the death sentence (**Appendix XII**).

**9. Provisional Measures in the Caballero Delgado and Santana Case (Colombia):** The Court studied reports submitted by the state and the Inter-American Commission and resolved on 3 June 1999 (**Appendix XIII**) to lift the provisional measures it had ordered for Mr. Guillermo Guerrero Zambrano and Mr. Javier Páez; to retain the provisional measures ordered on 16 April 1997 for Ms. María Nodelia Parra, Mr. Gonzalo Arias Alturo and Ms. Élide González Vergel; and that the State of Colombia, in its subsequent report, should present a detailed summary of measures it had adopted in response to recent changes in the situation of Mr. Gonzalo Arias Alturo and Ms. Élide González Vergel, and include specific information on participation by beneficiaries in decisions concerning compliance with Court orders.

Since the time it handed down this resolution, the Court has examined several subsequent reports by the state, along with the Commission's comments.

**10. Provisional Measures in the Colotenango Case (Guatemala):** The Court studied reports submitted by the state and the Inter-American Commission on Human Rights and, on 3 June 1999, delivered a resolution (**Appendix XIV**) retaining measures necessary to protect the life and safety of the beneficiaries; ordering the state to investigate the incidents covered by the complaint so as to identify and punish the persons responsible; requiring Guatemala to report immediately on alternative mechanisms adopted for complying effectively with the provisional measures, as a consequence of the events of 30 April 1999 which had culminated in the escape of



several persons charged with the actions that had given rise to the measures; ordering the state to involve the petitioners in planning and implementing the measures, and to keep them informed; and requiring Guatemala and the Inter-American Commission to continue submitting regular reports on the current status of the measures.

**11. Provisional Measures in the Cesti Hurtado Case (Peru):** The Court studied reports filed by the state and the Inter-American Commission and issued a decision on 3 June 1999 (**Appendix XV**), ordering the state to adopt measures necessary to protect the physical and psychological welfare of Ms. Carmen Judith Cardó Guarderas, Ms. Margarita del Carmen Cesti Cardó and and Mr. Gustavo Cesti Cardó.

**12. Other matters:** The Court considered several administrative items pending before it and welcomed the President of the European Court of Human Rights, Judge Luzius Wildhaber, and his advisor, Dr. Herbert Petzold, who attended the public hearings and other activities of the Court.

### **C. FORTY-FIFTH REGULAR SESSION OF THE COURT**

The Court held its Forty-fifth Regular Session from 16 September through 2 October 1999, at its seat in San Jose, Costa Rica. One of its tasks, pursuant to pertinent regulatory provisions, was to elect a new president and vice president, and the resulting composition of the Court was as follows: Antônio A. Cançado Trindade (Brazil), President; Máximo Pacheco-Gómez (Chile), Vice President; Hernán Salgado-Pesantes (Ecuador); Oliver Jackman (Barbados); Alirio Abreu-Burelli (Venezuela); Sergio García-Ramírez (México) and Carlos Vicente de Roux-Rengifo (Colombia). In addition, *ad hoc* judge Alfonso Novales-Aguirre joined the Court for the Blake case against Guatemala. Also present were Court Secretary Manuel E. Ventura-Robles and Deputy Secretary Renzo Pomi.

During this session the Court considered the following items:

**1. Durand and Ugarte Case (Perú):** Merits. On 20 September, the Court held a public hearing on the merits of this case, for the purpose of hearing the witness and expert witness called by the Commission. Both made statements on their knowledge of the facts surrounding this application.

**2. Cantoral Benavides Case (Peru):** Merits. On 20 September, the Court held a public hearing on the merits of this case. The witnesses and the expert witness proposed by the Commission made statements concerning their knowledge of the facts surrounding the application.

**3. Withdrawal from the jurisdiction of the Court by the State of Peru: Ivcher Bronstein Case and Constitutional Court Case:** The Court examined the instrument that the State of Peru had deposited with the General Secretariat of the OAS in

Washington, D.C. on 9 July 1999 (**Appendix XVI**), communicating its decision to “withdraw its declaration recognizing the optional clause of submission to the contentious jurisdiction of the Inter-American Court of Human Rights,” and that this withdrawal would “go into effect immediately and ... apply to all cases in which Peru has not responded to applications lodged with the Court.”

The Court then examined the consequences of this declaration by the State of Peru for the Ivcher Bronstein case and the Tribunal Constitucional case to which the statement referred, because at the time these cases had been submitted to the Court, Peru had not yet responded to them. In judgments given on 24 September 1999 (**Appendices XVII and XVIII**), the Court declared that the attempt by the State of Peru to withdraw from the binding jurisdiction of the Court, effective immediately, was inadmissible. It resolved to continue hearing and processing the two cases and commissioned the President of the Court, at the appropriate time, to summon the State of Peru and the Inter-American Commission to a public hearing on the merits of both cases.

**4. Provisional Measures in the James *et al.* Case (Trinidad and Tobago):** In its resolution of 25 September 1999 (**Appendix XIX**), the Court ratified the 19 June decision by the President, broadening provisional measures ordered in the James *et al.* case to include Meryn Parris and Francis Mansing, both of whom had cases pending before the Commission.

**5. Cesti Hurtado Case (Peru):** The Court delivered its judgment on the merits of this case on 29 September 1999 (**Appendix XX**), resolving unanimously to declare that Peru had violated Articles 7.1, 7.2, 7.3, 7.6, 8.1, 25, 1.1 and 2 of the American Convention, to the injury of Mr. Gustavo Adolfo Cesti Hurtado. It also declared that the alleged violations by the state of Articles 5.2, 8.2, 11 and 21 of the Convention had not been proven in this case. The Court ordered Peru to abide by the resolution handed down by the Lima Specialized Court of Public Law on 12 February 1997, on the remedy of habeas corpus filed by Mr. Cesti Hurtado and declared that the trial conducted against him in the military court was incompatible with the American Convention. It therefore ordered the state to vacate the process and annul all effects derived therefrom. Finally, the Court declared that the state was obliged to pay fair compensation to Mr. Cesti Hurtado and reimburse him for expenses he had incurred in pursuing this process; it ordered that the reparations stage be opened and empowered its President to proceed expeditiously in taking necessary measures.

**6. Provisional Measures in the Carpio Nicolle Case (Guatemala):** By resolution of 30 September 1999 (**Appendix XXI**), the Court ordered that provisional measures in this case remain intact and required the state and the Commission to continue informing the Court about pertinent measures taken. In the same resolution, it ordered Guatemala to include detailed information, in its subsequent report, regarding the proceeding by which lawsuit No. 1011-97 had been set aside, and to attach all available documentation on this proceeding.

**7. Provisional Measures in the Giraldo Cardona Case (Colombia):** Reports from Colombia were studied, along with observations by the Inter-American Commission, on the situation of the beneficiaries of these measures. On 30 September 1999, the Court delivered a resolution (**Appendix XXII**) requiring the state to retain the measures; investigate the incidents cited in the complaint that gave rise to the measures so as to identify and punish the persons responsible; report on alternative mechanisms adopted for complying effectively with the provisional measures and on steps taken to reopen the Civic Committee for Human Rights of Meta; continue to involve the applicants in planning and implementing the measures; and continue to present reports every two months. The Court also ordered the Commission to present its comments on the reports within a period of six weeks of receiving them.

**8. Hilaire Case (Trinidad and Tobago):** On 1 October 1999, the Court issued a resolution (**Appendix XXIII**) dismissing a request by the state to suspend the merits stage until the Court has ruled on the preliminary objection filed by the state, and granted an extension through 15 December 1999 for Trinidad and Tobago to submit its response to the application.

**9. Blake Case (Guatemala):** Interpretation of judgment. On 30 September 1999, the Court resolved the 21 April 1999 request by the State of Guatemala for an interpretation of the judgment for reparations passed on 22 January 1999. The state claimed that the judgment on reparations was inconsistent with the 24 January 1998 judgment on the merits. On 1 October 1999, the Court cited Article 67 of the American Convention as a basis for its unanimous decision (**Appendix XXIV**) to declare the application for interpretation inadmissible and, upholding the terms of the original judgment, ordered Guatemala to pay reparations to Mr. Richard Blake, Ms. Mary Blake, Mr. Richard Blake Jr. and Mr. Samuel Blake, as injured parties, in compensation for extra-judicial expenses and reimbursement of expenditures incurred in processing the case before the system for the protection of human rights, in the amounts stipulated by the Court in operative point two, paragraphs a.iii and b) of the judgment on reparations of 22 January 1999.

**10. Advisory Opinion OC-16:** On 1 October 1999, the Court handed down advisory opinion OC-16 (**Appendix XXV**) requested by the United Mexican States, regarding the right to information on consular assistance and its relationship to the guarantees of due process of law in the framework of judicial trials for capital crimes.

The Court concluded unanimously: that Article 36 of the Vienna Convention on Consular Relations (hereinafter “Vienna Convention”) recognizes the individual rights of foreign detainees, including the right to receive information on consular assistance, and the receiving state has corresponding obligations in this regard; that Article 36 of the Vienna Convention applies to the protection of rights for nationals of the sending state and is an integral part of the body of international human rights standards; that the expression “without delay” used in Article 36.1.b) of the Vienna Convention means

that the state's bounden duty is to inform detainees, at the very moment they are arrested, of the rights they hold under this provision, or in all cases, before they make their first statement to authorities; that the granting of individual rights given under this Article 36 is not contingent on protests by the sending state; that Articles 2, 6, 14 and 50 of the International Covenant of Civil and Political Rights pertain to the protection of human rights in the American States; that the individual right to information established in Article 36.1.b) of the Vienna Convention provides the means, in concrete cases, for effective practice of due process of law as guaranteed under Article 14 of the International Covenant on Civil and Political Rights, which in turn establishes minimum guarantees that can be widened under the terms of other international instruments; and that American States, whether federal or unitary in structure, that are parties to the different conventions are bound to respect the international provisions contained therein concerning the protection of human rights within their territory, including those granted in Article 36.1.b) above.

The Court also found, by a vote of six to one, that the failure to respect the right of foreign individuals under custody to receive information, as recognized in Article 36.1.b) of the Vienna Convention, impinges on the guarantees of due process of law. Under these circumstances, the application of the death penalty constitutes a violation of the right not to be deprived of life "arbitrarily," as stated in the relevant provisions of human rights treaties, and therefore elicits the legal consequences inherent to a violation of this nature, specifically, those pertaining to the international responsibility of the state and the obligation to provide compensation.

Judge Jackman submitted a partially dissenting opinion, and Judges Cançado Trindade and García-Ramírez prepared concurring opinions, which are appended to the Advisory Opinion.

**11. Election of President and Vice-President:** During this session, the Court elected its President and Vice President for the 1999-2001 term. From 1997 until 1999, the President of the Court had been Judge Hernán Salgado-Pesantes of Ecuador.

With the election, the presidency of the Court passed into the hands of Judge Antônio A. Cançado Trindade, of Brazil. Judge Cançado Trindade holds a Ph.D. (Yorke Prize) in International Law from Cambridge University in Great Britain and is a full professor of international law at the University of Brasilia and the Rio Branco Academy of Diplomacy. He has served as guest lecturer at universities in numerous countries (including Universities of Paris II, Ferrara University and Salerno University in Italy, Columbia University in New York and the University in Warsaw). He has been featured as a speaker in many conferences and symposia on international law, including the Hague Academy of International Law (1987, volume 202 of the *Recueil des Cours* and External Sessions of the Academy in 1989, 1991, 1995 and 1998), the Institute of International Public Law and International Relations (Thessaloniki, Greece, 1988), the Euro-Mediterranean Courses on International Law (Castellón, Spain, 1999) and courses

on international law organized by the Inter-American Juridical Committee (several years). He sits on the boards of directors of the Inter-American Institute of Human Rights, which he served as Executive Director from 1994 to 1996, and the International Institute of Human Rights in Strasbourg, in whose annual courses he has served as a featured speaker for the past 12 years. He has given guest lectures for the International Committee of the Red Cross in seminars on humanitarian law in Hong Kong and Macao (China) (1996). He is a member of the *Institut de Droit International*, the International Law Association, and other scientific associations. He currently sits on the board of directors of the *Instituto Hispano-Luso-Americano de Derecho International* (IHLADI). Judge Cançado Trindade has held a number of positions as a jurist, serving as legal advisor to the Brazilian Foreign Ministry (1985-1990), alternate head of the Brazilian delegation at the United Nations Conference on the Law of Treaties between States and International Organizations (Vienna, 1986), member of the Group of Legal Advisors to the United Nations Environment Programme (1990-1992), member of the OAS Commission of Jurists for Nicaragua (1993-1994), member of the Brazilian delegation to the Second World Conference on Human Rights (Vienna, 1993), and director of the Bulletin of the Brazilian Society of International Law (since 1985). From 1992 to 1995, he lent legal advisory assistance to such international organizations as UNHCR, the ICRC and UNESCO, and in 1995 served the Council of Europe in Strasbourg as legal advisor to on the Minsk Convention on Human Rights (of the Commonwealth of Independent States, CIS). Judge Cançado Trindade has published 23 books and over 260 articles in the world's major international law publications. In 1995, he was elected as Judge on the Inter-American Court of Human Rights.

The Court's new Vice-President is Judge Máximo Pacheco-Gómez, of Chile. Judge Pacheco holds a doctoral degree as a specialist in the philosophy of law from the University of Rome and *Doctor Honoris Causa* from the University of Bologna (Italy). He teaches introductory courses on law and formerly served as Dean of the School of Legal and Social Sciences of the University of Chile. He is a professor at the Law School of the Pontifical Catholic University of Chile, professor in the Academy of Police Sciences of the *Carabineros* of Chile, and vice-president of the board of directors of the Andrés Bello National University of Chile. He has given lectures on his field of specialization in numerous universities, including Harvard, Stanford, Yale, Moscow, Buenos Aires and the Autonomous University of Mexico. Judge Pacheco has held a wide variety of positions, serving as Ambassador of Chile to the Union of Soviet Socialist Republics (1965-1970), Minister of Education (1968-1970), President of the Inter-American Council for Education, Science and Culture (1970), President of the legal publishing group Editorial Jurídica de Chile (1972-1974), Senator (1990-1994), and Honorary Consul of Lithuania in Chile (1995). Judge Pacheco-Gómez has published 16 books and numerous scholarly papers. In 1992, he was elected to serve as a judge on the Inter-American Court of Human Rights.

**12. Other matters:** The Court considered several procedural questions involving items pending before it and analyzed various reports submitted by the Inter-American

Commission and the states involved in cases for which provisional measures had been adopted.

#### **D. FORTY-SIXTH REGULAR SESSION OF THE COURT**

The Court held its Forty-sixth Regular Session from November 9 through 29, 1999 at its seat in San Jose, Costa Rica, with the following membership: Antônio A. Cançado Trindade (Brazil), President; Máximo Pacheco-Gómez (Chile), Vice President; Hernán Salgado-Pesantes (Ecuador); Oliver Jackman (Barbados); Alirio Abreu-Burelli (Venezuela); and Carlos Vicente de Roux-Rengifo (Colombia). Also present were the Secretary of the Court, Manuel E. Ventura-Robles, and the Deputy Secretary, Renzo Pomi.

During this session, the Court examined the following items:

**1. El Caracazo Case (Venezuela):** Merits. On 10 November 1999, in a public hearing held at the Court, Venezuela admitted to the incidents described in the application by the Inter-American Commission and accepted the legal consequences deriving therefrom. It also accepted full international responsibility. In the same hearing, the Commission expressed its satisfaction with Venezuela's position.

On 11 November 1999, the Court delivered its judgment (**Appendix XXVI**), recognizing "Venezuela's acquiescence in this case as a positive contribution to the development of the process and effective exercise of the principles inspired by the American Convention." It decided unanimously to take cognizance of Venezuela's admission of the events outlined in the application and declared that the dispute over the facts had ceased. It also took unanimous note of the state's recognition of responsibility and declared that Venezuela had violated Articles 4.1, 5, 7, 8.1, 25.1, 25.2.a and 27.3 of the American Convention, in accordance with Articles 1.1 and 2, to the injury of the persons cited in paragraph 1 of the judgment. Finally, it took note of information provided by the state on investigations that had been undertaken for the purpose of identifying, prosecuting and punishing those responsible for the acts described in the application, urged the state to continue its investigations, and opened the stage on reparations and compensation.

**2. Loayza Tamayo Case (Peru):** Enforcement of judgment. On 17 November 1999, the Court handed down a resolution on enforcement of the judgment on reparations in the Loayza Tamayo case (**Appendix XXVII**). This resolution originated in a communication from Peru, dated 25 June 1999, stating that on the 14<sup>th</sup> of that month and year, the Second Transitory Criminal Chamber of the Supreme Court of Peru had declared:

BASELESS the Supreme Resolution dated the fifteenth of April of nineteen ninety-eight, and therefore ordered the court records of the judgment of the Inter-American

Court of Human Rights on the case of the Peruvian María Elena Loayza Tamayo to be forwarded to the specialized Court for Crimes of Terrorism, which could thus proceed in accordance with the law; consequently they declared the judgment cited to be UNENFORCEABLE and ORDERED that the records be remanded to the Inter-American Court of Human Rights using the pertinent diplomatic channels, with the knowledge of the Public Prosecutor responsible for Judicial Affairs of the Ministry of Internal Affairs and the pertinent Court for Crimes of Terrorism; and they were remanded.

In its resolution of 17 November 1999, the Court decided unanimously to declare that, in accordance with the principle *pacta sunt servanda* and the provisions of Article 68.1 of the American Convention, Peru's obligation was to comply promptly with the judgment on reparations handed down by the Court in this case on 27 November 1998.

**3. Castillo Petruzzi et al. Case (Peru):** Enforcement of judgment. On 17 November 1999, the Court issued a resolution on enforcement of the Castillo Petruzzi et al. case (**Appendix XXVIII**), in response to a resolution given on 11 June 1999 by the Full Chamber of the Supreme Council of Military Justice of Peru, declaring that the 30 May 1999 judgment of the Inter-American Court was unenforceable. The Court resolved unanimously that, in accordance with the principle *pacta sunt servanda* and the provisions of Article 68.1 of the American Convention, the state's obligation was to comply promptly with the terms of the judgment.

**4. Provisional Measures in the Digna Ochoa y Plácido et al. Case (Mexico):** By resolution on 17 November 1999, the Court granted provisional measures on behalf of Ms. Digna Ochoa y Plácido et al. (**Appendix XXIX**), in conformance with Article 63.2 of the American Convention. The Court ordered the state to adopt without delay whatever measures may be necessary to protect the life and safety of Ms. Digna Ochoa y Plácido, Mr. Edgar Cortez Morales, Mr. Mario Patrón Sánchez and Mr. Jorge Fernández Mendiburu, members of the Miguel Agustín Pro Juárez Human Rights Center, and to ensure that all persons visiting or working in the offices of the Human Rights Center may conduct their business or perform their duties without risk to their lives or personal safety, and to investigate the alleged incidents that gave rise to these measures, so as to identify and punish those responsible.

**5. The Last Temptation of Christ Case (Chile):** Merits. In a resolution dated 9 November 1999 (**Appendix XXX**), the Court ratified the decisions of the President of 26 October and 6 November, 1999. It rejected the response by the State of Chile to the petition, to the effect that it had been submitted in violation of statutory time limits, and called two expert witnesses to make statements concerning the merits of this case.

On 18 November 1999, the Court held at its seat a public hearing on the merits of the case. Witnesses and expert witnesses made statements on their knowledge of the incidents alleged in the application.

**6. Baena Ricardo et al. Case (Panama):** Preliminary objections. On 18 November 1999, the Court gave its judgment on preliminary objections in the Baena

Ricardo et al. case (**Appendix XXXI**). In its finding, the Court resolved unanimously to dismiss the preliminary objections filed by the state and to continue hearing this case.

**7. Villagrán Morales et al. (“Street Children”) Case (Guatemala):** Merits. On 19 November 1999 (**Appendix XXXII**), the Court resolved unanimously to declare that the state had violated Article 4 of the American Convention, in connection with Article 1.1, in injury to Anstraum Aman Villagrán Morales; Articles 4, 7, 5.1 and 5.2 of the Convention, in connection with Article 1.1, and Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture, in injury to Henry Giovanni Contreras, Federico Clemente Figueroa Túnchez, Julio Roberto Caal Sandoval and Jovito Josué Juárez Cifuentes; Article 19 of the Convention in connection with Article 1.1, in injury to Julio Roberto Caal Sandoval, Jovito Josué Juárez Cifuentes and Anstraum Aman Villagrán Morales; Articles 8.1 and 25 of the Convention in connection with Article 1.1, in injury to all the persons named above and members of their families; Article 1.1 of the Convention in reference to the obligation to conduct an investigation for the purpose of identifying and punishing those responsible for the human rights violations detailed in the judgments; Article 5.2 of the Convention in connection with Article 1.1, in injury to the parents of Henry Giovanni Contreras, Federico Clemente Figueroa Túnchez, Jovito Josué Juárez Cifuentes and Julio Roberto Caal Sandoval, Ms. Ana María Contreras, Ms. Matilde Reyna Morales García, Ms. Rosa Carlota Sandoval, Ms. Margarita Sandoval Urbina, Ms. Marta Isabel Túnchez Palencia and Ms. Noemí Cifuentes. It also decided to open the reparations stage. Judges Cançado Trindade and Abreu-Burelli wrote a joint concurring opinion, which is appended to the judgment.

**8. Cesti Hurtado Case (Peru):** Provisional Measures. On 19 November 1999, the Court resolved that the provisional measures in this case should be continued (**Appendix XXXIII**), in accordance with Article 63.2 of the American Convention. Specifically, it resolved:

To require the State of Peru to preserve measures necessary to protect the life and physical and psychological welfare of Mr. Gustavo Adolfo Cesti Hurtado and members of his family, Ms. Carmen Judith Cardó Guarderas, Ms. Margarita del Carmen Cesti Cardó and Mr. Gustavo Cesti Cardó.

...

**9. Cesti Hurtado Case (Peru):** Interpretation of Judgment. On 19 November 1999, the Court, in accordance with Articles 29.2 and 58 of the Rules of Procedure, delivered a resolution (**Appendix XXXIV**) declaring that the request for interpretation of the 29 September 1999 judgment on the merits, filed by the State of Peru on 13 October 1999, did not suspend the effect of the judgment and empowered the President of the Court to summon the parties to a public hearing on the subject.

**10. Other matters:** The Court received a visit in its chambers from His Excellency the President of the Republic of Paraguay, Mr. Luis González Macchi, in the company



of the Honorable Mr. José Félix Fernández Estigarribia, Minister of Foreign Affairs of that country, and members of the presidential entourage.

The President of Paraguay expressed his pleasure at visiting the Court, which had served for two decades as an autonomous judicial body of the inter-American system for the protection of human rights, and to which the people of Paraguay had turned for assistance in difficult moments of their national life.

The President of the Court, Judge Antônio A. Cançado Trindade, thanked His Excellency the President of Paraguay for his visit and for Paraguay's support, within the halls of the Organization of American States, for the Inter-American system for the protection of human rights and in particular, to the Inter-American Court.

## **E. SUBMISSION OF NEW CONTENTIOUS CASES**

During 1999, the Inter-American Commission submitted seven new cases to the consideration of the Court.

**1. The Last Temptation of Christ Case versus Chile:** This application (No. 11,803), filed by the Inter-American Commission on 15 January 1999, alleged that judicial censorship ordered by the Supreme Court of Chile in a resolution on 17 June 1997 was in violation of certain articles of the American Convention. The Commission felt that this decision infringed the right to freedom of expression and freedom of conscience, as set forth in Articles 12 and 13 of the American Convention, in detriment to the society of Chile, and particularly, to Mr. Juan Pablo Olmedo Bustos, Mr. Ciro Colombara López, Mr. Claudio Márquez Vidal, Mr. Alex Muñoz Wilson, Mr. Matías Insulza Tagle and Mr. Hernán Aguirre Fuentes. The Commission also asked the Court, based on Article 63.1 of the American Convention, to grant reparations for the consequences of the violations addressed by this petition.

**2. Cantos Case versus Argentina:** This application (No. 11,636), filed on 10 March 1999 by the Inter-American Commission, claims that the State of Argentina violated the human rights of Mr. José María Cantos. According to the complaint, the alleged violations took place in the month of March 1972, when the General Revenue Office of the Province of Santiago del Estero raided the offices of companies owned by Mr. Cantos and seized documents pertaining to his commercial activities, under suspicion of infraction of the stamp law.

According to the Commission, the application arose because this caused severe economic damage to Mr. Cantos and to his business group. Moreover, during the processing of judicial and administrative remedies to redress injuries to his right to property, acts of persecution and harassment took place against him and members of

his family, as well as a sequence of incidents that violated his right to due process and judicial protection.

The Commission filed the application asking the Court find that the State of Argentina had violated Articles 8 (fair trial), 25 (judicial protection) and 21 (right to property) of the American Convention, in relation to Article 1.1 (obligation of the state to respect rights). It also asked the Court to declare that Article 2 of the Convention had been violated, in view of the principle of *pacta sunt servanda*, for the state's alleged failure to abide by the recommendations of the Commission (Article 50.3) in its report No. 75/98. The Commission further claimed that Argentina had violated the rights set forth in the American Declaration of the Rights and Duties of Man in Articles XVIII (right to justice) and XXIV (right to petition). Finally, it asked that the state be required to compensate Mr. Cantos fully, in accordance with Article 63.1 of the Convention, and to pay court costs.

**3. Ivcher Bronstein Case versus Peru:** This application (No. 11,762), filed by the Inter-American Commission on 31 March 1999, involves alleged violation of the human rights of Mr. Baruch Ivcher Bronstein, a Peruvian citizen by naturalization and majority stockholder, director and president of the board of directors of Channel 2 television in Peru., a company owned and operated by Latinoamericana de Radiodifusión S.A.

According to the Commission, the complaint is based on an arbitrary action by the State of Peru to strip Mr. Ivcher Bronstein of his citizenship. The intended purpose was to remove him from editorial control of Channel 2 and abridge his freedom of expression, which he was exercising through reports on corruption and serious violations of human rights.

In filing this application, the Commission asked the Court to find that Peru had violated Articles 20 (Right to Nationality), 8 (Fair Trial), 13 (Freedom of Thought and Expression), 21 (Right to Property), and 25 (Judicial Protection) of the American Convention, with respect to Article 1.1.

**4. Hilaire Case versus Trinidad and Tobago:** On 25 May 1999, the Commission submitted the Hilaire case against the State of Trinidad and Tobago. This case involves the arrest, detention, prosecution and conviction of Mr. Haniff Hilaire for the crime of homicide in Trinidad and Tobago, and his capital punishment under the terms of a national law which prescribes a mandatory death sentence for the crime of homicide. Therefore, the Commission believes that Trinidad and Tobago has violated Articles 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), and 25 (Right to Judicial Protection), with respect to Articles 1.1 (Obligation to Respect Rights) and 2 (Domestic Legal Effects) of the American Convention, in injury to Mr. Haniff Hilaire.

**5. El Caracazo Case versus Venezuela:** This application was filed by the Inter-American Commission on 7 June 1999. According to the complaint, during the course of incidents that occurred in the months of February and March 1989, 35 persons were allegedly subject to extrajudicial execution by agents of the State of Venezuela, while two disappeared and another three were wounded. This gave rise to Case No. 11,455 before the Commission. In the opinion of the Commission, Venezuela has violated Articles 1.1 (Obligation to Respect Rights), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 25 (Judicial Protection), 2 (Domestic Legal Effects) and 27 (Suspension of Guarantees) of the American Convention.

**6. Trujillo Oroza Case versus Bolivia:** This application was filed by the Inter-American Commission on 9 June 1999, in reference to a chain of events that began on 23 December 1971, and the failure to investigate them. The case began when Mr. José Carlos Trujillo Oroza was allegedly arrested by agents of the State of Bolivia and subsequently made to disappear. The Commission feels that incidents listed in the application are in violation of Article 3 (Right to Juridical Personality), Article 4 (Right to Life), and Article 7 (Right to Personal Liberty) of the American Convention, in injury to the alleged victim. The Commission feels, moreover, that Bolivia violated the Right to a Fair Trial (Article 8.1), the Right to Judicial Protection (Article 25) and the Right to Humane Treatment (Article 5.1), with respect to Article 1.1 (Obligation to Respect Rights) of the American Convention, in injury to Mr. Trujillo Oroza and members of his family.

**7. Constitutional Court Case versus Peru:** This application was filed by the Inter-American Commission on 2 July 1999, in reference to incidents leading to the 28 May 1997 dismissals of Ms. Delia Revoredo Marsano de Mur, Mr. Manuel Aguirre Roca and Mr. Guillermo Rey Terry from their positions as judges on Peru's Constitutional Court. The dismissals were the consequence of a decision handed down by that court to disqualify Law 26,657, which provides for a second re-election to the position of president, contrary to the provisions of Peru's constitution. The Commission claims that these incidents are in violation of Article 8, paragraphs 1 and 2.c (Right to a Fair Trial), Article 23.1.c (Right to Participate in Government), and Article 25 (Right to Judicial Protection) of the American Convention, in injury to the alleged victims. The Commission also feels that Peru has violated Article 1.1 regarding the obligation to respect rights and freedoms enshrined in the Convention as well as the duty, established in the Convention's Article 2, to adopt domestic legal provisions that will ensure and give effect to the full and free exercise of the Convention's rights and freedoms by all persons subject to the jurisdiction of the state.

## **F. NEW REQUEST FOR PROVISIONAL MEASURES**

### **Provisional measures in the Digna Ochoa y Plácido *et al.* Case (Mexico)**

On 11 November 1999, the Inter-American Commission filed with the Court a request for provisional measures in the case *Digna Ochoa y Plácido et al.*, currently pending before the Commission. These measures were requested on behalf of Ms. Ochoa, Mr. Edgar Cortéz Morales, Mr. Mario Patrón Sánchez and Mr. Jorge Fernández Mendiburu, members of the Miguel Agustín Pro Juárez Center for Human Rights.

The incidents on which the request is based began on 9 August 1999, when Ms. Ochoa, an attorney with this non-governmental organization, was abducted for several hours by unknown persons. She and other members of the organization subsequently received anonymous threats and, on 28 October 1999, she was again abducted for approximately nine hours. As a result, on 17 November, the Inter-American Court passed a resolution stating that the State of Mexico should adopt measures necessary to protect the life and personal safety of these individuals (**Appendix XXIX**).

## **G. STATUS OF MATTERS CURRENTLY PENDING BEFORE THE COURT**

### **1. Contentious cases**

<b>Name of case</b>	<b>Respondent government</b>	<b>Current stage</b>
1. Neira Alegría <i>et al</i> Case.....	Peru.....	Supervision of implementation
2. Caballero Delgado y Santana Case	Colombia .....	Supervision of implementation
3. El Amparo Case.....	Venezuela.....	Supervision of implementation
4. Garrido y Baigorria Case....	Argentina .....	Supervision of implementation
5. Castillo Páez Case .....	Peru.....	Supervision of implementation
6. Loayza Tamayo Case.....	Peru.....	Supervision of implementation
7. Paniagua Morales <i>et al</i> Case.	Guatemala.....	Reparations
8. Blake Case.....	Guatemala.....	Supervision of implementation
9. Suárez Rosero Case .....	Ecuador.....	Supervision of implementation
10. Benavides Cevallos Case..	Ecuador.....	Supervision of implementation
11. Cantoral Benavides Case .	Peru.....	Merits
12. Durand and Ugarte Case .	Peru.....	Merits
13. Bámaca Velásquez Case...	Guatemala.....	Merits
14. Villagrán Morales <i>et al</i> Case.	Guatemala.....	Merits
15. Castillo Petruzzi <i>et al</i> Case.	Peru.....	Supervision of implementation
16. Cesti Hurtado Case.....	Peru.....	Supervision of implementation and interpretation of judgment

17. Baena Ricardo <i>et al</i> Case. .	Panama.....	Merits
18. Mayagna Aguas Tingni Indigenous Community Case	Nicaragua.....	Preliminary objections
19. Las Palmeras Case .....	Colombia .....	Preliminary objections
20. The Last Temptation of Christ Case	Chile.....	Merits
21. Cantos Case .....	Argentina .....	Preliminary objections
22. Ivcher Bronstein Case.....	Peru.....	Merits
23. Hilaire Case.....	Trinidad and Tobago .....	Preliminary objections
24. El Caracazo Case .....	Venezuela.....	Reparations
25. Trujillo Oroza Case .....	Bolivia.....	Preliminary objections
26. Constitutional Court Case	Peru.....	Merits

## 2. Provisional Measures

Name	State	Current status
1. Alvarez <i>et al</i> .....	Colombia.....	Active
2. Bámaca Velásquez.....	Guatemala.....	Active
3. Blake .....	Guatemala.....	Active
4. Caballero Delgado y Santana.....	Colombia.....	Active
5. Carpio Nicolle.....	Guatemala.....	Active
6. Colotenango .....	Guatemala.....	Active
7. Cesti Hurtado.....	Peru.....	Active
8. Giraldo Cardona.....	Colombia.....	Active
9. Clemente Teherán <i>et al</i> .....	Colombia.....	Active
10. James <i>et al</i> .....	Trinidad and Tobago ..	Active
11. Digna Ochoa y Plácido <i>et al</i> .....	Mexico.....	Active

## H. STATUS OF COMPLIANCE WITH THE JUDGMENTS OF THE COURT

### 1. El Amparo Case versus Venezuela

The Court gave the state a 20 March 1997 deadline for carrying out the sentence of 14 September 1996. In 1998 and 1999, the Court studied various procedural briefs

submitted by the state and by members of the victims' families concerning the status of implementation of the judgment.

On 18 January 1999, the state of Venezuela filed a new report on implementation of the judgment on reparations in this case. On 30 March 1999, the Commission and representatives of the victims submitted briefs responding to the government report. The Court, in its Forty-sixth Regular Session, prepared a comprehensive report on implementation of the judgment and agreed that the state should be sent a copy of the text and invited to present its observations.

## **2. Caballero Delgado and Santana Case versus Colombia**

On 29 January 1997, the Court delivered a judgment on reparations, giving the state of Colombia six months to comply with its orders. During the year of 1998, the Court studied various procedural briefs filed by the state and by members of the victims' families on the status of implementation of the judgment.

On 20 January 1999, the Court approved a request by the state of Colombia to modify the form of implementation of the judgment on reparations by setting up the investment for underage beneficiaries as a "Fixed-Term Certificate of Deposit" in Colombian *pesos*. The Court cautioned, however, that it was giving this authorization on the condition that the form of investment be the option most favorable to the minors and that, in setting it up, the state should take all measures necessary to ensure that, in the future, their interests should not be affected by inflation.

On 8 February 1999, the Inter-American Commission notified the Court that the applicants had expressed "serious reservations" about the establishment of this investment and therefore asked the Court to reconsider its decision. The Commission also proposed, as an alternative, that investments on behalf of the minors be made in a specific bank, the Banco Cafetero de Miami (BANCAFE), in "Fixed-Term Certificates of Deposit" in US dollars. On 31 March 1999, the state submitted a response stating that the request by the Commission was a reasonable alternative advantageous to the beneficiaries.

On 4 June 1999, the President, empowered by the Court, sent a note to the state confirming that payment had been made for Ms. María Nodelia Parra. He authorized the state to make the payment due to the Caballero Parra and Caballero Martínez children through an investment in BANCAFE in fixed-term certificates of deposit in US dollars. Finally, he requested up-to-date, detailed information on steps being taken to locate family members of Mrs. María del Carmen Santana, to establish a trust on behalf of these family member, and to locate the remains of the victims and turn them over to their families.

On 29 September 1999, the Secretariat, following instructions from the Court, granted the state a 15 November 1999 deadline to make the payment due to the minors Andrés Caballero Parra and Ingrid and Carolina Caballero Delgado.

To date, the state has failed to supply any information on compliance despite a 25 November 1999 note from the Secretariat reminding the state of its reporting obligation. The Commission filed a brief on 15 October 1999.

### **3. Benavides Cevallos Case versus Ecuador**

On 19 April 1999, the state complied with a request by the Court and filed a report on implementation of the judgment of 19 June 1998. This report was forwarded to the Commission and to representatives of the victim's family on 6 May 1999, with the request that they submit any comments they considered pertinent. The Commission responded on 22 June 1999. The Court in its Forty-sixth Regular Session studied these briefs, which acknowledged payment of compensation by the state. On 30 November 1999, it asked Ecuador for information on steps taken to continue to investigate and punish those responsible for violating the human rights of Ms. Consuelo Benavides Cevallos and, at the request of her parents, to name streets, plazas or schools in her honor.

### **4. Garrido and Baigorria Case versus Argentina**

On 30 March 1999, the state submitted a report on implementation of the Court's 27 August 1998 judgment on reparations. The Commission and the representatives submitted briefs commenting on the state's report.

On 4 June 1999, the President, empowered by the Court, sent a note requesting the state to file an additional report on implementation, to include a detailed description on the components of the judgment on reparations.

On 30 June 1999, the state filed its report. On 27 June, the Commission submitted comments, and on 23 September and 18 October 1999, the representatives of the victims also responded with comments on the state's report.

On 25 November 1999, the Secretariat, on instructions of the Court, asked the state for information on those components of the judgment that were still pending implementation; this information will be weighed by the Court, in due time.

### **5. Blake Case versus Guatemala**

The term granted for implementing the 22 January 1999 judgment on reparations expired on 25 July of the same year. Guatemala filed two communications on the judgment, the first on 20 July 1999, addressing capital issues, and the second on 26 July

1999, concerning non-capital considerations. The communication received on 20 July 1999 stated that Guatemala was encountering budgetary difficulties for making the payments ordered by the Court and proposed payment in successive disbursements beginning in the year 2000. The Commission filed its response on 27 August 1999, and the victims, on 3 September 1999, expressing disagreement with the state's proposal but suggesting that the Court, as an exception, could grant a term through 31 January 2000 for implementation of the judgment. The Court is awaiting a comprehensive report on implementation of the judgment and at that time will deliberate and make a decision.

## **6. Suárez Rosero Case versus Ecuador**

The 21 January 1999 judgment on reparations granted the state a 25 July deadline for presenting a report on its compliance. When the term lapsed and the state had not reported as required, the Secretariat remitted a note on 29 July to remind Ecuador of its obligation. On 11 November 1999, the state submitted a report on implementation of the judgment on reparations, which will be weighted by the Court in due time.

## **7. Provisional Measures in James *et al.* Case versus Trinidad and Tobago**

On 24 May 1999, the Court sent a note to the President of the Permanent Council of the Organization of American States, Mr Julio César Aráoz (**Appendix XXXV**), concerning the failure of Trinidad and Tobago to abide by the resolutions delivered by the Inter-American Court. This non-compliance, outlined in the Court's 1998 Annual Report, had not been included in the operative part of the recommendations that the Commission on Juridical and Political Affairs of the Organization had given to the General Assembly, and therefore the Court asked the President of the Permanent Council to submit his note to the session that the Council was to hold the following 26 May.

On 25 May 1999, the Court sent a second note to the President of the Permanent Council of the OAS (**Appendix XXXVI**), acknowledging receipt of its note of the previous day and reiterating the need to include an operative paragraph on the failure of Trinidad and Tobago to comply with the mandates of the Court. This would allow the Permanent Council of the OAS to discuss the issue and make a decision.

On 28 May 1999, the Court sent a note to the Secretary General of the OAS, Mr. César Gaviria Trujillo (**Appendix XXXVII**), addressing the failure of Trinidad and Tobago to abide by the resolutions of the Court. Because this non-compliance had not been mentioned in the operative part of the draft resolution by the Commission on Juridical and Political Affairs or by the Permanent Council of the Organization, the Court asked the Secretary General to call this note to the attention of "the authorities of the Twenty-ninth Regular Session of the General Assembly of the OAS."



The President of the Court, presenting the Annual Report to the Permanent Council of the OAS, placed on the record the failure by the state of Trinidad and Tobago to abide by various resolutions of the Court concerning provisional measures in the James et al. case, currently pending before the Inter-American Commission.

The state executed Mr. Joey Ramiah on 4 June 1999 and Mr. Anthony Briggs on 28 July 1999. Both had been targeted by Court-ordered provisional measures.

## **8. Neira Alegría et al. Case versus Peru**

The term for complying with the 19 September 1996 judgment on reparations lapsed on 19 March 1997. On 30 October 1998, representatives of the victims' families filed a brief on implementation of the order. On 6 January 1999, Peru reported on the status of implementation of the judgment on reparations advising that "it is not possible to locate, identify and surrender the remains of the deceased, Víctor Neira Alegría, Edgar Zenteno Escobar and William Zenteno Escobar, because of their bodies have not been identified."

On 25 January and 23 March 1999, the representatives of the victims' families and the Inter-American Commission filed briefs on compliance with the judgment on reparations.

On 4 June 1999, the President of the Court sent a note informing the state that the Court had examined the general status of implementation of the judgment on reparations and had taken note of compensatory payments made to the beneficiaries. It also reiterated the state's still-pending obligation to locate and identify the victims' remains and surrender them to the families, and gave the state a 30 July 1999 deadline to submit a detailed description of steps taken to comply with this obligation. Given the subsequent failure of the state to submit such a report, on 3 August 1999 the Secretariat sent a note reminding the state of this obligation. To date, no information has been forthcoming.

## **9. Loayza Tamayo Case versus Peru**

The deadline for the state to implement the 27 November 1998 judgment on reparations lapsed on 3 June 1999. On 11 June 1999, the Secretariat asked the state to submit a report on its compliance with the judgment. On 25 June 1999, Peru notified the Court of a decision by the Transitory Criminal Chamber of the Supreme Court of Peru, dated 14 June 1999, declaring the judgment "non-performable." On 26 July 1999, the victim and the Commission submitted their comments on the state's brief. The Court studied the briefs filed by the state, the victim and the Commission and, on 17 November 1999, handed down a resolution on implementation of the 27 November 1998 judgment on reparations (**Appendix XXVII**) declaring that, in accordance with the principle of *pacta sunt servanda* and consistent with the provisions of Article 68.1 of the Convention, Peru was duty-bound to fulfill the Court's order promptly.

## 10. Castillo Páez Case versus Peru

The deadline for the state to implement the 27 November 1998 judgment on reparations lapsed on 3 June 1999. On 11 June 1999, given the lack of information on compliance with the judgment, the Secretariat of the Court sent a note reminding the state of its obligation to report. A similar note was sent on 14 June of the same year. To date, Peru has submitted no information on the subject.

## 11. Castillo Petruzzi *et al.* Case versus Peru

On 15 June 1999, Peru remanded the 30 May 1999 judgment on the merits of the case, based on an 11 June 1999 resolution of the Full Chamber of the Supreme Council of Military Justice which declared the Court's judgment "non-performable." On 23 July 1999, the representatives of the victims filed their comments on Peru's communication. On 26 July of the same year, the Inter-American Commission did the same. Having studied the position of the state and the comments of the victims and the Commission, on 17 November 1999, the Court handed down a resolution (**Appendix XXVIII**) declaring that, in accordance with the principle of *pacta sunt servanda* and consistent with the provisions of Article 68.1 of the Convention, Peru was duty-bound to fulfill the 30 May 1999 order promptly.

12. The intended withdrawal from the contentious jurisdiction of the Court with immediate effect by Peru, the return of the applications in the Ivcher Bronstein and Constitutional Court cases, the return of the judgments of the Court in those cases and declaration of the impossibility of executing the judgments in the Loayza Tamayo and Castillo Petruzzi *et al.* cases

On 9 July 1999, Peru deposited an instrument with the General Secretariat of the OAS by means of which it withdrew, "effective immediately," "its declaration recognizing the optional clause of submission to the contentious jurisdiction of the Inter-American Court of Human Rights."

On the basis of this decision to withdraw, on 16 July 1999, the state of Peru remanded to the Court the application of the Tribunal Constitucional case against Peru, which the Inter-American Commission had submitted to the consideration of the Court on 31 March 1999, and on August 4, 1999 the application of the Ivcher Bronstein case, submitted by the Commission on 2 July 1999. On 24 September 1999, the Court delivered a judgment declaring inadmissible the immediate withdrawal of the state of Peru from the binding jurisdiction of the Court and decided to continue hearing the cases (**Appendices XVII and XVIII**).

On 11 June 1999, the Supreme Council of Military Justice of Peru decided that the judgment given by the Court in the Castillo Petruzzi *et al.* case on 30 May 1999 was "non-performable;" thereupon, the state proceeded to remand the judgment to the

Court on 15 June 1999. On 14 June 1999, the Second Transitory Criminal Chamber of the Supreme Court of Peru Specialized in Crimes of Illicit Drug Trafficking decided that the 27 November 1999 judgment of the Court on reparations in the Loayza Tamayo case was “non-performable” and on 25 June 1999 remanded the judgment to the Court. The Court, in resolutions on both cases on 17 November 1999, ruled that Peru was under obligation, in accordance with the principle *pacta sunt servanda*, to carry out both judgments immediately (**Appendices XXVII and XXVIII**).

This chain of events aroused great concern in the inter-American system for the protection of human rights and, more generally, among all international institutions for human rights protection. On 1 October 1999, the European Court of Human Rights sent the Court a letter signed by its President Judge Luzius Wilhaber, expressing the European Court’s determination that mechanisms for international protection should suffer no setbacks (**Appendix XXXVIII**).

The President of the Inter-American Court, Judge Antônio A. Cançado Trindade, in a letter dated 30 October 1999, thanked the President of the sister court in Strasbourg and stated that he fully shared the concern of the European Court for keeping intact the existing mechanisms for international protection of human rights (**Appendix XXXIX**).

As soon as it learned of the decision by the state of Peru to remand the judgments and applications named above, the Court contacted the Secretary General of the OAS, Mr. César Gaviria Trujillo, to express its concern. In a note dated 28 September 1999 (**Appendix XL**), the Court stated:

Peru’s actions set a very serious precedent with a direct impact on the system of protection established by the American Convention on Human Rights. Because it is the responsibility of this Court to defend the soundness of the system, we are asking you, Mr. Secretary, in view of the actions by the state of Peru, to take whatever course you deem appropriate as custodian of the Convention.

The Secretary General was also requested to convey this note to the Permanent Council of the Organization.

Given these circumstances, the Court must seize the authority given to it in Article 65 of the American Convention to report to the General Assembly of the Organization. The Assembly can then urge the state of Peru to comply with all the judgments delivered by the Inter-American Court for violation of the human rights established in the American Convention.

### **13. Report in on Article 65 of the Convention**

The Court has taken note (**see paragraphs 9, 10 and 11 above**) of the refusal by Peru to comply with the 27 November 1998 judgments on reparations in the Loayza

Tamayo and Castillo Páez cases and the 30 May 1999 judgment on the merits of the Castillo Petruzzi et al. case. In accordance with Article 65 of the American Convention, the Court hereby informs the General Assembly of the OAS that the Republic of Peru, a State Party to the American Convention, has failed to comply with the Court's judgments in the cases named above, and therefore requests it to urge this state to abide by the findings of the Court.

### **III. OTHER ACTIVITIES OF THE COURT**

#### **A. STRENGTHENING THE INTER-AMERICAN SYSTEM FOR THE PROTECTION OF HUMAN RIGHTS**

During its Forty-third Regular Session, held from 18 to 29 January 1999, the Court agreed to carry out a series of activities designed to strengthen the inter-American system for the protection of human rights. It appointed Vice-President (at that time) Judge Antônio A. Cançado Trindade as rapporteur of the process and coordinator of a follow-up committee whose other members were Judge Salgado-Pesantes, Judge Abreu-Burelli and Judge García-Ramírez.

This committee was assigned to organize a series of high-level activities that would provide the Court with the information it needed to propose appropriate measures for strengthening the system. The first would be a seminar in November 1999, to which judges of the Court, members of the Commission, and human rights experts from throughout the Americas, Europe and Africa would be invited, to celebrate the thirtieth anniversary of the adoption of the American Convention and the twentieth anniversary of the installation of the Inter-American Court. The second would be two meetings of experts to take place in 1999 and two more in 2000. The purpose would be to ensure continuity so that, instead of standing as an isolated action, these efforts could become an on-going, permanent activity that ultimately would generate recommendations of concrete measures for strengthening the system.

The first meeting took place at the Court on 20 September 1999 and was attended by: Mr. Antônio A. Cançado Trindade, President of the Inter-American Court of Human Rights; Mr. Máximo Pacheco-Gómez, Vice-President of the Inter-American Court of Human Rights; Mr. Rodolfo Piza Escalante, former President of the Inter-American Court and President of the Constitutional Chamber of the Supreme Court of Costa Rica; Mr. Christophe Swinarski, Advisor to the International Committee of the Red Cross; Mr. Jaime Ruiz de Santiago, representative of the United Nations High Commissioner for Refugees in Costa Rica; Mr. Christian Tattenbach, member of the Board of Directors of the Inter-American Institute of Human Rights; Mr. Manuel E. Ventura-Robles, Secretary of the Inter-American Court of Human Rights; and Mr. Renzo Pomi, Deputy Secretary of the Inter-American Court of Human Rights.

The second meeting was held in San Jose, Costa Rica on 24 November 1999, attended by: Mr. Antônio A. Cançado Trindade, President of the Inter-American Court of Human Rights; Mr. Máximo Pacheco-Gómez, Vice-President of the Inter-American Court of Human Rights; Mr. Hernán Salgado-Pesantes, Judge on the Inter-American Court of Human Rights; Mr. Oliver Jackman, Judge on the Inter-American Court of Human Rights; Mr. Alirio Abreu-Burelli, Judge on the Inter-American Court of Human Rights; Mr. Sergio García-Ramírez, Judge on the Inter-American Court of Human Rights; Mr. Carlos Vicente de Roux-Rengifo, Judge on the Inter-American Court of Human Rights; Mr. Thomas Buergenthal, former President of the Inter-American Court of Human Rights; Mr. Pedro Nikken, President of the Board of Directors of the Inter-American Institute of Human Rights and former President of the Inter-American Court of Human Rights; Mr. Héctor Fix-Zamudio, former President of the Inter-American Court of Human Rights; Ms. Margaret Crahan, member of the Board of Directors of the Inter-American Institute of Human Rights; Mr. Roberto Cuéllar, Executive Director of the Inter-American Institute of Human Rights; Mr. Andrew Drzemczewski, Head of the Secretary General's Monitoring Unit of the Council of Europe; Mr. Christophe Swinarski, Advisor to the International Committee of the Red Cross; Mr. Janusz Symonides, Director of the UNESCO Division of Peace, Human Rights, Democracy and Tolerance; Mr. Manuel Ventura-Robles, Secretary of the Inter-American Court of Human Rights; and Mr. Renzo Pomi, Deputy Secretary of the Inter-American Court of Human Rights.

The third session is scheduled to take place at the Court on 5 and 6 February 2000, and the fourth, on 8 and 9 February, also at the Court.

## **B. VISIT TO THE ORGANIZATION OF AMERICAN STATES**

From 5 to 9 April 1999, the President of the Court, Judge Hernán Salgado-Pesantes, together with Vice-President Judge Antônio A. Cançado Trindade and Court Secretary Manuel E. Ventura-Robles, paid an official visit to the headquarters of the OAS in Washington D.C., to conduct activities pertaining to their positions. They were accompanied by the Head of the Administrative Area, Mr. Arturo Herrera, who held several meetings with Organization staff to discuss administrative and budgetary issues of concern to the Court. During their visit, they took part in the following activities:

### **1. Presentation of the Court's Annual Report to the Permanent Council of the OAS**

On 7 April 1999, the President of the Court, Judge Hernán Salgado-Pesantes, together with Vice-President Judge Antônio A. Cançado Trindade and Court Secretary Manuel E. Ventura-Robles, appeared before the Permanent Council of the Organization to introduce the Court's Annual Report for the year 1998. He drew attention to the Court's achievements during the year, described the current financial situation and

reported broadly on the failure of the state of Trinidad and Tobago to abide by provisional measures ordered by the Court in the James et al. case. Several ambassadors and permanent representatives of the states praised the content of the report and the efforts the Court was making to fulfill the obligations set forth in the Convention despite its meager budget.

## **2. Presentation of the Annual Report of the Court to the Committee on Juridical and Political Affairs of the OAS**

That same day the President of the Court, Judge Hernán Salgado-Pesantes, together with Vice-President Judge Antônio A. Cançado Trindade and Court Secretary Manuel E. Ventura-Robles, submitted the Court's Annual Report for the year 1998 to the Permanent Council's Committee on Juridical and Political Affairs. Several of the delegates on the Committee expressed their pleasure with the content of the report, which in their opinion, reflected a considerable increase in the volume and quality of Court's work despite the budgetary constraints affecting the entire Organization.

## **3. Meeting with the Secretary General of the OAS, Mr. César Gaviria Trujillo**

On 7 April 1999, the Secretary General of the Organization, Mr. César Gaviria Trujillo, received the President of the Court, Judge Hernán Salgado-Pesantes, Vice-President Judge Antônio A. Cançado Trindade, and Secretary Mr. Manuel E. Ventura-Robles. It was a fitting occasion for the Secretary General to hear for himself the budgetary needs of the Inter-American Court as well as the goals set for the year 1999. The Secretary General was receptive to continuous cooperation with the Court, always within the budgetary constraints of the OAS.

## **4. Visits to various Permanent Missions to the OAS**

During the visit to Washington D.C., the officers of the Court called on the permanent missions of several Member States of the Organization, seeking greater support for the Court's budget proposal for the year 2000. Their visits took in the missions of Ecuador, Colombia, Peru, Mexico, Costa Rica and Brazil.

## **5. Meetings with other Bodies and Officials of the OAS**

One of the concerns for the visit to the OAS was to coordinate mechanisms for working with those bodies of the OAS that interact closely with the Court. Working meetings were held for this purpose with members of the Inter-American Commission and the Secretariat for Legal Affairs. Court officials also visited several OAS departments to iron out policies and guidelines for the Court's administration and budget.

## **6. Meetings with Financial Entities and Cooperation Agencies**

Meetings were held with AID, the Inter-American Development Bank and the World Bank as part of the Court's push to attract external funds to improve institutional operations, as well as contributions to help in organizing a seminar on strengthening the Inter-American human rights system (**see paragraph G. below**).

As a result of these meetings, administrative relations were strengthened with entities of the OAS, and talks began for possible future agreements on international cooperation with AID, the IDB and the World Bank.

### **C. TWENTY-NINTH REGULAR SESSION OF THE GENERAL ASSEMBLY OF THE OAS**

Court President Judge Hernán Salgado-Pesantes and Vice-President Judge Antônio A. Cançado Trindade attended the Twenty-ninth Regular Session of the General Assembly of the OAS, held from 6 to 8 June 1999 in Guatemala City, Guatemala, in representation of the Court. Also present was Court Secretary Manuel E. Ventura-Robles.

Included among the major agreements and other activities of the General Assembly were:

#### **1. Approval of the 1998 Annual Report of the Inter-American Court**

The President of the Court, Judge Hernán Salgado-Pesantes, introduced the Court's Annual Report to a single committee, known as the General Committee. The Assembly had suspended use of Article 22 of its Rules of Procedure, and therefore did not set up three different committees, one of which would have been the First Committee on Juridical and Political Matters, where the Court's report had been presented in the past. In his presentation, the President stressed the following points: decisions by Haiti, Brazil and Mexico to accept the contentious jurisdiction of the Court; applications of new contentious cases and provisional measures; actions undertaken to cut back the Court's operating expenses; implementation of the Agreement for Administrative Independence; working meetings with the Inter-American Commission and with the African Commission on Human and People's Rights; and the financial situation of the Court. The President also described actions taken in fulfillment of the provisions of Article 65 of the American Convention. Specifically, he referred to the failure of Trinidad and Tobago to abide by resolutions of the Court concerning provisional measures in the James et al. case currently pending before the Inter-American Commission. He also drew attention to problems that arose when the Permanent Council placed before the General Assembly a version of the case that omitted the preambular paragraphs and operative points in which the Court urged Trinidad and Tobago to comply, in response to which the Court had sent notes expressing its

concern to the Secretary General, the President of the Council and the chairman of the Committee on Juridical and Political Matters (**see paragraph II.H.7 above**).

Finally, the General Assembly approved a resolution containing observations and recommendations on the Court's Annual Report (AG/RES.1652 (XXIX-O/99)), agreeing:

1. To receive and transmit to the Inter-American Court of Human Rights the observations and recommendations of the OAS Permanent Council on the annual report.
2. To express its satisfaction that the Governments of Haiti, Brazil, Mexico, and the Dominican Republic have recognized the Court's contentious jurisdiction, which recognition helps to strengthen the inter-American system for the promotion and protection of human rights.
3. To urge those member states of the OAS that have not yet done so to give special and expedited consideration to signing, ratifying, or acceding to, as appropriate and in accordance with their constitutional and legal processes, the American Convention on Human Rights, or Pact of San Jose, and to accept, as appropriate, the contentious jurisdiction of the Inter-American Court of Human Rights.
4. To provide the Inter-American Court of Human Rights with an appropriate level of funding and the necessary support to enable it to continue performing the important functions entrusted to it by the American Convention on Human Rights.
5. To thank the Inter-American Court of Human Rights for its work during the period covered by the report and to urge it to proceed with its important tasks.

## **2. Celebration of the Thirtieth Anniversary of the American Convention on Human Rights and Twentieth Anniversary of the Inter-American Court of Human Rights**

The General Assembly adopted a resolution (**AG/RES.1664 (XXIX-O/99)**) on the celebration of the thirtieth anniversary of the American Convention on Human Rights, known as the "Pact of San Jose, Costa Rica," and the twentieth anniversary of the installation of the Inter-American Court of Human Rights, agreeing:

1. To thank the Government of Costa Rica for hosting the events commemorating the 30th anniversary of the American Convention on Human Rights (Pact of San Jose, Costa Rica) and the 20th anniversary of the Inter-American Court of Human Rights.
2. To include this important celebration, sponsored by the Government of Costa Rica and the Inter-American Court of Human Rights, among the official activities of the inter-American human rights system for November 1999.
3. To urge the governments of the OAS member states, the OAS Secretary General, the permanent observers, and the Inter-American Commission on Human



Rights to attend or be represented at the celebration of the 30th anniversary of the American Convention on Human Rights (Pact of San Jose, Costa Rica) and the 20th anniversary of the Inter-American Court of Human Rights.

### **3. Evaluation of the Operation of the inter-American System for the Protection and Promotion of Human Rights**

The General Assembly examined a report by the Permanent Council of the Organization of American States, regarding the workings of the inter-American system for the protection and promotion of human rights, and resolved as follows (**AG/RES.1633 (XXXIX-O/99)**):

1. To promote concrete initiatives and measures designed to strengthen the institutional structure of the inter-American human rights system within the framework of the legal instruments governing it and to promote ties with national as well as regional and international entities with similar purposes so as to strengthen and improve that system.

To instruct the Permanent Council to continue its comprehensive consideration of the various aspects involved in the evaluation of the inter-American system for the promotion and protection of human rights with a view to strengthening and improving it, formulating such recommendations as it considers appropriate.

3. To instruct the Permanent Council to promote dialogue and cooperation among the organs, agencies, and entities of the inter-American system and, where appropriate, with the Inter-American Institute of Human Rights and other governmental and nongovernmental organizations and institutions.

4. To forward this resolution to the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.

5. To request the Permanent Council to report to the General Assembly at its thirtieth regular session on the implementation of this resolution.

### **4. Adoption of the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities**

The inter-American system of human rights was strengthened when the General Assembly, meeting in Guatemala, adopted an additional instrument: the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities. The Secretary General took part in the formal ceremony. Also on hand were the President, Vice-President and Secretary of the Court.

### **5. Approval of the 2000 budget for the Court**

Although the Court submitted a draft budget to the General Assembly for US\$1,217,775, the Assembly approved only US\$1,114,900, a sum equal to the budget approved for 1999 and nearly the same as 1998.

#### **D. VISIT OF THE PRESIDENT AND SECRETARY TO OAS HEADQUARTERS**

The President of the Court, Judge Antônio A. Cançado Trindade, and the Secretary, Manuel E. Ventura-Robles, were in Washington D.C. from 27 October 1999 through 4 November 1999, and met with the Secretary General, César Gaviria Trujillo and the Chairman of the Permanent Council's Committee on Juridical and Political Affairs and Permanent Representative of Mexico to the OAS, Ambassador Claude Heller. The purpose was to share ideas concerning the on-going evaluation of the inter-American system of human rights, undertaken by the special committee of the Court, and to agree on the Court's contribution to this process. They also met with several of the ambassadors accredited to the OAS to talk about the same subject and with the President of the Inter-American Commission, Robert Goldman, and Executive Secretary Jorge Taiana. They then met with Mr. James Spinner, Deputy Legal Advisor to the President of the IDB, which was to co-sponsor the seminar in San Jose, Costa Rica on 23 and 24 November (**see paragraph G. below**), and asked him to extend their gratitude to Bank President Dr. Enrique Iglesias for the Bank's contribution. They also met with representatives of CEJIL and Human Rights Watch Americas, non-governmental organizations that have participated in several cases before the Court.

#### **E. MEETING WITH THE INTER-AMERICAN COMMISSION IN 1999 COMPLIANCE WITH GENERAL ASSEMBLY RESOLUTIONS AG/RES.1041 (XX-0/90) AND AG/RES.1330 (XXXV-O/95)**

On 20 November 1999, the Court and the Inter-American Commission held a joint meeting at the Court during celebrations of important anniversaries of the inter-American system for the protection of human rights (**see paragraphs E., F. and G. below**). The purpose of this meeting was twofold: to fulfill the terms of resolution AG/RES.1041 (XX-O/90) on coordinating the functions pertaining to the two bodies, and to comply with resolution AG/RES.1330 (XXV-O/95), which stated,

1. To recommend to the Inter-American Court of Human Rights that its Annual Report include specific details regarding not only the purposes of its periodic meetings with the Inter-American Commission on Human Rights but also the results of those meetings.

In this annual meeting, the two entities agreed:

1. to seek joint support from international funding agencies for the activities of the Court and the Commission in areas not covered by the OAS budget;
2. to discuss criteria used by the Commission for sending cases to the Court; measures the Commission can employ for handling evidence when processing

cases; in order to the Commission to implement it; oversight of measures taken to carry out the judgments of the Court; and other procedural matters.

The Court and the Commission emphasized how important it was for the States Parties to assume fully the responsibility freely assumed, under the terms of the Convention (*pacta sunt servanda*), to abide by the decisions of the two supervisory bodies. They took an approving view of the commitment by the states of the hemisphere to comply fully with decisions of the two bodies, particularly the judgments of the Court. In this sense, they concluded that effective protection of human rights in the hemisphere depends on faithful compliance with these decisions.

The two oversight bodies also stressed recent progress being seen in the system. Two developments were of special note: the acceptance by Brazil, Haiti, Mexico and the Dominican Republic of the contentious jurisdiction of the Court; and the November entry into effect, following Costa Rica's ratification, of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador"). The latter is an unequivocal demonstration of the widespread understanding that all human rights are closely interrelated and indivisible. They also noted that the peoples of the region have begun to attach tremendous importance to the rule of law, democracy and respect for human rights.

The two bodies were represented at this meeting by:

For the Inter-American Court of Human Rights, Judge Antônio A. Cançado Trindade (President), Máximo Pacheco-Gómez (Vice-President), Hernán Salgado-Pesantes (Judge), Oliver Jackman (Judge), Alirio Abreu-Burelli (Judge), Carlos Vicente de Roux-Rengifo (Judge), Manuel E. Ventura-Robles, Secretary and Renzo Pomi, Deputy Secretary.

For the Inter-American Commission of Human Rights, Robert Kogod Goldman (President), Hélio Bicudo (First Vice-President), Claudio Grossman (Second Vice-President), Carlos Ayala Corao (Commissioner), Jean-Joseph Exumé (Commissioner), Alvaro Tirado Mejía (Commissioner), Jorge E. Taiana (Executive Secretary) and David Padilla (Deputy Executive Secretary).

At the end of the meeting, the President of the Court, Judge Antônio A. Cançado Trindade, and the President of the Commission, Mr. Robert Goldman, sent a letter to the Secretary General of the OAS, Mr. César Gaviria, describing the positive outcome of the meeting (**Appendix XLI**).

F. VISIT OF DIGNITARIES TO THE COURT ON THE OCCASION OF THE THIRTIETH ANNIVERSARY OF THE AMERICAN CONVENTION ON HUMAN RIGHTS AND THE TWENTIETH ANNIVERSARY OF THE ESTABLISHMENT OF THE INTER-AMERICAN COURT OF HUMAN

## RIGHTS

On 22 November 1999, at its seat in San Jose, Costa Rica, the Court received an illustrious roster of visiting dignitaries:

First of all, the full Court received The Honorable Mrs. Rosario Green, Secretary of External Relations of the United Mexican States, accompanied by a high-level entourage. It then received The Honorable Mr. José Gregori, Secretary of State for Human Rights of the Republic of Brazil, accompanied by high-level officials from that country. Both visitors emphasized the importance that the governments of Mexico and Brazil attached to the work being done by the Court and extended words of support, translated into donations that the two governments offered to the Court.

The Court also received a visit from ministers of foreign affairs and official delegations of the Member States of the OAS, as well as the Secretary General of the Organization. The stop at the Court was part of the itinerary for these visitors who were in Costa Rica to attend a meeting of foreign ministers, and served as an expression of support for the Inter-American Court and for all work to strengthen the inter-American system for the protection of human rights.

The President of the Court, Judge Antônio A. Cançado Trindade, in thanking the dignitaries for their visit, stressed the impressive evolution the Inter-American Court had undergone in its 20 years of life, and the vast body of protective case law it had already developed. He also pointed to the great significance this visit by foreign ministers and other heads of delegation held for the Court, as a sign of support for the work to defend and promote human rights in the hemisphere.

### G. OFFICIAL ACTS OF THE GOVERNMENT OF COSTA RICA ON THE OCCASION OF THE 30th ANNIVERSARY OF THE AMERICAN CONVENTION ON HUMAN RIGHTS AND THE 20th ANNIVERSARY OF THE INSTALLATION OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS

On the occasion of commemorations of the thirtieth anniversary of the American Convention and the twentieth anniversary of the installation of the Inter-American Court, the government of Costa Rica decreed the week from 22 to 27 November as Human Rights Week. The government then carried out a number of events to commemorate these important dates.

On 22 November 1999, the government of Costa Rica invited foreign ministers from the countries of the Americas to hold a private, closed-door discussion on different facets of the current situation of the inter-American system for the protection of human rights. Following this discussion at the Ministry of Foreign Affairs of Costa Rica, the ministers approved a resolution and a declaration recognizing all the

anniversaries. This, in turn, led to an agenda of commitments to strengthen the inter-American system for the protection of human rights (**Appendix XLII**).

That same day, an official ceremony was held at the National Theater to inaugurate Human Rights Week and commemorate the thirtieth anniversary of the signing, in that same place, of the American Convention, and the twentieth anniversary of the installation of the Court. The speakers on the dais included the Costa Rican Minister of Foreign Affairs, Mr. Roberto Rojas; the President of the Inter-American Commission, Mr. Robert Goldman; the President of the Inter-American Court, Judge Antônio A. Cançado Trindade; the United Nations High Commissioner for Human Rights, Mrs. Mary Robinson; and the President of the Republic of Costa Rica, Mr. Miguel Angel Rodríguez Echeverría.

#### **H. SEMINAR “THE INTER-AMERICAN SYSTEM FOR THE PROTECTION OF HUMAN RIGHTS ON THE THRESHOLD OF THE TWENTY-FIRST CENTURY”**

In celebration of the thirtieth anniversary of the November 1969 adoption of the American Convention on Human Rights, or “Pact of San Jose, Costa Rica,” the twentieth anniversary of the installation of the Inter-American Court of Human Rights in September 1979, after the American Convention entered into force in 1978, and the fortieth anniversary of the creation of the Inter-American Commission in 1959, on 23 and 24 November 1999, the Court held a highly academic seminar coordinated by its President, Judge Antônio A. Cançado Trindade, and attended by judges of the Court and members of the Commission, prestigious jurists of the Americas and Europe, and members of renowned institutions engaged in protecting, studying, investigating and promoting issues of relevance to the development of human rights throughout the world (**Appendices XLIII to XLVI**).

The seminar was funded with cooperation from the United States Agency for International Development, the Spanish International Cooperation Agency and the Inter-American Development Bank.

The proceedings of the seminar will be published to make the work and the conclusions more widely available. It will contain all the papers prepared by invited speakers and panelists.

#### **I. INTERNATIONAL COOPERATION**

This section contains a report on progress made in implementing cooperation projects signed by the Court.

## 1. “Support for the Inter-American Court of Human Rights” Project with the European Union-Phase III.

The following publications were issued under this third phase:

### Publications of the ICHR/CEU Project - Phase III

1. Series A - OC/2	Reprint.
2. Series A - OC/13	Reprint.
3. Series A - OC/15	Not included in the project.
4. Series C - No. 23	Paniagua Morales <i>et al.</i> Case, Preliminary Objections.
5. Series C - No. 24	Castillo Páez Case, Preliminary Objections.
6. Series C - No. 25	Loayza Tamayo Case, Preliminary Objections.
7. Series C - No. 26	Garrido y Baigorria Case, Merits.
8. Series C - No. 27	Blake Case, Preliminary Objections.
9. Series C - No. 28	El Amparo Case, Reparations.
10. Series C - No. 29	Neira Alegría <i>et al.</i> Case, Reparations.
11. Series C - No. 30	Genie Lacayo Case, Merits.
12. Series C - No. 31	Caballero Delgado and Santana Case, Reparations.
13. Series C - No. 32	Villagrán Morales <i>et al.</i> Case, Preliminary Objections. Replaces Garrido y Baigorria Case, Reparations.
14. Series C - No. 33	Loayza Tamayo Case, Merits.
15. Series C - No. 34	Castillo Páez Case, Merits.
16. Series C - No. 35	Suárez Rosero Case, Merits. Replaces Paniagua Morales Case, Merits.
17.	Book in tribute to Dr. Fix-Zamudio. Replaces <i>Systematization of the Contentious Jurisprudence of the Inter-American Court of Human Rights</i> , Volume II
18. Series E - No. 1	English. Not included in the project.
19. Series E - No. 2	Spanish and English.
20.	Reprint. First Commemorative book of the Court.
21.	Reprint. Proceedings of the installation of the Court.
22.	New release of the up-to-date catalogue and General Information on the Court in electronic format. Not included in the project.
23. Series B - In the Matter of Viviana Gallardo <i>et al.</i>	
24. Series B - OC/4	Proposed Amendment.

25. Series B - OC/7	Enforceability of the Right to Reply.
26. Series B - OC/8	Habeas Corpus in Emergency Situations.
27. Series B - OC/9	Judicial Guarantees in States of Emergency.
28. Series B - OC/10	Interpretation of the American Declaration.
29. Series D - No. 11	Aloeboetoe <i>et al.</i> Case
30. Series D - No. 12	Gangaram Panday Case, Preliminary Objections.
31. Series D - No. 13	Neira Alegría <i>et al.</i> Case, Preliminary Objections.
32. Series D - No. 14	Cayara Case, Preliminary Objections.
33. Series D - No. 15	Aloeboetoe <i>et al.</i> Case, Reparations.
34. Series D - No. 16	Gangaram Panday Case, Merits.
35.	New release of the Basic Documents of the Inter-American System in electronic format. Includes the new Inter-American Convention on the Elimination of all Forms of Discrimination Against Persons with Disabilities, approved by the General Assembly in May 1999. Not included in the project.
36.	1996 Annual Report in electronic format. Not included in the project.
37.	1997 Annual Report in electronic format. Not included in the project.
38.	1998 Annual Report in electronic format. Not included in the project.
39.	Style Manual and Publication Procedures. Not included in the project.

In addition to the goals established for Phase III, work has been advancing to digitize more publications in electronic format. All the remaining publications of Series B are now ready to be reviewed and added to the Court's website. The next task will be to complete Series D.

## **2. Cooperation Agreement with the Supreme Court of Justice of the Republic of Costa Rica**

In the first stage of this project, now completed, the Supreme Court of Costa Rica provided technical advisory assistance for evaluating the capacity of the Inter-American Court's technological platform to host an Internet-based Electronic Human Rights Center. This cooperation proved critical for completing some of the components of Phase III of the European Union project, placing the Court on the Internet. As its

counterpart contribution, the Inter-American Court made its website available to the Supreme Court of Costa Rica, to access in whatever manner it may deem appropriate.

### **3. Cooperation Agreement with the Supreme Court of Justice of the Republic of Venezuela**

As in the case of the Supreme Court of Costa Rica, the Inter-American Court made its website available to the Supreme Court of Venezuela for consultations in whatever manner the Venezuelan court should deem useful. The Venezuela Court, in turn, will offer access to its existing Internet page to the Inter-American Court.

As part of the implementation of this agreement, Judge Antônio A. Cançado Trindade, Judge Máximo Pacheco-Gómez, Judge Alirio Abreu-Burelli, Judge Sergio García-Ramírez and Inter-American Court Secretary Manuel E. Ventura-Robles participated in the seminar “*La Corte Interamericana de Derechos Humanos: Aspectos Procesales, Doctrina y Jurisprudencia,*” held from 21 to 23 June 1999 in Caracas, Venezuela. They wrote and gave papers and helped moderate discussions.

### **4. Cooperation Agreement with Carlos III University of Madrid**

As a counterpart to this agreement, the Court made its Internet site available as a link on the website of Carlos III University of Madrid. In turn, the Court’s Electronic Center now features a link to the website of this respected university.

### **5. Cooperation Agreement with UNDP**

This agreement has proven critically important, as it drives a continuous process of placing the Court on the Internet. The Court’s data base has been deposited on the UNDP server, which is administered 24 hours a day. Computer technicians at the Court are in constant contact with those of UNDP to coordinate problem-solving and improve the quality of information made available to Internet users. At present, the two are working together to create a search engine for the website.

### **6. Cooperation Agreement with the UNAM Institute of Juridical Research**

On 31 May 1999, a cooperation agreement was signed with the Institute of Legal Research of the National Autonomous University of Mexico (UNAM). The President of the Court, Judge Hernán Salgado-Pesantes, signed for the Court, and Mr. Diego Valadés, Director of the Institute, signed for the University. Under the terms of this agreement, the two institutions will collaborate on a joint publication in the year 2000, giving a systematic presentation of all the Court’s contentious and advisory case law.

### **7. Cooperation Agreement with IICA**



The Inter-American Court and the Inter-American Institute for Cooperation on Agriculture (IICA) carried out an exchange of notes to set in place a plan of cooperation for a videoconferencing program. The initiative will be developed through IICA's Mexico Center for Long-Distance Training (CECADI) and will make use of the program's videoconference equipment.

#### **8. Cooperation Agreement with the National Magistracy School of Brazil**

On 8 October 1999, the Inter-American Court was in Brasilia to sign an agreement for institutional cooperation with the Brazilian National Judicial School. The two parties agreed to carry out actions, each in its own sphere of competence, to develop and strengthen institutional ties and increase cooperation. This cooperation will include the exchange of periodical and other types of information that both parties produce in the field of international human rights law. It will also emphasize academic activities with an emphasis on research and training. The agreement was signed by the President of the Inter-American Court, Judge Antônio A. Cançado Trindade, and by the Director-President of the Brazilian National Judicial School, Minister Sálvio de Figueiredo Teixeira, in a solemn ceremony presided over by the Honorable Mr. Marco Antonio de Oliveira Maciel, Vice-President of the Republic of Brazil.

#### **9. Cooperation Agreement with the Danish Center for Human Rights**

On 14 December 1999, the Inter-American Court signed a cooperation agreement with the Danish Human Rights Center in the amount of US\$27,250, to help bring the Court's publications up to date. The short-term agreement covers publication of the basic documents in English and Spanish, provisional measures in English and Spanish, and case law of the Inter-American Court from 1981 through 1999.

### **J. ACADEMIC ACTIVITIES OF THE JUDGES**

On 21 June 1999, the Vice-President of the Court, Judge Antônio A. Cançado Trindade, Judge Máximo Pacheco-Gómez, Judge Alirio Abreu-Burelli and Judge Sergio García-Ramírez, along with Court Secretary Manuel E. Ventura-Robles, were welcomed in Caracas by the full Supreme Court of the Republic Venezuela, to participate in a seminar. They delivered several papers on the inter-American system for the protection of human rights and the work of the Inter-American Court, and on the second day, moderated the closing discussions of the seminar. On the evening of 22 June, the full Supreme Court of Venezuela awarded the Vice-President of the Inter-American Court, Judge Antônio A. Cançado Trindade, and Judge Máximo Pacheco-Gómez and Judge Alirio Abreu-Burelli the "Bar of Honor of the Supreme Court of Justice of Venezuela."

Judge Antônio A. Cançado Trindade taught a course consisting of five lectures on "*The International Law of Human Rights at the Dawn of the Twenty-first Century*" in the Third

Bancaja Euro-Mediterranean Courses on International Law, held in Castellón, on the Mediterranean Coast of Spain, from 6 to 10 September 1999.

Judge Antônio A. Cançado Trindade taught a course consisting of four lectures on “*L’État Actuel et Perspectives du Système Interaméricain de Protection des Droits de l’Homme / Current State and Perspectives of the Inter-American System for the Protection of Human Rights*” at the Thirtieth Session of Studies of the International Institute of Human Rights in Strasbourg, France, from 12 to 16 July, 1999.

From 23 March through 14 April 1999, Judge Antônio A. Cançado Trindade taught a graduate course on the inter-American system for the protection of human rights consisting of seven lectures and a seminar, as Full Visiting Professor in the Faculty of Law of Tulane University, New Orleans, Louisiana, USA.

From 16 to 22 August 1999, Judge Antônio A. Cançado Trindade took part in the 69<sup>th</sup> Session (the “Berlin Session”) of the International Law Institute (*Institut de Droit International*), where he sits on the Committee on “Rights and Duties *Erga Omnes* in International Law;” the session took place in Berlin, Germany.

Judge Antônio A. Cançado Trindade gave two lectures on “The Inter-American Court of Human Rights” at the Seventeenth Interdisciplinary Course of the Inter-American Institute of Human Rights in San José, Costa Rica from 18 to 19 June 1999.

On 27 July 1999, Judge Antônio A. Cançado Trindade took part in the First Latin American Regional Conference of the International Law Association, held in São Paulo Brazil, where he spoke on “The Inter-American System for the Protection of Human Rights.”

On 25 June 1999, Judge Antônio A. Cançado Trindade issued a legal opinion on “*The Case of East Timor (1999): The Right of Self-Determination of the Timorese People*.” He was requested to deliver the opinion as an international lawyer in the framework of the United Nations/Portugal/Indonesia tripartite negotiatory process.

In 1999, Judge Antônio A. Cançado Trindade gave a course on International Public Law at the Rio-Branco Diplomatic Institute in Brasília. On 30 April the 1999 graduating class of the Institute chose him as their class patron. He also taught two courses (International Public Law and International Human Rights Law) at the University of Brasília, Brazil (first semester).

On 13 May 1999, Judge Antônio A. Cançado Trindade gave and inaugural address on “The Implementation of the United Nations International Covenant on Economic, Social and Cultural Rights” at the Fourth National Conference on Human Rights in the auditorium of the National Congress of Brazil in Brasília. He gave the opening address in a course on international relations at the Catholic University of Minas Gerais in Belo

Horizonte, Brazil (15 March 1999) and taught a master class in the auditorium of the National Assembly of Costa Rica on “Direct Access of Individuals to International Human Rights Courts” (21 May 1999). He delivered lectures to the High Court of Justice, Brasília (10 July 1999), the office of the State Prosecutor of São Paulo (13 October 1999) and in the closing ceremony of the University of Brasília Law Seminar (1 December 1999). Finally, he took part in a seminar on International Refugee Law at the UNHCR in San José, Costa Rica (26 November 1999).

In a solemn session on 9 July 1999 in the auditorium of the Office of the Rector of the Rio de Janeiro State University (UERJ), Judge Antônio A. Cançado Trindade was awarded the “José Bonifacio de Andrada” Order of Merit with the highest rank, *Gran Oficial*. In granting this award, the UERJ University Council cited Judge Cançado’s “important and significant services to the Science of Law, Justice and the Protection of Human Rights in Brazil and in the Americas.”

In a ceremony on 15 December 1999 in Brasília, Judge Antônio A. Cançado Trindade received the 1999 Award for Academic Excellence in the area of the humanities, for his academic production in the field of international human rights law. The award was granted by the Association of Professors of the University of Brasília.

Judge Máximo Pacheco-Gómez taught courses in the Law School of the University of Chile, the Law School of the Pontifical Catholic University of Chile, and the Academy of Police Sciences of the *Carabineros* of Chile.

Judge Máximo Pacheco-Gómez was also elected vice-president of the board of directors of Chile’s Andrés Bello National University.

In May 1999, Judge Hernán Salgado-Pesantes was elected by a two-thirds majority of the National Congress to sit on the Constitutional Court of Ecuador for a four-year term.

Judge Hernán Salgado-Pesantes took part in creating the new Center for Human Rights and Democracy of the Pontifical Catholic University of Ecuador. This center will be the cornerstone for a new graduate program in the field of human rights and will provide momentum for having this field included in the university curriculum.

Judge Hernán Salgado-Pesantes continued to give his regular course on constitutional law at the Pontifical Catholic University of Ecuador. In addition, he was invited by the Ecuadorian Prosecutor General to lecture on human rights in a training course for judges and prosecutors held in Quito, Guayaquil and Cuenca in April and May, 1999. Finally, he was invited by the Central University of Quito (under the sponsorship of ILANUD) to participate in the seminar “Available Constitutional and Legal Remedies for the Defense of Personal Rights and Guarantees in Ecuador” (12 to 16 July, 1999).

In October 1999, Judge Oliver Jackman was appointed by the Secretary General of the United Nations, Kofi Annan, to serve as his personal representative in the border

dispute between Guyana and Venezuela. Judge Jackman replaced Sir Alister MacIntyre, former Vice Chancellor of the University of the West Indies.

Judge Alirio Abreu-Burelli served as lecturer in a series of human rights seminars that the Council of the Judiciary of Venezuela organized for judges and judicial employees in the states of Falcón, Barinas, Bolívar, Nueva Esparta and Distrito Federal. The seminars took place in June, July, August and September, 1999.

Judge Alirio Abreu-Burelli helped organize and participate in a seminar at the Supreme Court of Venezuela. Held in cooperation with the Inter-American Court of Human Rights, the seminar focused on the inter-American system for the protection of human rights (June 1999).

Judge Alirio Abreu-Burelli gave a lecture to the Bar Association of the state of Lara, Venezuela, on reparations for state-perpetrated violations of human rights (December 1999).

Judge Alirio Abreu-Burelli gave a 20-hour course on human rights for the Naval Officers War School (Venezuela 1999).

Judge Alirio Abreu-Burelli gave a lecture to the Supreme Court of Venezuela on Application of Human Rights Treaties in the Jurisprudence of Domestic Courts (November 1999).

In 1999, Judge Sergio García-Ramírez produced several publications on legal topics, both in Mexico and in other countries. Chief among them were the eighth and ninth editions of *Prontuario del proceso penal mexicano* (“compendium of the Mexican criminal process,” Porrúa, 1999), which he co-authored, and the Argentine edition of the *Itinerario de la pena* (Lerner, 1999). He served as a lecturer, speaker and guest professor in various academic and professional fora, inside and outside Mexico, including summer courses at the Universidad Complutense de Madrid (El Escorial), a lecture series organized by the Supreme Court of Venezuela on the subject of human rights protection (Caracas) and a seminar on the inter-American system for the protection of human rights promoted by the Inter-American Court of Human Rights (San Jose, Costa Rica). He was re-elected to the board of directors of the National Institute of Public Management and ratified as a national researcher at the highest rank (Level III) of the National System of Researchers.

## **K. ACADEMIC ACTIVITIES OF THE SECRETARIAT STAFF**

Mr. Manuel E. Ventura-Robles, Secretary of the Inter-American Court of Human Rights, took part in a seminar on the inter-American system for the protection of human rights from 21 to 22 June 1999 in the city of Caracas, Venezuela. His speech

was entitled, “Relations between the Inter-American Court and the Inter-American Commission on Human Rights.”

From 25 to 27 July, he was a speaker at the First Regional Latin American Conference of the International Law Association, held in São Paulo, Brazil. His paper was entitled, “The Central American Experience: Peace and Human Rights.”

On 23 and 24 November 1999, Mr. Ventura took part in the seminar, “The Inter-American System for the Protection of Human Rights at the Dawn of the Twenty-First Century.” He spoke on the topic, “The Commitment of the International Community to Effective International Protection of Human Rights, and Financial Implications of Strengthening the Inter-American System: The Case of the Inter-American Court of Human Rights.”

On 23 March 1999, the Secretary, Deputy Secretary and attorneys from the Legal Department of the Court were at the University of Costa Rica as guest speakers in the Law School. They gave a presentation to graduate students of public law, on the inter-American system for the protection of human rights, as part of a course on constitutional law taught by Dr. Hugo Alfonso Muñoz.

On 26 March 1999, the Secretary of the Court received nearly 60 secondary students from a variety of countries (Costa Rica, Nicaragua, Panama, Honduras, Guatemala, the United States and Canada), visiting the Court as part of the program “HACIA Democracy,” sponsored by the Harvard Association Cultivating Inter-American Democracy. The Deputy Secretary, Mr. Renzo Pomi, together with attorneys from the Legal Department, gave a general presentation on the Inter-American Court and its body of case law. The information they provided served as input for the preparation of a three-day debate on the most pressing challenges that face the nations of the hemisphere, including human rights.

During the week from 19 to 23 April 1999, the Secretary, Deputy Secretary and other Secretariat staff served as judges in a contest for high-school students organized by the Federation of Law Students of the University of Costa Rica.

Mr. Renzo Pomi, Deputy Secretary of the Court, offered a lecture on recent jurisprudence of the Inter-American Court in the First Latin American Course “The Rights of Children and Adolescents: Legal Defense and the Inter-American System for the Protection of Human Rights,” organized jointly by the Inter-American Institute of Human Rights, the UNICEF Regional Office for Latin America, the Inter-American Children’s Institute and the Center for International Justice and Law (CEJIL). The course took place from 30 August through 3 September, 1999 in San Jose, Costa Rica, and was attended by 60 attorneys from 20 countries of the Americas.

The Deputy Secretary lectured in a subsequent course, also organized by the Inter-American Institute on Human Rights, called “International Protection of the Human

Rights of Women.” The course took place from 11 to 16 October 1999, and Mr. Pomi spoke on the adoption of provisional measures by the Inter-American Court of Human Rights. The course was attended by women attorneys from 20 countries of Latin America.

#### **IV. ADMINISTRATIVE AND FINANCIAL MATTERS**

##### **External Financial Audit**

The financial statements of the Inter-American Court for the 1998 fiscal year were audited by the external auditors, Venegas, Pizarro, Ugarte y Co. This firm of authorized public accounts represents HLB International in Costa Rica.

The audit covered funds received from the OAS, as well as the contribution from the government of Costa Rica for the same period. The administration of the Inter-American Court is responsible for the financial statements, and the purpose of the audit was to obtain an opinion on the legitimacy of financial transactions undertaken by the Court, in consideration of generally accepted accounting and audit principles.

According to the 1 March, 1999 report by the audit firm, the financial statements of the Court present fairly the financial and asset position of the institution, as well as income, disbursement and cash flow for the 1998 period. All these transactions were consistent with the generally accepted accounting principles proper to non-profit organizations (such as the Court), which were applied on a consistent basis.

The report submitted by the independent auditors reveals that the Court has employed an effective system for internal accounting control to record and monitor transactions, and that reasonable commercial practices are being used to ensure that funds are used as productively as possible.

A copy of this report was forwarded to the Financial Services Department and Inspector General of the OAS.