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Session:	Ninty-Eighth Regular Session (17 February – 6 March 1998)
Title/Style of Cause:	Edson Damiao Calixto and Roselindo Borges Senado v. Brazil
Doc. Type:	Decision
Decided by:	Chairman: Carlos Ayala Corao; First Vice Chairman: Robert K. Goldman; Second Vice Chairman: Jean Joseph Exume. Commissioner Helio Bicudo, a Brazilian national, did not participate in the consideration and vote on this report, pursuant of Article 19(2)(a) of the Commission's Regulations.
Dated:	21 February 1998
Citation:	Damiao Calixto v. Brazil, Case 11.285, Inter-Am. C.H.R., Report No. 18/98, OEA/Ser.L/V/II.102, doc. 6 rev. (1998)
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1. In February, 1994, the Inter-American Commission on Human Rights, the "Commission", received two petitions directed against the Federal Republic of Brazil, "Brazil" or "State of Brazil", accusing military police in the state of Pernambuco of the attempted murder of two juveniles, and the judicial authorities of the state of Pernambuco of failure to provide due guarantees and judicial protection. The petitions allege that these offenses constitute violations of rights guaranteed in Article I (right to life, liberty, personal security, and physical integrity) of the American Declaration of the Rights and Duties of Man, the "Declaration", Article 8 (right to a fair trial) and 25 (right to judicial protection) of the American Convention on Human Rights, the "Convention", and Article 1(1) thereof (obligation to respect and ensure the rights recognized in the Convention). The Commission decided to combine the two cases with a view to preparing a single report. After due analysis, the Commission decided to declare both cases admissible.

Case 11.285 (Edson Damiao Calixto)

I. BACKGROUND

2. According to this petition, Edson Damião Calixto, age 14, was shot in the back by three state military police officers in Recife, Pernambuco, on the night of December 28, 1991; the shooting left him paralyzed from the waist down.

3. The petition stated that Edson was detained for allegedly having robbed a bakery. The military police officers took the juvenile to an isolated spot where they beat him and shot him five times in the back for refusing to confess to the crime and for refusing to implicate others.

They then threw him on a garbage dump. Although he was later taken to a hospital, operated on, and ultimately survived, he was left permanently paralyzed.

4. On December 30, 1991, the Civil Police instituted an inquiry to investigate the case. By late January they had compiled sufficient evidence of the state police officers' involvement and the case was referred to the military courts since only military courts have jurisdiction to investigate and prosecute crimes committed by military police in the line of duty. The inquiry concluded on October 18, 1993 with a decision to indict the three military police officers: Antonio Pedro da Silva, Edvaldo Santiago de Azevedo and Josenildo José Caldas Lins. Although the trial was set for February 1994, none of the officers was in custody at that time. According to the petition, there was little likelihood of their being convicted and imprisoned.

5. The petitioners requested the exception allowed under Article 46(2)(c) of the Convention, i.e., that the case be admitted due to unwarranted delay in rendering a final judgment, even without the remedies under domestic law having been exhausted; they further requested that, on account of these acts committed by police officers of the state of Pernambuco, Brazil be condemned for violating Articles I (right to life, liberty, personal security and physical integrity), 25 (right of protection against arbitrary arrest) and 26 (right to due process of law) of the American Declaration of the Rights and Duties of Man, inasmuch as the crime occurred before Brazil became a party to the American Convention on Human Rights, and Articles 8(1) and 25(1) (right to judicial protection) of the Convention, as these alleged violations occurred after Brazil ratified the Convention.

II. PROCEEDINGS BEFORE THE COMMISSION

6. The Commission received the petition in February, 1994. In August 1994, the Government of Brazil replied that Brazilian law enforcement was determined to investigate the events surrounding this incident and that federal and state authorities in the executive and judicial branches of government were conducting inquiries in their respective areas of jurisdiction to ascertain the facts and the identity of those responsible. Given the complexity and breadth of the inquiries underway, which directly involved Pernambucan state authorities, it requested and was granted a 30-day extension.

7. In September 1994, the petitioners sent additional information and pointed out, first, that the Brazilian Government had not replied since May 1994. The petitioners further alleged that, although the military police officers had been indicted in October 1993, no witness had as yet been called to testify; they also charged that the Government had failed to respond to the administrative suit for damages for Edson, who was paralyzed from the waist down for the rest of his life.

8. In September and again in October, the Brazilian Government requested two additional 30-day extensions, which were granted.

9. Following these extensions, in November 1994, the Government replied that the Brazilian authorities were diligently pursuing satisfactory solutions to the most serious cases of human rights violations in the country. Because of the importance attached to the inter-American

system for the protection of human rights and, in particular, its determination to cooperate with the Inter-American Commission on Human Rights, the Ministry of Foreign Affairs had forwarded the Commission's request for information on the petition relating to Edson Damião Calixto to the appropriate federal and state authorities. According to information received from the Pernambucan state government and from the Council for the Defense of Human Rights of the Ministry of Justice, internal legal proceedings had been instituted to punish those responsible for the human rights violation in the instant case.

10. The Government reported that on December 30, 1991, the State Justice Department requested that a police inquiry be instituted. On January 6, 1992, the Juvenile Police Department of the Pernambucan State Justice Department sent the files on the case to the Homicide Squad. The Government also said that the Pernambucan State Military Court was processing case No. 3766, and the Juvenile Court case No. 531/92, both of which were related to the instant case. The Government argued that the remedies under domestic law had not been exhausted inasmuch as the additional phases of the proceedings required for judgment and sentencing of those eventually found guilty had not yet been completed in accordance with the law.

11. The Government added that other measures had also been taken. On January 2, 1992, the juvenile Edson Damião Calixto was sent to the Provisional Shelter of the Juvenile Foundation, at the initiative of the State Justice Department. On January 8, the head of the center petitioned the Juvenile Court to arrange to have Edson sent to an appropriate health institution for his physical condition.

12. On January 16, 1996, following the granting of extensions for his reply, the petitioner responded to the Government's reply by reconstructing the events described in the original petition and enclosing documentary evidence supporting that petition.

13. The petitioners also reported that another important piece of evidence was the statement that the proceedings in the military court were still in the initial phase, i.e., the investigation phase: defense witnesses were being heard, after which the prosecution's witnesses would be heard. They explained that after the investigation phase, there would be a verdict, which might then be followed by an appeal. Only then would a final ruling be reached.

14. As to the exhaustion of the remedies under domestic law, the petitioners argued that Article 46(2)(c) of the Convention and Article 37 of the Commission's Regulations provide for an exception to the rule requiring exhaustion of domestic remedies when there has been an unwarranted delay in rendering a judgment under those remedies. The petitioners alleged that the Brazilian Government had left out one important detail: while it had reported that the inquiry had been instituted in December 1991, it failed to say that the deadline for completing the police investigation in progress in the military courts was 40 days. Article 20 of the Code of Military Penal Justice stipulates that:

Article 20. If the accused is in custody, the inquiry must be completed within 20 days, which time period begins as of the date on which the order of imprisonment is executed; if the accused is at liberty, the inquiry must be completed within 40 days from the date on which the inquiry is instituted.

15. The petitioners said that the four years allowed for the first instance criminal proceedings were excessive. It was clear that the Pernambucan military courts were stalling and that this was a case of unwarranted delay, which was the exception allowed under the Convention for the Commission to move forward with its analysis of the case. This reply was forwarded to the Government with a request that it answer specific points. This request was reiterated to no avail. A hearing was held on October 7, 1996, in which the parties were invited to consider a friendly settlement. The Government said that it was not in a position to initiate such proceedings at that time. Later, in the view of the lack of an affirmative response by the Government to the friendly settlement proposal, the petitioner requested that the case be admitted and a decision taken on its merits.

III. FRIENDLY SETTLEMENT

16. On October 11, the Commission placed itself at the disposal of the parties with a view to reaching a friendly settlement in the case, with a 30-day deadline for reply. On November 19, 1996, the Commission informed the Government and the petitioner that it was extending the deadline for another ten days.

17. On December 9, 1996, the Commission received a note from the petitioner inquiring whether the Government had indicated whether or not it wanted to participate in the friendly settlement proceeding. If no reply had been received from the Government, the petitioner asked the Commission to prepare the report referred to in Article 50 of the American Convention, in accordance with Article 23(2) of its Regulations.

18. On December 13, 1996, the Commission informed the petitioner that the Government had not yet responded to the friendly settlement proposal and that the Commission would review the request to prepare the report called for in Article 50.

19. In January 1997, the petitioners requested a hearing for the February/March session, stating that the Commission's proceedings in the case had already concluded and that only a decision was pending.

IV. CONSIDERATIONS REGARDING ADMISSIBILITY

20. The facts recounted by the petitioners in their petition describe possible violations of human rights, which will be examined in due course. The Commission will now examine the formal requirements for admitting a petition.

21. Article 46 of the Convention establishes the requirements for a petition to be admitted:

a. that the remedies under domestic law have been pursued and exhausted;
b. that the petition is lodged within a period of six months from the date on which the party alleging violation of his rights was notified of the final judgment;
c. that the subject of the petition or communication is not pending in another international proceeding for settlement; and

d. that, in the case of Article 44, the petition contains the name, nationality, profession, domicile, and signature of the person or persons or of the legal representative of the entity lodging the petition.

22. In the petition filed in February 1994, the petitioners arguing the exception to exhausting domestic remedies, alleged that even though indicted, three years after the fact the accused had still not been taken into custody and brought to trial and that although trial had been set for February, it was highly unlikely that the accused would ever be punished.

23. For its part, in its reply of November 1995, the Government did not deny the delay in judicial proceedings and gave no indication of any headway in the case. It nevertheless argued a failure to exhaust the remedies under domestic law, on the grounds that the additional phases of the proceedings required to judge and sentence those eventually found guilty had not yet been concluded in accordance with the law.

24. In November 1994, the petitioners observed that the proceedings were still in the investigation phase, with testimony being taken from defense witnesses; that the Government had left out one important detail when it reported that the police inquiry had been instituted in December 1991, which was the deadline for completing that inquiry: 40 days under Article 20 of the Code of Military Penal Procedures; and that four years for first instance proceedings was excessive. They therefore requested the exception provided for in Article 46(2)(c) of the Convention.

25. Article 46(2)(c) of the Convention stipulates that the provisions of paragraphs (1)(a) (exhaustion of remedies under domestic law) and (1)(b) (period for presenting the petition) shall not apply when there has been an unwarranted delay in rendering a final judgment under those remedies. The same is stated by Article 37(2)(c), of the Regulations of the Commission.[FN1]

[FN1] Inter-American Court of Human Rights, Cases: Velásquez Rodríguez, Judgment of July 29, 1988, para. 62-66 and 72, Series C, No. 14; Fairén Garbi and Solís Corrales, Preliminary Exceptions of March 15, 1989, para. 86-90 and 97; Godínez Cruz, Judgment of January 20, 1989, para. 65-69 and 75, and Preliminary Exceptions of June 26, 1987, para. 95.

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26. The petitioners alleged that the trial, which was set for February 1994, did not take place, which demonstrates a delay in administration of justice. In its reply of November 1994, the Government reported that inquiries were in progress, the implication being that the trial had not yet been held. The most recent information from the petitioners, dated November 1995, reported that the proceedings were still in the investigation phase four years after the fact. The Government did not reply or respond affirmatively to the request the Commission made in February 1996 and reiterated in April, nor to the friendly settlement proposal made in October of that year. The Commission considers that it has taken too long for a trial top be held and accepts the request that an exception be made to the rule requiring exhaustion of domestic remedies, in accordance Articles 46(2)(c) of the Convention and 37(2)(c) of its Regulations.

27. Given that there has been an evidently unwarranted delay in administering justice, the Commission considers that the exception provided for in Article 46(2)(c) of the Convention also applies to the requirement that a petition be filed within six months of the date on which the person whose rights were allegedly violated was informed of the definitive ruling. The Commission considers that the petition was presented within the reasonable time period stipulated in Article 38(2) of the Commission's Regulations, which says:

In the circumstances set forth in Article 37(2) of these Regulations, the deadline for presentation of a petition to the Commission shall be within a reasonable period of time, in the Commission´s judgment, as from the date on which the alleged violation of rights has occurred, considering the circumstances of each specific case.

28. The Commission has no knowledge of the subject of the petition being pending in another international proceeding for settlement. Nor did the Government make such a claim.

29. The petitioner observed the requirement that in the case of Article 44, the petition contains the name, nationality, profession, domicile, and signature of the person or persons or of the legal representative of the entity lodging the petition.

Case 11.290 (Roselandio Borges Serrano)

V. BACKGROUND

30. The petitioners filed a petition against the Government of Brazil in accordance with Articles 44 to 51 of the American Convention on Human Rights. The petition seeks to redress the attempted murder of Roselândio Borges Serrano, age 16, who was shot in the back by military police officer Sandro Tadeu Oliveira on January 17, 1991, in the city of Olinda, state of Pernambuco, as a result of which Roselândio is now paralyzed from the waist down.

31. The petition states that Roselândio and a friend were riding horseback through a favela (shanty town) known as Peixinhos when they met several state police officers who were looking for someone who had threatened a couple and fled on horseback. The police were fired at the two youths; the bullet that struck Roselândio left him paralyzed.

32. The military police inquiry, instituted only after a local human rights group (Gabinete de Asesoría Jurídica Popular - GAJOP) found the bullet that had wounded one of the horses, was concluded on May 16, 1991. The inquiry recommended that Sandro Tadeu Oliveira dos Santos be indicted as the party who fired the shots and that Hugo Tadeu dos Santos be indicted on charges of failing to report or investigate the incident. The investigation also revealed that Hugo Tadeu brought pressure to bear against other police officers to get them to cover up the truth.

33. According to the petition, the prosecutor's office completed its work in 70 days, record time for the military justice system. Despite the evidence set forth in the inquiry, the prosecutor did not file charges against Hugo dos Santos, and only two witnesses were heard: Sandro Tadeu Oliveira da Silva -the accused police officer himself- and Ailton Pedrosa da Silva, who lived in the neighborhood and was with the police at the time.

34. The petition refers to other irregular aspects of the procedures in the military court. The petitioners alleged that in the instant case, agents of the Brazilian State were immediately responsible for the violations; however, they also alleged that Brazilian authorities failed to conduct the proper investigations and bring the guilty parties to justice. The police officer who shot Roselândio, leaving him paralyzed from the waist down, was acquitted after perfunctory and negligent proceedings in the military courts. The police officer involved in the case attempted to obstruct justice several times and intimidate witnesses, including fellow police officers.

35. The petitioners therefore asked that the Brazilian State be condemned for violating Article I (right to life, liberty and personal security), 25 (the right to protection against arbitrary arrest) and 26 (due process) of the American Declaration of the Rights and Duties of Man, and Articles 8(1) and 25(1) (right to judicial protection) of the American Convention on Human Rights.

VI. PROCEEDINGS BEFORE THE COMMISSION

36. The Commission received the petition in February 1994. In September 1994, the Government replied by requesting a 30-day extension, arguing the complexity and scope of the inquiries in progress which directly involved Pernambucan state authorities. That extension was granted.

37. In September 1994, the petitioners sent additional information. First, they argued that the Brazilian Government had not replied since May 1994. They added that because the prosecutor did not appeal the ruling that acquitted the military police officer, and even though Article 65 of the Code of Military Penal Procedure prohibits the assistant attorney from filing appeals, the assistant attorney did in fact file an appeal. The appeal was a petition seeking a rehearing, which is an ordinary petition reserved for actions that tend to benefit the defendant. The Military High Court, in a ruling of April 27, 1994, denied the appeal. No further appeal was possible.

38. In October and again in November, the Government of Brazil requested two more 30-day extensions, which it was granted. In December 1994, the Government replied that according to information received from the Government of the State of Pernambuco and from the Council for the Defense of Human Rights of the Ministry of Justice, on October 17, 1991, the Pernambucan Permanent Council of Military Justice had found defendant Sandro Tadeu Oliveira da Silva innocent of the charges against him and that verdict had not been not appealed.

39. On January 10, 1995, the Commission forwarded the Government's reply to the petitioner. After several extensions, on January 16, 1996 the petitioner replied to the Government's response by reconstructing the crime described in the original petition; it added that it was enclosing documentary evidence to illustrate the grievous nature of the violations committed by the military police.

40. On February 20, 1996, the Commission forwarded the petitioners' final observations to the Government and requested the latter's within 30 days. On April 18, 1996, the Commission reiterated the request it made of the Government back in February. No reply was received.

VII. FRIENDLY SETTLEMENT

41. In January 1997, the Commission placed itself at the disposal of the parties with a view to reaching a friendly settlement of the matter. In February 1997, the petitioners expressed an interest in participating in negotiations with the Government of Brazil, with a view to reaching a friendly settlement. The Government did not reply to the Commission.

VIII. CONSIDERATIONS REGARDING THE ADMISSIBILITY

42. The facts recounted by the petitioners in the petition describe possible violations of human rights, and will be examined in due course in the proper stage of the proceedings. The Commission will now examine the formal requirements for admitting the petition.

43. Article 46 of the Convention, cited above, spells out the requirements for a petition to be admitted. In their petition filed in February 1994, the petitioners reported that in proceedings that lasted seven months and contained several irregularities, the guilty party was tried and acquitted. They add that the military prosecutor did not act with the diligence necessary to convict the defendant and did not appeal the acquittal; that the appeal filed in November 1992 by a local human rights organization seeking a review of the acquittal was denied in a ruling of April 1994 and no other remedy was possible.

44. In its reply of December 1994, the Government did not deny the petitioners' allegations and confirmed that the defendant's acquittal of the charge of having caused permanent injury to the victim had not been appealed. In January 1996, the petitioners also added that the State had not provided the victim with any assistance, even though he was his parents' eldest child and helped them support their five underage children.

45. Article 46(2)(c) of the Convention provides that the provisions of subparagraphs (1)(a) (exhaustion of domestic remedies) and (1)(b) (deadline for presenting a petition) shall not apply when there has been unwarranted delay in rendering a final judgment under the aforementioned remedies. The same is stated by Article 37(2)(c), of the Regulations of the Commission.

46. The Commission considers that in the instant case, the victim was 16 at the time the events occurred and was thus a minor for civil (21) and criminal (18) purposes. He did not have the financial means to hire a private attorney to act as assistant to the prosecutor and was thus totally dependent on the military courts for protection of his rights.

47. Had the petitioner been able to hire an attorney, the latter could only have represented him subject to various limitations, up to the time a ruling was handed down, since Article 530 of the Code of Military Penal Procedures clearly states that "only the Public Prosecutor's Office and the defendant or the latter's representative may file an appeal." The final portion of the first paragraph of Article 65 of the Code of Military Penal Procedures, which restricts what a victim's representative may do, states that "he cannot avail himself of remedies, except in the case of a ruling that denies the request for victim representation." Therefore, the military prosecutor,

whose legal obligation it is and who is the only one who could have appealed the acquittal, failed to do so.

48. Given these circumstances, the victim was not allowed to exhaust all the remedies under domestic law, since the prosecutor did not appeal the acquittal. The victim was also prevented from exhausting the remedies under domestic law because, being a minor from a needy family, he did not have the financial means or was unable to act on his own initiative to hire an attorney to serve as assistant to the prosecutor.

49. In its Advisory Opinion OC-11/91, the Inter-American Court of Human Rights held in paragraph 17 that "Article 46(2)(b) is applicable to situations in which the domestic law does provide for remedies, but such remedies are either denied the affected individual or he is otherwise prevented from exhausting them. These provisions thus apply to situations where domestic remedies cannot be exhausted because they are not available either as a matter of law or as a matter of fact.[FN2] (emphasis added)

[FN2] Inter-American Court of Human Rights, Exceptions to the Exhaustion of Domestic Remedies (Art. 46(1), 46(2)(a) and 46(2)(b) American Convention on Human Rights), Advisory Opinion OC-11/90 of August 10, 1990, Series A, No.11, paragraph 17.

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50. The Commission believes it is important to note that this phase of analysis of the issue of exhaustion of the remedies under domestic law has a close bearing on the merits of the case, since the petitioners allege a lack of judicial protection. In this regard, the Inter-American Court of Human Rights says the following:

The rule of prior exhaustion of domestic remedies under the international law of human rights has certain implications that are present in the Convention. Under the Convention, States Parties have an obligation to provide effective judicial remedies to victims of human rights violations (Art.25), remedies that must be substantiated in accordance with the rules of due process of law (Article 8(1)), all in keeping with the general obligation of such States to guarantee the free and full exercise of the rights recognized by the Convention to all persons subject to their jurisdiction (Art.1). Thus, when certain exceptions to the rule of non-exhaustion of domestic remedies are invoked, such as the ineffectiveness of such remedies or the lack of due process of law, not only is it contended that the victim is under no obligation to pursue such remedies, but, indirectly, the State in question is also charged with a new violation of the obligations assumed under the Convention. Thus, the question of domestic remedies is closely tied to the merits of the case. [FN3]

[FN3] Velásquez Rodríguez Case, Judgment of June 26, 1987, Preliminary Exceptions, paragraph 90, Series C, No. 1.

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51. The Commission thus grants the exception to the rule requiring exhaustion of domestic remedies, provided for in Article 46(2)(b) of the Convention, which applies when the alleged victim has not been permitted access to the remedies under domestic law or has been prevented from exhausting them, as in the instant case. It will continue its prosecution of the case and rule on the merits in due course.

52. The Commission considers that the six-month period provided for in Article 37(1) of the Commission's Regulations and Article 46(1)(b) of the Convention for filing the petition as of the date on which the party whose rights were allegedly violated is notified of the final judgment, is not operative if the exception provided for in Article 46(2)(b) of the Convention and Article 37(2)(b) of the Commission's Regulations (the party whose rights were allegedly violated was not given access to the remedies under domestic law or was prevented from exhausting them) applies to the case. The Commission considers that the petition was lodged within a reasonable time period, and also applies the provisions of Article 38(2) of the Commission's Regulations, as previously cited.

53. The Commission has no knowledge of this petition being pending in another international proceeding for settlement, nor does the Government claim such knowledge.

54. The petitioner also met the requirement that in the case of Article 44, the petition contains the name, nationality, profession, domicile, and signature of the person or persons or of the legal representative of the entity lodging the petition.

IX. CONSIDERATIONS REGARDING THE TWO CASES

A. CONSIDERATIONS REGARDING THE COMPETENCE OF THE COMMISSION

55. The petitioners have alleged violations of rights guaranteed in Article I (right to life, liberty, personal security and physical integrity) of the American Declaration of the Rights and Duties of Man, and in Articles 8 (right to a fair trial) and 25 (right to judicial protection) of the American Convention on Human Rights. The Commission is competent to analyze possible violations to human rights which are protected by the Declaration and by the Convention, in accordance to Articles 1.2b and 20, of its statute. The fact that Brazil has ratified the Convention on September 25, 1992, does not exempt its responsibility for violations of human rights occurred prior to that ratification, rights guaranteed in the Declaration, which is binding.

56. The Inter-American Court of Human Rights recognized the binding force of the Declaration stating that "Articles 1(2)(b) and 20 of the Commission´s Statute define...the competence of that body with respect to the human rights enunciated in the Declaration. Thus, for those States that ratified the Protocol of Buenos Aires, the American Declaration and the Convention are, in pertinent matters and in relation with the Charter of the Organization.[FN4], a source of international obligations.

[FN4] Advisory Opinion of the Inter-American Court of Human Rights, paragraph 45, July 14, 1989, on the "Interpretation of the American Declaration of the Rights and Duties of Man within the framework of Article 64 of the American Convention on Human Rights."

B. CONSIDERATIONS REGARDING THE PROCEEDING

57. Article 40 of the Regulations of the Commission establishes criteria for separation and combination of cases:

1. Any petition that states different facts that concern more than one person, and that could constitute various violations that are unrelated in time and place shall be separated and processed as separate cases, provided the requirements set forth in Article 32 are met.
2. When two petitions deal with the same facts and persons, they shall be combined and processed in a single file.

58. The Commission has interpreted Article 40 in a broad sense. Regarding Article 40(1) of its Regulation:

The Commission has not interpreted this provision to require that the facts, victims and violations set forth in a petition strictly coincide in time and place in order to allow processing as a single case.

Rather, the Commission has processed individual cases dealing with numerous victims who have alleged violations of their human rights occurring at the different moments and in different locations so long as all of the victims allege violations arising out of the same treatment. Thus, the Commission may process as a single case the claims of various victims alleging violations arising out of the application of legislation or a pattern or practice to each of the victims regardless of the time and place in which they received this similar treatment. The Commission not only has refused to separate such cases for processing but has also accumulated separate cases with such characteristics into single cases for processing.[FN5]

[FN5] Report No. 4/97, Regarding Admissibility, March 12, 1997,(Colombia), Annual Report of the Inter-American Commission on Human Rights, 1996, paragraphs 40 and 41, and footnote No. 23 about Report No. 24/82, Chile, March 8, 1982, which accumulated 50 cases.

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59. Both two cases had separate proceedings but the Commission acknowledges the similarities of the two petitions and the fact that the violations happened within the same context. The alleged violations were committed by military police of the same State, Pernambuco, supposedly acting illegally against defenseless, unarmed juvenile civilians in which the alleged perpetrators went unpunished owing to the bias of the military courts when prosecuting and deciding cases. Therefore, the Commission decided to join the two cases with a view to preparing a single report.[FN6]

[FN6] See also: Report No. 9/94, January 1st, 1994 (Haiti), about Cases: 11.105, 11.107, 11.110, 11.111. 11.112, 11.113. 11.114, 11.118, 11.120 and 11.102, Annual Report of the IACHR, 1993; Report No. 28/92, October 2nd, 1992 (Argentina), about Cases: 10.147, 10.181, 10.240, 10.262, 10.309 and 10.311, Report No. 1/93, March 3rd, 1993 (Argentina), about Cases: 10.288, 10.310, 10.436, 10.496, 10.631 and 10.771, and Report No. 24/92, October 2nd, 1992 (Costa Rica), about Cases: 9.328, 9.329, 9.742, 9.884, 10.131, 10.193, 10.230, 10.429 and 10.469, Annual Report of IACHR 1992-1993; Report about Cases 9.768, 9.780 and 4.828 (Mexico), Annual Report of IACHR, 1989-1990; Report about Cases 9.777 and 9.718, March 30, 1988, (Argentina), Annual Report of IACHR, 1987-1988; Resolution No. 19/83, March 30, 1983 (Nicaragua), about cases 5.154, 7.313, 7.314, 7.316 and 7.320, Annual Report of IACHR, 1982-1983.

CONCLUSIONS

60. The Commission considers that it is competent to address this case and that it is admissible, in accordance with the requirements set forth in Articles 46 and 47 of the American Convention.

On the basis of the foregoing factual and legal arguments

X. THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

61. To declare the two instant cases admissible.

62. To send this report on admissibility to the State of Brazil and to the petitioners.

63. To continue its examination of the pertinent issues defined in this report, in order to decide the merits of the cases.

64. To publish this report in the Annual Report to the OAS General Assembly.