

**REPORT No. 62/10**  
PETITION 142-03  
ADMISSIBILITY  
JORGE SEDANO FALCÓN ET AL.  
PERU  
March 24, 2010

**I. SUMMARY**

1. On February 8, 2003, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission,” “the Commission” or “the IACHR”) received a petition that Lima’s *Centro Federado de Periodistas*<sup>1</sup> (hereinafter “the petitioners”) filed on behalf of journalists Jorge Sedano Falcón, Jorge Luis Mendivil Trelles, Willy Retto Torres, Pedro Sánchez Gavidía, Eduardo de la Piniela Palao, Amador García Yanque, Félix Gavilán Huamán and Octavio Infante García (hereinafter “the alleged victims”) alleging that the Republic of Peru (hereinafter “Peru,” “the State” or “the Peruvian State”) was in violation of the American Convention on Human Rights (hereinafter “the American Convention”, “the Convention” or the “ACHR”).

2. The petitioners asserted that the alleged victims and their guide, Juan Argumedo García, were assassinated on January 26, 1983, in the village of Uchuraccay in the department of Ayacucho, while en route to the neighboring community of Huaychao to conduct an investigative reporting. They maintained that the Peruvian State is responsible for the alleged victims’ deaths, both by virtue of the military’s direct involvement in the events and by virtue of the State’s failure to comply with its duty to protect the journalists. The petitioners alleged irregularities in the criminal case instituted and claimed that the judicial authorities failed to conduct a diligent investigation into the supposed involvement of members of the security forces in the deaths.

3. The State, for its part, claimed that the next of kin of the deceased journalists had ample participation in the criminal case, which laid sole blame on the *comuneros* of Uchuraccay and not agents of the State. It asserted that the events of January 26, 1983 occurred amid the political violence brought on by the subversive activities of the *Sendero Luminoso* group. It stated that two of the Uchuraccay peasants (*comuneros*) were ultimately convicted of the events of January 26, 1983, and added that the Peruvian Government had taken legislative and other measures to honor the memory of the fallen journalists.

4. After examining the positions of the parties in light of the admissibility requirements set forth in Articles 46 and 47 of the American Convention, the Commission concluded that it is competent to consider the petition and that the latter is admissible with respect to the alleged violation of the rights protected under Articles 4, 5, 13, 8 and 25 of the American Convention, in relation to Article 1(1) thereof. The IACHR decided to notify the parties of the present Admissibility Report, make it public and include it in its Annual Report.

**II. PROCESSING BY THE COMMISSION**

5. The original petition was received on February 8, 2003, and registered as number P 142-03. The petitioners filed additional information on February 24 and July 14, 2003; June 9, 2004, and December 13, 2006.

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<sup>1</sup> In a communication dated July 14, 2003, the following next of kin of the alleged victims were named as co-petitioners: Alcira Velásquez Taipa, Martha Luz Álvarez Pacheco, María Rosario Enciso, Paulina Eudocia Reinoso, Gloria Trelles de Mendivil, Oscar Retto Saldaña, María Elena Sánchez Becerra and Emiliana Accasi Haccachi.

6. On January 23, 2008, the Commission forwarded the relevant parts of the petition and additional communications to the State, requesting that, in keeping with the Commission's Rules of Procedure, the State submit its response within two months.

7. The State submitted its response on September 4, 2008, and sent the annexes to its response on September 12 of that year. This documentation was forwarded to the petitioners on September 26, 2008.

### III. POSITIONS OF THE PARTIES

#### A. The petitioners

8. A number of press clippings from late January 2003 were affixed to the original petition. These news had been published to mark the twenty years of the alleged victims' death. They report that associations of professional journalists and relatives of the alleged victims had asked that the respective criminal investigations to be reopened. The articles also point out that the conclusion that the Peruvian Judicial Branch reached as to who was responsible for the events of January 26, 1983, did not appear to square with the facts.<sup>2</sup>

9. The petitioners alleged that on January 26, 1983, journalists Eduardo de la Piniella, Pedro Sánchez and Félix Gavilán from *El Diario de Marka*, Jorge Luis Mendivil and Willy Retto from *El Observador*, Jorge Sedano from *La República*, Octavio Infante from *Noticias de Ayacucho* and Amador García from the magazine *Oiga*, their guide Juan Argumedo García and villager Severino Huáscar Morales met violent deaths in the Quechua community of Uchuraccay, located in the Santillana district of Huanta province in the department of Ayacucho. From the information presented, these individuals were lynched and beaten to death with stones, sticks and machetes.<sup>3</sup>

10. The petitioners maintained that while 17 civilians were tried for these events, the judicial authorities failed to adequately investigate the supposed involvement of military in the killings. They asserted that prior to the events of January 26, 1983, civilian and military authorities had urged *comuneros* in the high plateau of Ayacucho to kill any stranger who came to their communities by land, on the presumption that they were terrorists. The petitioners claimed that messages of this kind, circulated via national radio and in dialogue with the communities themselves, and induced the *comuneros* of Uchuraccay to kill the alleged victims, with the Navy infantry as co-authors.

11. By way of context, the petitioners stated that in the wake of a series of crimes perpetrated by the outlaw group *Sendero Luminoso* in the department of Ayacucho, which included the seizure and destruction of police posts, in October 1981 the Executive Branch issued a legislative decree declaring five provinces in that department to be emergency zones. The petitioners stated that in December 1982, the Executive Branch enacted a second legislative decree whereby the Armed Forces took control of the internal affairs of the five emergency provinces. Political-military administration of Huanta, the jurisdiction in which the community of Uchuraccay is located, was assigned to the Navy.

12. The petitioners claimed that as the military mobilization in Ayacucho grew, so did the number of official communiqués reporting alleged clashes between security forces and the *Sendero Luminoso*. The petitioners maintained that certain sectors of the public opinion—especially some media outlets—questioned the veracity of a number of the statements that the political-military command in Ayacucho issued during this period.

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<sup>2</sup> Attached to the original petition, dated February 8, 2003, was a copy of excerpts of the court record on the death of the alleged victims and memorandums from other criminal courts reporting on the status of the case. These memorandums were allegedly made public in response to requests that Lima's *Centro Federado de Periodistas* filed seeking information.

<sup>3</sup> Communication from the petitioners received December 13, 2006, annexes, copy of the Final Report of the Truth and Reconciliation Commission, 2003, Volume V, Chapter 2.4, *El Caso Uchuraccay*, pp. 121, 134 and 135, available online at <http://www.cverdad.org.pe/ifinal/index.php>.

13. According to the petitioners, on January 23, 1983, then President Fernando Belaúnde Terry and the head of the Political Military Command in Ayacucho, Army General Roberto Clemente Noel Moral, held press conferences in Lima and Ayacucho, respectively, in which they announced the killing of seven alleged members of the *Sendero Luminoso* by *comuneros* in the village of Huaychao in the province of Huanta. According to the attached documents, the authorities in question praised the initiative shown by the *comuneros* of Ayacucho's high Andean plateau in confronting and executing members of the *Sendero Luminoso*. That same day, a helicopter-transported patrol of the Civil Guard landed Uchuraccay, a few kilometers from Huaychao, and offered supplies to the *comuneros* living there. The Uchuraccay residents reported having executed five supposed members of the *Sendero Luminoso* the day before. Members of the patrol had allegedly incited the villagers to continue to execute any stranger who came to the village by land, stating that the *sinchis* (the Quechua term for members of the Civil Guard) would always come by helicopter.<sup>4</sup>

14. The petitioners asserted that national and local media outlets in Ayacucho raised questions about the account that the President of the Republic and the Head of Ayacucho's Political-Military Command had given of the deaths of members of the *Sendero Luminoso* in Huaychao. They stated that the alleged victims were members of a fact-finding group of reporters who were heading for the scene of the alleged killing to ascertain the truth of what had happened there. On the morning of January 26, 1983, the group of journalists departed the city of Ayacucho, capital of the department of that same name. Their guide, Juan Argumedo García, joined them in Chacabamba. The group was reported missing on the afternoon of January 26 as they were approaching the village of Uchuraccay. On January 30, 1983, the bodies of the eight journalists were discovered in four shallow graves located in Uchuraccay. The bodies of Severino Huáscar Morales and Juan Argumedo García were found on May 14, 1983 and August 15, 1986, respectively.<sup>5</sup>

15. As to the investigation of these events, the petitioners asserted that on January 30, 1983, the Judge of the Province of Huamanga instituted preliminary inquiry No. 38-83, against those found responsible for crimes committed against the life, physical person and health of the eight journalists. They stated that the case was transferred from one court to another in Ayacucho. The oral proceedings were ultimately conducted in Lima's Eighth Correctional Court and began on November 25, 1985. This Court served as a Special *Ad Hoc* Court for the Uchuraccay case.

16. The petitioners claimed that on March 9, 1987, Lima's Eighth Correctional Court convicted Dionisio Morales Pérez, Simeón Aucatoma Quispe and Mariano Concepción Ccasani Gonzales, all residents of Uchuraccay, and sentenced them to prison for the crime of simple homicide. They stated that the Court reserved the faculty to continue the case with respect to another 14 *comuneros* from Uchuraccay once they were found. The petitioners added that the March 9, 1987 ruling ordered that the case files be handed over to the Huanta Examining Judge in order to institute an inquiry against various members of the Army, Marines, Investigation Police of Peru and the Civil Guard, for violation of their service and professional duties – abuse of authority prejudicial to the Peruvian State.<sup>6</sup>

17. The petitioners observed that on June 14, 1988, the Criminal Chamber of the Supreme Court of Justice (hereinafter the CSJ) ruled on the petition filed by the relatives of the deceased

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<sup>4</sup> Communication from the petitioners received December 13, 2006, annexes, copy of the Final Report of the Truth and Reconciliation Commission, 2003, Volume V, Chapter 2.4, *El Caso Uchuraccay*, pp. 131 and 132. See also communication from the petitioners, dated July 14, 2003, annexes, March 9, 1987 judgment handed down by the Eighth Correctional Court of Lima, *consideranda* eighteen.

<sup>5</sup> Original petition received on February 8, 2003, annexes, press clippings. See also Final Report of the Truth and Reconciliation Commission, 2003, Volume V, Chapter 2.4, *The Uchuraccay Case*, p. 140 and the footnote on page 69, available online at <http://www.cverdad.org.pe/ifinal/index.php>.

<sup>6</sup> No information is in the case file concerning the result of the order to institute a preliminary inquiry against the military personnel in question.

journalists seeking to have the lower-court ruling overturned.<sup>7</sup> In its ruling, the Supreme Court changed the classification of the crime charged to aggravated homicide, thereby also increasing the prison sentence that Dionisio Morales Pérez and Mariano Concepción Ccasani Gonzáles were to serve.<sup>8</sup> It confirmed the rest of the lower-court ruling. According to the petitioners, since July 19, 2001 the court authorities have been issuing arrest warrants for the other defendants declared *in absentia*; were those defendants to be taken into custody, the suspended criminal proceedings would resume.

18. Finally, the petitioners maintained that the criminal proceedings conducted into the events of Uchuraccay have been riddled with irregularities. They also alleged that members of the Armed Forces obstructed the investigations with the purpose of covering up the supposed involvement of members of the military in the assassination of the alleged victims.

## **B. The State**

19. The State observed that the events of January 26, 1983 “are a symbol of the bitter years of violence that the country experienced at the hands of the internal guerrilla movement.” It maintained that the assassination of the eight journalists and of the guide and the *comunero* who accompanied them, was solely the work of the inhabitants of Uchuraccay and that the courts had not established the involvement of the Marine troops being alleged. The State underscored the fact that in the relevant chapter of the Final Report of the Truth and Reconciliation Commission (hereinafter the CVR, as in its Spanish acronym), the finding was that “nothing in the record indicates that Navy Infantry or members of the then Civil Guard (*sinchis*) were present at the events of January 23, 1983, as direct perpetrators.”

20. The State maintained that upon discovery of the bodies of the alleged victims on January 30, 1983, the government of then President Fernando Belaúnde Terry appointed a fact-finding committee which had no relationship to the judicial branch and was headed by the author Mario Vargas Llosa. According to the State, this committee concluded that the *comuneros* of Uchuraccay were responsible for the alleged victims’ deaths: “given the backdrop, one of complete abandonment and neglect by the Peruvian State, the condition in which this community lived was semi-civilized and marked by structural violence ...”<sup>9</sup>

21. The State’s account of the judicial inquiries was similar to that of the petitioners.<sup>10</sup> It mentioned that a criminal proceeding was instituted in the city of Ayacucho. However, at the request of the journalists’ relatives, the case was transferred to Lima’s Eighth Correctional Court. It pointed out that in 1986, that court became a Special Tribunal dedicated exclusively to the Uchuraccay Case. The State also noted that on March 9, 1987, that court delivered its ruling in which it convicted *comuneros* Dionisio Morales Pérez, Mariano Ccasani and Simeón Auccatoma Quispe and sentenced them to prison for ten, eight and six years, respectively, for the crime of simple homicide.

22. The State alleged that the next of kin of the eight journalists filed a petition with the Supreme Court seeking nullification of the lower-court ruling. The State maintained that the Supreme Court delivered the definitive ruling on June 15, 1988, in which it toughened the sentences given to Dionisio Morales Pérez and Mariano Ccasani, and also modified the classification of the crime for which they were convicted from simple homicide to aggravated homicide. The State said that in that same ruling, the Supreme Court ordered that the case files be sent to the Examining Magistrate in the province

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<sup>7</sup> Although in their July 14, 2003 communication the petitioners mention that the Supreme Court ruling was delivered on June 14, “1998”, the attached documents show that the judgment was delivered on June 14, “1988”.

<sup>8</sup> The petitioners assert that the criminal case against defendant Simeón Auccatoma Quispe was dropped, as he had died of tuberculosis on December 29, 1987, in Lurigancho prison.

<sup>9</sup> Response from the State received September 4, 2008, section II, paragraph 6.

<sup>10</sup> The State asserted that the original case file of the so-called Uchuraccay Case is currently with Lima’s First Criminal Chamber, under classification No. 2001-2008. It observed that the case file consists of approximately 40 volumes, making it impossible to send the Commission a full copy of the case file.

of Huanta in Ayacucho department so that preliminary proceedings might be instituted against members of the Army, Marines, the Investigation Police of Peru and Civil Guard for crimes against the administration of justice and against their service and professional duties. The State has not reported any further measures in this regard.

23. Lastly, the State asserted that in compliance with the recommendations of the Truth and Reconciliation Commission, Law No. 28058 was enacted on July 15, 2003, in which the journalists killed in Uchuraccay are recognized as "Heroes of Democracy and Journalism."<sup>11</sup>

#### **IV. ANALYSIS OF COMPETENCE AND ADMISSIBILITY**

##### **A. The Commission's competence *ratione personae*, *ratione loci*, *ratione temporis* and *ratione materiae***

24. Under Article 44 of the Convention, the petitioners are authorized to file petitions. The alleged victims in the case were under the jurisdiction of the Peruvian State at the time the alleged events occurred. Furthermore, Peru ratified the American Convention on July 28, 1978. The Commission thus has competence *ratione personae* to examine the petition.

25. The Commission has competence *ratione loci* to take up the petition inasmuch as it alleges violations of rights protected by the American Convention, violations said to have occurred within the territory of a State party to the Convention.

26. The Commission also has competence *ratione temporis* inasmuch as the obligation to respect and ensure the rights protected by the American Convention was already binding upon the Peruvian State on the date when the events alleged in the petition were said to have occurred.

27. Finally, the Commission has competence *ratione materiae* because, as will be explained in paragraphs 37 to 41 below, the facts alleged in the petition could tend to establish violations of rights protected by the American Convention.

##### **B. Exhaustion of domestic remedies**

28. Article 46(1)(a) of the American Convention provides that in order for a case to be admitted, the remedies under domestic law must have been pursued and exhausted in accordance with generally recognized principles of international law. The purpose of this requirement is to afford national authorities the opportunity to address the alleged violation of a protected right and, where appropriate, resolve it before the matter is brought to the attention of an international body.

29. The requirement of prior exhaustion applies when the domestic system affords remedies that are effective and adequate in providing a remedy for the alleged violation. In this sense, Article 46(2) specifies that the requirement is not applicable when the domestic legislation does not afford due process for the protection of the right in question; or if the alleged victim did not have access to domestic remedies; or if there was unwarranted delay in rendering a final judgment under those remedies.

30. The Commission's doctrine holds that whenever an *ex officio* prosecuting crime is committed, the State has an obligation to set in motion and pursue the criminal process through to completion. In such cases, this is the appropriate avenue to clarify the facts, try those responsible and establish the corresponding criminal penalties and make other forms of pecuniary reparations possible. The facts set forth by the petitioners in connection with the deaths of the alleged victims are, under the

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<sup>11</sup> Response from the State, received September 4, 2008, Section IV, paragraph 2.

corresponding domestic law, criminal offenses whose investigation and prosecution the State is obliged to pursue *ex officio*, which means that this process is the appropriate remedy in the instant case.<sup>12</sup>

31. The Commission observes that the Peruvian State reported on the domestic court proceedings and provided a copy of a portion of the case file. However, it did not expressly raise the objection for failure to exhaust domestic remedies, and thus tacitly waived this defense.<sup>13</sup>

32. According to the allegations made by the parties, the criminal proceedings instituted to investigate and determine culpabilities for the deaths of the alleged victims concluded on June 15, 1988, but only with respect to the three accused; the court reserved the right to resume the case with regard to another 14 defendants declared *in absentia*.<sup>14</sup> The information submitted indicates that the criminal proceeding remains open with respect to these 14 persons.<sup>15</sup> Furthermore, the parties pointed out that on June 15, 1988, the Supreme Court had decided to send a copy of the case records to the Examining Judge of the province of Huanta in Ayacucho department, for purposes of instituting a preliminary inquiry against members of the armed forces for violation of their service and professional duties. However, no information has been presented concerning the result of the preliminary inquiry eventually pursued.

33. Given the fact that more than 27 years have passed since the alleged victims were killed and the corresponding criminal case has still not been closed, by this stage in the process the Commission considers that sufficient time has passed to conclude that there has been an unwarranted delay of the kind provided for Article 46(2)c) of the American Convention as one of the grounds for an exception to the rule requiring exhaustion of local remedies.

### C. Time period for lodging the petition

34. Under Article 46(1)(b) of the American Convention, a petition must be lodged within six months from the date on which the party alleging violation of his rights was notified of the final judgment of the domestic courts. However, this rule does not apply when one of the exceptions that Article 46(2) of the Convention establishes applies. In such cases, the Commission must determine whether the petition was lodged within a reasonable period of time, in accordance with Article 32 of its Rules of Procedure.

35. As indicated in paragraph 33 *supra*, the Commission concluded that in the present case, the unwarranted delay in rendering a final judgment, established as an exception in Article 46(2)(c) of the Convention, applies. As of the date on which the present petition was lodged, *i.e.* February 8, 2003, the alleged victims' next of kin still had a legitimate expectation that the Peruvian State would take the measures necessary to conclude the criminal case regarding the deaths of the eight journalists, establish responsibilities and take other appropriate measures of reparation.

36. According to the information presented by both parties, since the Supreme Court of Justice's final judgment of June 15, 1988, regarding the only two defendants convicted for the journalist's deaths, the Peruvian judicial authorities have been issuing detention warrants against the other fourteen defendants and residents of Uchuraccay declared *in absentia*: Olimpio Gavilán Huaylla, Francisco Ñaupa Ticlia, Celestino Ccente Figueroa, Fortunato Gavilán García, Silvio Chávez Soto, Daniel Chocce Ayala, Lorenzo Figueroa Cunto, Teodora Soto Ticlla, Juan Ayala Cahuana, Marcia or Ignacia Gálvez Ñaupa, Mariano Figueroa Rojas, Dionisio Ccente Aucatoma, Antonio Chávez Soto and Dionisio Ramos Ricra. The State has not reported on additional measures in order to establish the whereabouts of these

<sup>12</sup> IACHR, Report No. 99/09, Petition 12,335, Colombia, *Gustavo Giraldo Villamizar Durán*, October 29, 2009, paragraph 33.

<sup>13</sup> IACHR, Report 10/09, Petition 4071-02, Argentina, *Mercedes Eladia Farelo*, March 13, 2009. Paragraphs 36 and 37.

<sup>14</sup> See paragraphs 17 and 22 above.

<sup>15</sup> Response from the State received September 4, 2008, annexes, memorandum from the First Criminal Chamber of the Lima Superior Court, dated April 17, 2008, file No. 201-08.

persons and to conclude the criminal proceedings started in January 1983. The State likewise has not informed on the investigations regarding the eventual responsibility of Armed Force's members for the deaths of the alleged victims.

37. The IACHR observes that after the Truth and Reconciliation Commission Final Report was made public on August 28, 2003, the Peruvian judicial authorities obtained additional findings on the events of January 26, 1983, and further events in the Uchuraccay community. For instance, this Report indicates that 135 residents of Uchuraccay were killed between 1983 and 1984, allegedly as a result of attacks carried out by the insurgent group *Sendero Luminoso*, outlawed peasant patrols (*rondas campesinas*) and security agents.

38. Ten of the fourteen *in absentia* defendants in the trial regarding the death of the alleged victims in the current petition are mentioned in the list of 135 deceased residents of Uchuraccay<sup>16</sup>. Although this information was made public by the Truth and Reconciliation Commission, an entity created by the State itself, the IACHR has not been informed on additional measures from the Judicial Branch aiming to conclude the criminal proceedings for the events of January 26, 1983. Indeed, according to the information received by this international organism, on April 17, 2008, the First Criminal Chamber of Lima Superior Court of Justice ordered the search and capture of all the fourteen defendant *in absentia*, including the ten peasants reported as dead in the Final Report of the Truth and Reconciliation Commission<sup>17</sup>.

39. In light of the aforesaid, and inasmuch as the alleged denial of justice to the prejudice of the alleged victims' next of kin would remain until the date of adoption of the present report, the IACHR concludes that the petition was lodged in a reasonable time and satisfies Article 32 of its Rules of Procedures.

#### **D. Duplication of proceedings and international *res judicata***

40. Article 46(1)(c) of the Convention provides that one of the requirements that must be met in order for the Commission to admit a petition is that the subject of the petition "is not pending in another international proceeding for settlement." Article 47(d) of the Convention provides that the Commission shall consider inadmissible any petition or communication that is substantially the same as one previously studied by the Commission or by another international organization." Neither of the parties in the instant case has claimed that one of these conditions is present, nor can their existence be inferred from the case file.

#### **E. Characterization of the facts alleged**

41. For admissibility purposes, the Commission must determine whether the petition states facts that tend to establish a violation of the rights guaranteed by the American Convention, as required under its Article 47(b), and whether the petition is "manifestly groundless or obviously out of order," as stipulated in Article 47(c). The standard by which to assess these extremes is different from the one needed to decide the merits of a petition. At the admissibility phase of the proceedings, the IACHR is called upon to perform a *prima facie* evaluation and determine whether the complaint provides grounds for an apparent or potential violation of a right guaranteed by the American Convention, but not whether the violation has in fact occurred. The evaluation for admissibility purposes is a summary analysis that does not imply any prejudgment of or advance any opinion on the merits.

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<sup>16</sup> The ten persons are Olimpio Gavilán Huaylla, Francisco Ñaupá Ticlia, Celestino Ccente Figueroa, Fortunato Gavilán García, Silvio Chávez Soto, Daniel Chocce Ayala, Lorenzo Figueroa Cunto, Teodora Soto Ticlla, Juan Ayala Cahuana and Marcia o Ignacia Gálvez Ñaupá. Communication from the petitioners received December 13, 2006, annexes, copy of the Final Report of the Truth and Reconciliation Commission, 2003, Volume V, Chapter 2.4, *El Caso Uchuraccay*, pp. 180 to 182, available online at <http://www.cverdad.org.pe/ifinal/index.php>.

<sup>17</sup> State response received September 4, 2008, annexes; order issued by the First Criminal Chamber of Lima Superior Court of Justice, April 17, 2008, case file number 201-08.

42. Given the factual information submitted by the parties, the IACHR considers that the allegations concerning the deaths of the alleged victims and the circumstances under which they were said to have occurred could tend to establish violations of the rights to life, to humane treatment and freedom of thought and expression, protected under articles 4(1), 5 and 13, respectively, in relation to Article 1(1) of the American Convention, all to the detriment of Jorge Sedano Falcón, Jorge Luis Mendivil Trelles, Willy Retto Torres, Pedro Sánchez Gavidia, Eduardo de la Piniela Palao, Amador García Yanque, Félix Gavilán Huamán and Octavio Infante García. In the merits stage of the proceedings, the Commission will examine whether the Peruvian State is responsible for the alleged violation of those Convention-protected rights in light of the criteria for attribution of responsibility that apply in international human rights law. The Commission will also evaluate whether the State has not complied with its duty to protect the rights to life, personal integrity and freedom of expression, in view of the events of January 26, 1983; and whether there is a breach in the obligation to investigate the alleged violation of these rights.

43. As to the alleged obstruction of the criminal investigations by members of the Armed Forces and the absence of a final decision with respect to all those responsible for the deaths of the alleged victims, even though it occurred twenty seven years ago, in January 26, 1983, the Commission considers that these allegations could tend to establish violations of the right to a hearing with due guarantees and within a reasonable time and the right to judicial protection, protected under articles 8(1) and 25 of the American Convention, respectively, to the detriment of the alleged victims' next of kin. The IACHR further considers that the effects of the alleged failure to solve the facts of this case and punish those responsible could tend to establish a violation of the right recognized in Article 5(1) of the Convention, again to the detriment of the alleged victims' next of kin.

44. The petitioners did not specify which articles of the American Convention were allegedly violated. Based on all the information supplied thus far and by virtue of the principle of *jura novit curia*, the IACHR has characterized the possible violations of Convention articles described in the preceding paragraphs.

45. Finally, inasmuch as these aspects of the petition do not appear to be obviously out of order or manifestly groundless, the Commission concludes that the petition satisfies the requirements set forth in articles 47(b) and (c) of the American Convention.

## V. CONCLUSIONS

46. Based on the considerations of fact and of law set forth herein and without prejudging the merits of the case, the Inter-American Commission concludes that the present case satisfies the admissibility requirements set forth in articles 46 and 47 of the American Convention and, therefore,

### THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

#### DECIDES:

1. To declare the present petition admissible with respect to articles 4, 5, 13, 8 and 25 of the American Convention, in relation to Article 1(1) thereof.
2. To notify the State and the petitioners of this decision.
3. To proceed to its examination of the merits of the case.
4. To publish this decision and include it in the Annual Report to be presented to the OAS General Assembly.

Done and signed in the city of Washington, D.C., on the 24<sup>th</sup> day of the month of March, 2010. (Signed: Felipe González, President; Dinah Shelton, Second Vice-President; María Silvia Guillén, José de Jesús Orozco Henríquez, and Rodrigo Escobar Gil, Commissioners).