REPORT No. 9/13
PETITION 1621-09
ADMISSIBILITY
MAHO INDIGENOUS COMMUNITY
SURINAME
March 19, 2013

I. SUMMARY

1. On December 16, 2009, the Inter-American Commission on Human Rights (hereinafter "Inter-American Commission" or "IACHR") received a complaint filed by the Kaliña indigenous community of Maho and the Association of Indigenous Village Leaders in Suriname[1] (hereinafter "petitioners") against the State of Suriname (hereinafter the "State" or "Suriname") alleging violations of articles 3, 4(1), 5(1), 13, 21 and 25 of the American Convention on Human Rights (hereinafter "American Convention" or "Convention"), read in conjunction with articles 1(1) and 2 thereof, to the detriment of the Kaliña indigenous community of Maho and its members (hereinafter "Maho Indigenous Community," "Maho Community," "Community" or "alleged victims").

2. The petitioners allege that the Maho Indigenous Community has traditionally possessed and occupied its lands and territories for thousands of years, maintaining a spiritual, cultural and physical survival relationship with its lands, territories and natural resources, and that the Community has ancestral rights to its lands and territories under Kaliña customary law. They argue that in 1971, the State nominally reserved approximately 65 hectares of land for the Maho Community to use; yet despite the reserve – which they consider to be insufficient- the State has allegedly granted concessions and permits to third parties to allow them to exploit the land, territory and natural resources that the Community has traditionally occupied and used. They contend that although the violations they are alleging began around 1991 and continue to this day, the State has yet to take any measures to protect the alleged victims' rights. They claim that as a result, the population of the Community has decreased drastically in recent years. As for the rule requiring exhaustion of the remedies under domestic law, the petitioners argue that there are no domestic remedies available in Suriname to protect the rights of the Maho Community.

3. The State, for its part, contends that the petition must be declared inadmissible because the IACHR does not have competence *ratione temporis* and because the facts alleged do not tend to characterize violations of rights protected by the American Convention. The State argues that the Maho Community voluntarily relocated around 1960 and since then abandoned any traditional possession might have had to the lands and territories beyond the 65 hectares reserved for the Community in 1971. The State asserts that the petitioners' relocation in 1960 and the events that followed undermine any claim to traditional possession of anything more than the 65 hectares reserved for the Community.

4. Given the admissibility requirements set forth in articles 46 and 47 of the American Convention, and without prejudging the merits of the case, in this report the IACHR concludes that the petition is admissible with respect to the alleged violations of articles 3, 5(1), 13, 21 and 25 of the American Convention, read in conjunction with articles 1(1) and 2 thereof. The Commission further decides to notify the parties of this decision, to publish it and to include it in its Annual Report to the OAS General Assembly.

[1] In Dutch, "Vereniging van Inheemse Dorpshoofden in Suriname".

II. PROCEEDINGS BEFORE THE IACHR

5. The Inter-American Commission received the petition on December 16, 2009, and assigned it number 1621-09. On October 27, 2010, the IACHR forwarded the relevant parts of the petition to the State and requested that it present its response within two months, in keeping with Article 30(2) of the Rules of Procedure of the Inter-American Commission on Human Rights ("IACHR Rules").

6. The Commission received communications and additional information from the petitioners on February 3, May 3, July 15, August 3, and September 21, 2010, and on March 14 and 25 and April 8, 2011, all of which were duly forwarded to the State. The IACHR also received correspondence from Suriname on March 9 and December 13, 2010, and February 5 and May 16, 2011. That correspondence was duly forwarded to the petitioners.

7. In addition, on February 4, 2013, the petitioners informed the IACHR that they would be interested in pursuing a friendly settlement process. This communication was forwarded to the State on February 6, 2013, requesting its observations on it within a period of a month.

Precautionary Measures

8. On the very same day the petitioners filed their petition, they also asked the IACHR to adopt precautionary measures to halt the activities of the Mohsiro foundation and of Mr. Baboelal or Baboeram on the lands alleged to have been the Maho Community's traditional lands, particularly the logging and mining activities and exploration for and exploitation of other natural resources. The request for precautionary measures alleged that since 1990, the *Stichting* Mohsiro[2] and other groups of third parties had encroached on the 65 hectares reserved for the Maho Community in 1971. The request seeking precautionary measures also alleged that the encroachers occasionally destroy the community's crops and threaten the alleged victims' physical safety. The petitioners claimed that as a result of such actions, the community's extinction may be imminent.

9. On October 27, 2010, the IACHR granted precautionary measure No. 395-09, for the inhabitants of the Maho Indigenous Community. It specifically asked the State to take the necessary measures to ensure that the Maho Community is able to survive on the 65 hectares reserved for it and that any intrusion by persons outside the community be prevented until such time as the Commission decides the merits of the petition.

III. POSITIONS OF THE PARTIES

A. Position of the petitioners

10. The petitioners allege that the Kaliña Indigenous Community of Maho has traditionally possessed and occupied its lands and territories for thousands of years and that its culture and identity have always been closely tied to its lands, territories and natural resources. They assert that during the mid-20th century, most members of the Maho Community relocated inland, away from the Saramaka River, in part because of encroachments by the State and/or third parties. However, they also maintained that the Community had always stayed within Kaliña ancestral territory.

11. The petitioners report that in 1971, Suriname's Ministry of Development reserved a 65-hectare area for the Maho Community's use. The reserve was an acknowledgment of a portion of the territory traditionally possessed by the Community. However, the reserve did not involve legal title and did not include all the lands traditionally occupied by the Community. The petitioners point out that the Community still does not have legal title to the 65 hectares that the State set aside for the Community. The legal status of the land reserved by the State has never been formally established.

[2] "Stichting" means foundation; in Surinamese law, it can be likened to a nongovernmental organization.

12. The petitioners add that in 1991, the Surinamese government granted the *Stichting* Mohsiro an open-ended permit to farm an area of 171.5 hectares of lands traditionally occupied by the Maho Community. That area included a portion of the 65 hectares reserved for the Community in 1971. The petitioners contend that with the knowledge, help and/or acquiescence of the State, members of the Mohsiro foundation destroyed part of the Maho lands and territories and threatened, intimidated and physically and verbally abused members of the Community on various occasions. For example, the petitioners claim that in mid 1997, members of the Mohsiro foundation destroyed a corn field belonging to Cornelis Toenaé, a Community leader. When he complained, he was attacked and threatened by someone wielding a firearm, who had help from a person whom Community members identified as being a police officer. The petitioners report that Mr. Toenaé filed a complaint with the local state authorities, but received no response. They add that on another occasion, police took Astrid Toenaé, Mr. Cornelis Toenaé's daughter, into custody and held her for eight days, without bringing any charges against her. They also claim that on March 25, 2009, Astrid Teonaé was displaced from supposed Maho traditional lands with the knowledge of the State police. The petitioners also report other acts of aggression and arbitrariness that have elicited no reaction or protective measures on the part of the authorities.

13. The petitioners explain that although the permit originally given to the Mohsiro foundation specified what land it could use for agricultural purposes, the foundation did not farm that land. Instead it used the land for logging and mining. The petitioners also assert that in 2005 the Mohsiro foundation got approval from the Ministry of Natural Resources to convert the original permit for use for an unspecified period into a land lease title, and later to extend it for 40 years, the maximum allowed under Surinamese law. According to the petitioners, from time to time the members of the Mohsiro foundation destroy the crops of the Toenaé family and other members of the Maho Community. They also complain that the activities to mine other natural resources, such as sand, are conducted on the Community's territory with the State's knowledge.

14. The petitioners also report that in 2008, the State granted Mr. Baboelal (or Baboeram) a title of ownership to Maho Community traditional lands, without consulting the Community beforehand.

15. The petitioners point out that the Maho Indigenous Community has none of the basic services and relies on farming, hunting, fishing and gathering wild forest plants and products for its survival. They contend that as a consequence of the State's actions, the population of the Community has decreased drastically in recent years. According to the petitioners, as of the date on which the petition was filed, the Maho indigenous community had approximately 80 members; however, because of its precarious circumstances, only 17 persons remained in the village. They contend, however, that under the Community's customary law, all 80 members are entitled to use and enjoy the Community's traditional lands.

16. The petitioners maintain that the State of Suriname has violated the right to property recognized in Article 21 of the American Convention. They argue that the Inter-American Court of Human Rights ("Inter-American Court") has repeatedly recognized indigenous peoples' collective right to ownership of their lands and territories, and the right to self-determination and to have their customary law respected. The petitioners add that the *de facto* permissiveness that allows mining and logging even on the 65 hectares that are supposedly protected land, without the prior, informed consent of the Maho Community, is a violation of Article 21 of the Convention.[3]

17. The petitioners also allege that according to the Inter-American Court's case law, the failure to protect their right to their lands is a violation of the right to have one's life respected, recognized in Article 4 of the American Convention. According to the petitioners, the harassment by private parties and state authorities, the destruction of their sources of subsistence, and the other precarious conditions in which the alleged victims live are the fault of the State and in violation of Article 4. They argue also that the suffering and anguish to which the

[3] The petitioners report that in 2007, the Saramaka Commissioner requested Mr. Cornelis Tonaé's permission to use three hectares for mining, on the condition that the mining activities would also benefit the members of the Community. That condition, however, has never been observed.

Community has been subjected is a violation of its right to have its physical, mental and moral integrity respected, as recognized in Article 5(1) of the American Convention.

18. The petitioners add that the alleged victims have requested information from the State concerning the identity of those who have been given property deeds to the Community's traditional lands. They contend that the State has not answered their requests. According to the petitioners, the failure to respond is a violation of the right to freedom of expression recognized in Article 13 of the American Convention, specifically the right to receive public information.

19. They also point out that Suriname's domestic laws do not recognize the Maho Community as legally capable of holding rights, which prevents the Community from enjoying and exercising its rights, among them its right to communal property. They argue that under the case law of the inter-American human rights system, the failure to recognize an indigenous community as a right-holder is a violation of Article 3 of the American Convention. They also argue that Suriname has not given the Maho Community the judicial protection required under Article 25 of the Convention, by failing to enact laws that protect the Community from human rights violations and that offer remedies in the event of such violations.

20. They contend that by its failure to enact domestic laws that enable the Maho Community to exercise its collective rights, Suriname is violating articles 1 and 2 of the American Convention as they pertain to the Maho Community's right to possess, control and use its traditional lands, territories and natural resources.

21. In response to the State's argument that the petitioners voluntarily relocated and severed their ties to their ancestral lands, the petitioners point out that occasional relocations are a tradition within the Maho Community, which has always preserved its traditional ties to all its lands and territories, not just the 65 hectares reserved for it. They underscore the fact that the State itself has acknowledged that the Maho Community suffers human rights violations; the petitioners attached the translation of the minutes of a meeting with the Minister of Physical Planning, Land and Forestry Management on May 7, 2008, which they contend is proof of this acknowledgement.[4]

B. Position of the State

22. Suriname contests the admissibility of the petition, arguing that the Inter-American Commission does not have competence *ratione temporis* and that the petition does not state facts that tend to establish a violation of the human rights cited in the petition.

23. The State contends that the petitioners voluntarily abandoned their ancestral lands in 1960 and since then severed any ancestral tie they may have had to the area beyond the 65 hectares set aside for the Community in 1971. It maintains that the Maho Community's acceptance of the 65 hectares confirmed this fact. It also claims that assuming, *arguendo,* that the Maho Community's separation from its lands or the 65-hectare reserve could be considered a violation of the Community's rights –an argument that the State rejects- these events occurred in 1960 and 1971, respectively, years before Suriname acceded to the American Convention. It argues, therefore, that the IACHR does not have competence *ratione temporis* with respect to the petitioners' claim.

24. The State mentions the Commission's requirements for declaring a petition admissible, particularly the rule requiring exhaustion of local remedies, the time period for presenting a petition and the duplication of proceedings and international *res judicata.*

25. The State argues that the petition does not state facts that tend to establish a violation of the rights alleged, as no claim is made to the effect that the Maho Community had traditional possession of the area

[4] This document is in Annex F6 of the original petition, dated December 16, 2009.

beyond the 65 hectares reserved for it; nor does it make the case that the Community lost traditional possession against its will. The State reasons that this is consistent with its position that any traditional possession the Maho Community may have had ceased to exist in 1960 when its members voluntarily relocated. The State argues that once the Community relocated, it ceased to have traditional possession of a large portion of its lands, and that as of 1971, the Community's possession and use was confined to the 65-hectare area reserved for it. It also attaches copies of maps of the area dating back to the XVIII and XIX centuries which, according to the State, demonstrate that since the XIX century, a large portion of the territory that the Maho Community is claiming was planned as farmland by the Dutch citizens who owned plantations in the region. The State also maintains that the third parties who have engaged in activities on the lands that the Maho Community is now claiming have legal title to their lands under Suriname's domestic laws.

26. The State argues that the 65 hectares reserved for the Maho Community in 1971 are sufficient for its members to engage in the activities from which they derive their subsistence and to preserve their culture. It reports that the Community was not given title to the land back in 1971 because the law did not allow for collective title. It observes that the petitioners do not clearly define the territory to which they claim to have ancestral ties. It argues that by their voluntary relocation, the members of the Community forfeited any traditional rights they may have had to the area beyond the 65 hectares, and any such rights are now time-barred. The State argues that the lands that the Community is claiming have for years been used for farming and other non-indigenous economic activities.

27. The State also argues that any claim that the Maho Community may have to its territory follows from an action taken by the State (setting aside 65 hectares for the Community in 1971), and not from the Community's traditional or ancestral possession. It adds that the petitioners only complained that their supposed territory was being encroached 30 years after they relocated. Furthermore, their complaints focus on the area beyond the 65 hectares reserved for the Community, which is land over which the Maho Community no longer has traditional possession. The State alleges that the requests that Mr. Cornelis Toenaé made in 1993 and 1995 to have the reserved area expanded were lawfully denied.

28. Suriname affirms that the Maho Community's rights to the 65-hectare reserved area have been and continue to be fully respected and protected It emphasizes that the tension in the area has been caused by Mr. Cornelis Toenaé, whom it describes as a belligerent and aggressive person who has no respect for either traditional or state authority. It argues that the Inter-American Commission recognized the merit of the State's arguments when it granted precautionary measures only with respect to the 65-hectare area.

29. As for the petitioners' argument that the community is shrinking, the State maintains that one explanation might simply be that some people have moved away from the community, and that the only ones who stayed behind were Mr. Cornelis Toenaé's immediate family.

IV. ANALYSIS ON COMPETENCE AND ADMISSIBILITY

30. The requirements concerning the Commission's competence and a petition's admissibility appear in articles 44 to 47 of the American Convention. Each of these procedural requirements is examined below:

A. Competence of the Commission *ratione personae, ratione loci, ratione temporis* and *ratione materiae*

31. Under Article 44 of the American Convention, the petitioners are, in principle, authorized to present petitions to the Inter-American Commission. The alleged victims named in the petition are the Maho Indigenous Community and its approximately 80 members,[5] whose Convention-protected rights the State of

[5] The alleged victims are members of the Kaliña Indigenous Community of Maho, whose members can be identified by name. See, in this regard: I/A Court H.R., *Case of the Mayagna (Sumo) Awas Tingni Community,* Judgment of August 31, 2001. Series C No. 79, paragraph 149;

Suriname committed to respect and protect. As for the State, the Commission notes that Suriname has been a State party to the American Convention since November 12, 1987, the date on which it deposited its instrument of accession. Accordingly, the Commission is competent *ratione personae* to examine the petition.

32. Similarly, the Commission is competent *ratione loci* to examine the petition since it alleges violations of rights protected by the American Convention, said to have occurred within the territory of Suriname, a State party to the Convention. The Commission is also competent *ratione materiae* to examine this case, as the petition alleges possible violations of human rights protected by the American Convention.

33. The State argues that the Commission is not competent *ratione temporis* to examine this petition. The petitioners, for their part, contend that the State of Suriname also violated Convention-protected rights by its actions and omissions since 1991, some of which supposedly continue to this day. These events took place after Suriname had already acceded to the American Convention in 1987. The events cited by the State, which supposedly occurred in 1960 and 1971, are relevant for one of the arguments made by the State, but not directly for the violations that the petitioners allege. Therefore, the Commission considers that it is competent *ratione temporis* to examine the facts alleged in the petition.

B. Other requirements for the petition's admissibility

1. Exhaustion of domestic remedies

34. Article 46(1)(a) of the American Convention provides that for a petition submitted to the Inter-American Commission to be admissible in keeping with Article 44 of the Convention, the domestic remedies must have been pursued and exhausted, in keeping with generally recognized principles of international law.

35. The petitioners allege first that no domestic remedies are available in Suriname to protect the rights of the Maho Community. They argue that in the *Case of the Saramaka People v. Suriname,* the IACHR and the Inter-American Court acknowledged that no adequate remedies were available in Suriname to enable indigenous communities to assert their rights. The petitioners argue that nothing has changed since the judgment delivered in that case. Accordingly, they are requesting that the exception allowed under Article 46(2) of the American Convention be applied, as Suriname does not have domestic laws to protect the rights of those who claim their rights were violated.

36. Secondly, the petitioners add that with no proper remedies to safeguard their rights, they have filed four constitutional petitions with the authorities under Article 22 of Suriname's 1987 Constitution. They explain that one petition was filed on November 2, 2007, with the Office of the President of Suriname, asking that the permit granted to *Stichting* Moshiro be revoked and that the destruction of the Community's crops be halted. The petitioners allege that they then filed two petitions on January 30, 2009 –one with the Office of the President and the other with the Ministry of Physical Planning, Land and Forestry Management. In those petitions they complained that Mr. Baboelal was occupying the Community's ancestral lands. Lastly, they filed another petition, dated February 19, 2009, with the Ministry of Physical Planning, Land and Forestry Management, requesting that their rights to their lands be respected, as Mr. Baboelal had set up armed guards in the area and was thus preventing the members of the Maho Community from coming and going at will. The petitioners contend that the State never formally responded to any of these petitions and although informal meetings were held with the authorities in 2007 and 2008 to discuss the problem, those discussions have not resolved the alleged victims' situation.

IACHR, Report No. 62/04, Kichwa Indigenous Community of Sarayaku and its members (Ecuador), paragraph 47; IACHR, Report No. 58/09, Kuna of Madungandí and Emberá of Bayano Indigenous Peoples and Their Members (Panama), paragraph 26.

37. In its brief of reply, Suriname mentions the rule requiring exhaustion of local remedies, without elaborating on how that rule applies in this case. The State does not contest its failure to respond to the constitutional petitions that the petitioners filed.

38. The Inter-American Court has explained that a State lodging the objection of a failure to exhaust domestic remedies must specify the domestic remedies that remain to be exhausted and demonstrate that those remedies are applicable and effective.[6] In this case, Suriname does not specify which domestic remedies remain to be exhausted; the petitioners allege that there are no adequate and effective domestic remedies to protect the Maho Community's human rights.[7] Therefore, the IACHR decides that for purposes of the petition's admissibility at this stage in the proceedings, the petitioners have satisfied the requirements set forth in Article 46 of American Convention, in keeping with Article 46(2)(a) thereof.

39. As for the possible violation of Article 13, the IACHR notes that the petitioners made several requests for information to the State, to which they allege the State did not respond. They also claim that there is no legal mechanism in Suriname to compel the State to disclose public information. The State has not disputed these allegations. In view of these allegations, and in the absence of information that would indicate the availability and efficacy of domestic remedies, the Commission decides, for the purposes of admissibility, to apply the exception contained in Article 46.2.a of the Convention.

2. Deadline for filing a petition

40. Article 46(1)(b) of the American Convention provides that in order for petitions to be admissible they must be submitted within six months of the date the party alleging violation of his or her rights was notified by the State of the final judgment. In this analysis, the IACHR has established that the circumstance set forth in Article 46(2)(a) of the American Convention as grounds for an exception to the rule requiring exhaustion of local remedies applies in this case. Article 32 of the IACHR Rules provides that in those cases in which the exceptions to the requirement of prior exhaustion of domestic remedies are applicable, the petition shall be presented within a reasonable period of time, as determined by the Commission. For this purpose the Commission shall consider the date on which the alleged violation of rights occurred and the circumstances of each case.

41. The State of Suriname makes reference to the required deadline for filing a petition, but does not venture any opinion as to whether, in its view, the petitioners have or have not complied with the deadline in this case.

42. The IACHR received the petition on December 16, 2009. The petitioners are alleging continual violations of their rights since 1991; the most recent incident reportedly occurred on March 25, 2009, when Astrid Teonaé, a member of the Maho Community, was allegedly displaced from lands that the Maho Community claimed were its ancestral lands. During the period in which the violations were said to have occurred, the members of the Maho Community allege that they filed a number of formal petitions with the President and certain Surinamese government ministers, but did not receive a response. The Commission considers that the December 2009 petition was presented within a reasonable period of time and therefore satisfies the requirements of Article 46 of the American Convention and Article 32 of the IACHR Rules.

3. Duplication of proceedings and international *res judicata*

43. The petitioners allege that the subject matter of the petition is not pending with another international governmental organization. Suriname cites the rule prohibiting duplication of international

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[6] *Case of the Saramaka People v. Suriname,* Judgment of November 28, 2007, Series C No. 172, paragraph 43.

[7] The Inter-American Court wrote that "[Suriname's] domestic provisions do not provide adequate and effective legal recourses to protect them against acts that violate their right to property." *Case of the Saramaka People v. Suriname,* Judgment of November 28, 2007, Series C No. 172, paragraph 185.

proceedings and *res judicata,* but does not explain whether this requirement has been satisfied or not in this case. Nothing in the case file suggests that the petition duplicates a petition already examined by the IACHR or another international governmental organization.

44. Therefore, the requirements established in articles 46(1)(c) and 47(d) of the American Convention are deemed to have been satisfied.

4. Colorable claim

45. The Commission considers that this is not the proper stage in the proceedings to determine whether or not the alleged victims' rights were violated. For admissibility purposes, at this point in the proceedings the IACHR need only determine whether the facts alleged, if proved, would tend to establish violations of the American Convention, as its Article 47(b) stipulates, or whether the petition is "manifestly groundless" or "obviously out of order," as provided in paragraph (c) of that article. The standard for assessing these factors is different from the standard required for deciding the merits of a complaint. In the admissibility phase, the Commission must do a *prima facie* assessment to examine whether the complaint establishes the apparent or potential violation of a right guaranteed by the Convention, but not to establish the existence of a violation.[8] At the admissibility stage in the proceedings, the Commission is called upon to do a summary analysis that does not imply any prejudgment or preliminary opinion on the merits. By establishing one stage of the proceedings for a determination of a petition's admissibility and a separate stage for the merits, the IACHR Rules reflect the distinction made between the assessment that the Inter-American Commission must make for purposes of declaring a petition admissible, and the one required to establish whether a violation attributable to the State has been committed.[9]

46. Neither the American Convention nor the IACHR Rules require the petitioner to identify the specific rights that he or she claims that the State violated, although a petitioner is free to do so. It is up to the Commission, drawing upon the system's case law, to determine in its admissibility reports which provision of the relevant inter-American instruments applies and whether the facts alleged –if proven on the basis of sufficient evidence- could tend to establish a violation of protected rights.

47. Suriname maintains that the petition does not allege facts that tend to establish violations of the human rights cited by the petitioners. Specifically, it alleges that the Maho Community voluntarily abandoned its traditional lands in 1960, thus severing any ties of traditional possession it may have had with the territory beyond the 65 hectares reserved in 1971. The State argues that the petitioners do not clearly identify the area with which they claim to have ancestral ties. In response, the petitioners argue that although the Community has relocated, it maintains its traditional ties to its entire territory, and that the human rights violations occurred subsequent to 1991. The petitioners also allege that the State has violated the Maho Community's human rights by failing to protect the Community's right to its ancestral lands and territories, and by failing to provide legal protection and legal recognition, by violating the right to a dignified life, and other rights.

48. Based on the information and documents provided by the parties, the IACHR considers that the facts alleged concerning the State's failure to take measures to protect the Maho Community's land and territory, and the alleged collaboration of State agents with third parties that explored for and exploited the natural resources on the Maho Community's traditional territory, could tend to characterize violations of the rights recognized in articles 3, 5(1), 13, 21 and 25 of the American Convention, read in conjunction with articles 1(1) and 2 thereof. The question raised by Suriname as to whether the Maho Community's relocation in 1960 severed the

[8] See IACHR, Report No. 128/01, Caso 12.367, *Mauricio Herrera Ulloa and Fernán Vargas Rohrmoser of the Newspaper "La Nación"* (Costa Rica), December 3, 2001, paragraph 50; Report No. 4/04, Petition 12.324, *Rubén Luis Godoy* (Argentina), February 24, 2004, paragraph 43; Report No. 32/07, Petition 429-05, *Juan Patricio Marileo Saravia et al.* (Chile), April 23, 2007, paragraph. 54.

[9] See IACHR, Report No.31/03, Case 12.195, *Mario Alberto Jara Oñate et al.* (Chile), March 7, 2003, paragraph 41; Report No. 4/04, Petition 12.324, *Rubén Luis Godoy* (Argentina), February 24, 2004, paragraph 43; Petition 429-05, *Juan Patricio Marileo Saravia et al.* (Chile), April 23, 2007, paragraph 54; Petition 581-05, *Víctor Manuel Ancalaf Laupe* (Chile), May 2, 2007, paragraph 46.

Community's traditional ties to its land goes to the merits of the case, and not the petition's admissibility. Therefore, the Commission considers that the petition does state facts that, if proven at the appropriate stage of the proceedings, could tend to characterize violations of the rights guaranteed by the American Convention, pursuant to Article 47(b) thereof.

49. The Commission considers that the petitioners have not presented basic information to make a *prima facie* case for their claims of a potential violation of Article 4(1) of the American Convention. The Commission therefore considers that this allegation is inadmissible under Article 47(b) of the American Convention.

IV. CONCLUSIONS

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

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To declare the petition admissible with respect to the alleged violations of articles 3, 5(1), 13, 21 and 25 of the American Convention, read in conjunction with articles 1(1) and 2 thereof.

2. To declare the petition inadmissible with respect to the alleged violations of Article 4(1) of the American Convention.

3. To notify the petitioners and the State of this decision.

4. To proceed with its analysis of the merits of the case, and

5. To publish this decision and include it in its Annual Report to the OAS General Assembly.

Done and signed in the city of Washington, D.C., on the 19 day of the month of March, 2013. (Signed): José de Jesús Orozco Henríquez, President; Tracy Robinson, First Vice-President; Rosa Maria Ortiz, Second Vice-President; Felipe González, Dinah Shelton, and Rodrigo Escobar Gil, Commissioners.