REPORT Nº 29/06
PETITION 906-03
ADMISSIBILITY
GARÍFUNA COMMUNITY OF "TRIUNFO DE LA CRUZ" AND ITS MEMBERS
HONDURAS
March 14, 2006

I. SUMMARY

1. On October 29, 2003, the Inter-American Commission on Human Rights (hereinafter the "Commission," the "Inter-American Commission" or the "IACHR") received a petition from the Honduran Black Fraternal Organization [Organización Fraternal Negra Hondureña], OFRANEH, (hereinafter "the petitioner") alleging liability on the part of Honduras (hereinafter "Honduras" or the "State") for violating, to the detriment of the Garífuna Community of Triunfo de la Cruz and its members (hereinafter the "Community" or the "alleged victim"), as well as the Garífuna Communities of Cayos Cochinos and Punta Piedra, Articles 8, 21 and 25 of the American Convention on Human Rights (hereinafter the "American Convention" or the "Convention") in relation to Article 1.1 thereof, and Covenant 169 of the International Labor Organization (hereinafter "ILO Covenant 169").

2. On December 19, 2003, the IACHR decided to separate the petition according to each Garífuna community and assign a number to each. The number assigned to the Garífuna Community of Triunfo de la Cruz was 906-03. Both the petitioner and the State were so advised.

3. The petitioner alleges that the rights established in Articles 21, 8 and 25 of the Convention were violated to the detriment of the Garífuna Community of Triunfo de la Cruz and its members because, even though the National Agrarian Institute (hereinafter the "INA" for its Spanish acronym) delivered two property deeds to the Community, one for full ownership [fee simple] and the other to guarantee occupancy of their ancestral lands, possession of the lands has not been undisturbed because of actions by public officials and third parties.

4. The State, for its part, contends that, even though it does not deny the rights of indigenous peoples, in this specific case the petition is inadmissible because the domestic remedies provided by law were not exhausted. Honduras, it adds, is one of a few States that has issued full ownership deeds to indigenous peoples.

5. Without prejudging the merits of the case, the Commission concludes in this report that the case is admissible under Articles 46 and 47 of the American Convention. Consequently, it decides to so notify the parties and continue examining the merits regarding violations of Articles 8, 21 and 25 of the Convention, in relation to Articles 1 and 2 thereof. Lastly, the Commission decides to include this report in his Annual Report to the OAS General Assembly, with notice to the parties.

II. PROCEEDINGS BEFORE THE COMMISSION

6. The Commission received the petition on October 29, 2003, and assigned it the number 906/03. On January 30, 2004, notice was given to the State, giving it two months to file comments.

7. On March 31, 2004, the Commission received the State's comments. On December 6, 2004, the petitioner submitted additional information and asked that the petition be ruled admissible.

8. On October 18, 2005, during the 123rd regular session of the Commission, a hearing was held with representatives of the parties, who presented arguments on admissibility and provided information in writing.

9. On October 19, 2005, additional information supplied by the State was conveyed to the petitioner, giving it one month to comment. On November 9, 2005, the petitioner made a written request that the petition be ruled admissible and asked for a copy of the transcript of the October 18, 2005, hearing. On December 8, 2005, the Commission provided a copy.

10. As regards the precautionary measures procedure, at the hearing held during the Commission's 123rd regular session the petitioner requested precautionary measures to preserve the rights of the alleged victims against alleged violations by the State.[1] On November 10, 2005, the IACHR asked the State to file comments on the request for precautionary measures. On November 18, 2005, the State replied that precautionary measures were not needed because its internal protection mechanisms were sufficient to guarantee the Community's property rights. On January 25, 2006, the petitioner provided additional information.

III. POSITIONS OF THE PARTIES

A. Petitioner

11. The petitioner explains that the Garífuna people are distributed over various communities and their presence in the present-day territory of Honduras dates back to 1791. For a long time, the petitioner adds, they asked the State to recognize their ancestral possession of their lands.

12. On September 28, 1978, the State, through its National Agrarian Institute (INA) gave them a deed guaranteeing occupancy of 126.40 hectares,[2] on the basis of Article 36 of the Honduran Agrarian Reform Law, which provides:

> Lands that when this law takes effect are occupied by villages or hamlets whose existence is not based on a labor contract between their inhabitants and the owner of those lands, shall be expropriated and awarded to the respective community.
>
> Included in the preceding paragraph are portions of properties that have been and are being cultivated by neighbors of the villages or hamlets.

13. In addition, the petitioner reports, in 1993 the INA gave the community a deed of full ownership over 380 hectares in a section of land not included in the land covered by the deed guaranteeing occupancy.[3]

14. The Triunfo de la Cruz Community, despite its titles to the property it occupies, has had serious problems because of the interest of public officials and third parties in their lands, particularly by reason of their tourism potential because they are on the shores of the Caribbean.

15. One example is the conflict over expansion of the downtown area of the Municipality of Tela. In 1989 this municipality asked the INA to enlarge its urban limits, and the INA did so in 1992 by resolution 055-1989, which was submitted to the Ministry of Culture and Tourism for

[1] The petitioner asked that the State be barred from entering into legal transactions and contracts involving real estate of the Garífuna Community of Triunfo de la Cruz, because of imminent danger and irreparable harm to the cultural and physical survival of the Garífuna communities, State inaction in the face of countless complaints, the entry into force of a new property law that would hurt the rights of the Garífuna communities, and the new mega-tourism projects in the area.

[2] The deed guaranteeing occupancy states: "the Executive Director of the National Agrarian Institute, in the exercise of the authority vested in him by Articles 135 (b) and 144 (a) and (g), in relation to Article 36 of the Agrarian Reform Law, guarantees occupancy of the property measuring 126.4 hectares located in Aldea del Triunfo de la Cruz, Municipality of Tela, Department of Atlántida, which has the following boundaries: to the north, the Caribbean Sea, to the south, Roberto Yuin and the Standard Fruit Company, to the east, Río Plátano, to the west, Roberto Yuin. Executed in favor of the Garífuna Community of Triunfo de la Cruz. Done in the city of Tegucigalpa on September 28, 1979."

[3] This provides that, notwithstanding the transfer, title is subject to the condition that if the sale or donation of parcels from the awarded land is allowed, it will be authorized for tourism projects approved by the Honduran Tourism Institute in favor of descendents of the beneficiary ethnic community.

approval because it included a tourist area.[4] According to the petitioner, the Ministry of Tourism unlawfully authorized that expansion on January 20, 1992, without advising the Community even though the authorization affected Community lands. When its urban limits were enlarged, the Municipality of Tela interpreted that the lands of the Garífuna Community of Triunfo de la Cruz had become its property and it awarded a plot of land to its own Labor Union.

16. In addition, the Municipality bought parcels of land from community members who had no authority to sell, and later transferred that land to a tourism enterprise. According to the petitioner, the municipality did this even though the full ownership deed of the Community clearly states that any sale or donation of lots in the lands awarded to the Triunfo de la Cruz Community must be authorized by the Honduran Tourism Institute and may take place only if the purchasers are descendants of the beneficiary ethnic communities, in this case Garífunas of the Triunfo de la Cruz Community. Several members of the Community were also forced under threats and duress to sell land to businessmen from the firm of*Inversiones y Desarrollo El Triunfo S.A.* (IDETRISA) for a development known as Club Marbella, without any record of authorization by the Honduran Tourism Institute or the purchasers being Garífunas. Members of the Community who opposed the sale were targeted for attacks, including murder and slander, as in the case of community leaders Jesús Alvarez and Oscar Brega, as well as unlawful arrest, as in the case of Alfredo López. These actions ushered in an atmosphere of fear and insecurity that persists in the area.

17. IDETRISA built houses within the property of the Community and the area is now fenced in; Community members are prevented from using that land, which includes an area of farmland.

18. Another problem faced by the Triunfo de la Cruz Community, is the situation of the peasant production cooperative named El Esfuerzo, made up of Community women. In 1996 the Community asked the INA to donate 25 square blocks of the guaranteed occupancy tract of land to this peasant enterprise of Community women, so that they could carry on their activities there. However, because of the expansion of the urban limits of the municipality, the women of the cooperative have been involved for years in a legal battle with the municipality, in which complaints have even been lodged against the cooperative for trespassing, even though it is the municipality that is trespassing on the property. In addition, the municipality has taken steps to harass them, as in 2002, when the yucca plantations of the women's association were destroyed and cattle were brought into the plantings. The report to the Criminal Investigation Bureau led nowhere and the problem continues to this day.

19. To stop the dispossession of their lands, a Committee to Defend the Land of Triunfo (CODETT) was formed. It reported to the authorities the various actions of third parties bent on appropriating the Community's land. CODETT requested certification of land sales in the Community, collected testimony and documentary evidence and reported matters to the municipality, to the INA and to the Prosecutor's Office for Ethnic Groups, with no positive results.

20. Concerning the exhaustion of internal remedies, the petitioner states that all actions taken to protect the property rights of the Triunfo de la Cruz Community have been fruitless. In the case of IDETRISA a criminal action was filed with the courts and, in the lower courts, municipal officials who took part in the fraudulent sales were found guilty. However, on appeal, the decision was reversed and this last decision was later upheld by a higher court. No notice of this last decision was given to the Community, which found out about it on July 8, 2003. Nor was the Community notified of the decision to expand the urban limits of the Tela Municipality, thus preventing the Community from taking legal action against it.

4 It is important to note that the second paragraph of this document reads: "exclude from the limits of the urban area the land awarded to the beneficiaries of the Agrarian Reform prior to this resolution until the total value thereof has been canceled," and item 3 reads: "this statement is without prejudice to the right of ownership and possession of individuals or corporations within the boundaries of the area (Triunfo)."

21. The expectation of large financial returns on the part of the power elite involved in these transactions has cut off access to effective judicial protection. The Community is constantly being harassed by the authorities, making it difficult or materially impossible to gain access to and exhaust internal remedies or collect evidence. Bowing to pressure, lawyers refuse to defend the Community, and such domestic actions as have been filed have proved to be ineffective, resulting in a continual violation of the rights of the Community to peaceably enjoy the lands given to it by the State itself. The climate of harassment, coupled with the fact that lawyers will not represent them for fear of reprisals, the disappearance of dossiers[5] and the persecution of Community leaders are all substantiated in case 12387 (Alfredo López v. Republic of Honduras), which the Commission brought to the Inter-American Court of Human Rights (hereinafter the "Inter-American Court" or the "Court"). The Community tried many times to obtain supporting documentation but the search for such evidence was fruitless, because the Municipality of Tela and the INA refused to turn it over. All this, added to the lack of financial resources, places the Community in a situation of inequality and legal defenselessness.

22. Based on the above, the petitioner asks for a ruling that prior exhaustion of domestic remedies has been complied with and that July 8, 2003, the date on which the INA made known the final court decision in the case of IDETRISA, serve as the date from which to count the six-month period prescribed by the Convention. It would be pointless, the petitioner adds, to lodge an administrative action because the defendants were acquitted in the criminal courts, thereby leaving the plaintiffs in a situation of total legal defenselessness, inasmuch as not even lawyers are willing to represent them.

23. This defenselessness is aggravated by the poverty of the Community's inhabitants. The Commission is asked to pay special attention to this factor, which detracts from their ability to defend themselves. As documentary evidence, the petitioner submits the complaints that were filed with the authorities since the Community began to have problems with their lands in Triunfo de la Cruz.

24. The petitioner ends by saying that the Community is uneasy about the future, because it continues to receive threats, and one of the witnesses who was to attend the hearing held by the IACHR had his house set on fire. In deciding on the admissibility of the petition, the Commission should take account of the particular characteristics of this case, inasmuch as internal remedies are not accessible. This should open the way to appeal to the IACHR. There is, the petitioner argues, a continual and obvious violation of human rights in this case, which should render the requirement on exhaustion of domestic remedies inapplicable. In addition, in hearing before the Commission, the petitioner argued that the trend in international tribunals with regard to exhaustion of domestic remedies, reflected in the case law of the European Court of Human rights, is to interpret these cases with flexibility and in the light of the political and legal conditions prevailing in each country.

B. The State

25. On March 30, 2004, the State filed comments on the petition, stating that in the mid-1900s the alleged victim reported its community village land in the Municipality of Tela. The National Agrarian Institute, in 1979, issued to the Community of Triunfo de la Cruz a deed guaranteeing occupancy of 126.40 hectares, thereby recognizing the possession the Community had exercised up to that time.

26. In November 1993, moreover, the INA gave the Community a definitive deed of ownership over an area of 380.52 hectares and in September 2001 added a deed for 253.48 hectares, thus enlarging its territory. The territory in question and the deeds issued to the Garífuna Community of Triunfo de la Cruz are private in terms of their legal nature and are included within the urban radius of the Municipality of Tela.

[5] It is explained, for instance, that in response to a request made to the INA, the Garífuna community of San Juan de Tela was issued a final deed of ownership of a tract of land measuring 328 hectares, which deed is to be found in dossier 27660 that has disappeared from COHDEFOR, the organization for protected areas of Tela and the Municipality of Tela. This was reported to the Ministry of Justice and remains unresolved.

27. In January 2002 the alleged victim asked for allocation, by way of expropriation, of an area that was granted in full ownership by the Municipality of Tela to its municipal labor union. The union objected to enlarging the deed of the Garífuna Community of Triunfo de la Cruz, but its opposition was overruled by the INA, leading to further investigations. At present, the area is not being used because the conflict has yet to be resolved.

28. The allocation process, as explained by the State, begins at the INA with a request to expropriate private lands when their owners are not using them efficiently.

29. The INA, the State indicates, is willing to resolve the issue and is making efforts toward that end, such as asking for reports on payment of taxes to the proper agencies, so as to corroborate the possession exercised over the properties in question. The alleged victims should follow the internal procedural steps; their appeal to the IACHR fails to recognize the efforts made by Honduras to protect its indigenous peoples and the Garífuna people.

30. As for the domestic procedure to be followed, the State explains that the allocation procedure starts at the National Agrarian Institute, either its central or regional offices, with a view to expropriating private lands inadequately used by their owners. This is a way of recovering national and community land illegally held by private individuals. The State says that this procedure may be set in motion by the INA itself or by a complaint from a group or a community filing a sworn affidavit. Proceedings take place *ex officio* up to a certain point, then a second stage takes place before the National Agrarian Council acting as High Tribunal for agrarian affairs, as established in Articles 58, 137 and 150 of the Agrarian Reform Law and Articles 1, 2, 137, 138, 139, 140 of the Administrative Procedure Law. The interested party is at liberty to use the above procedure and offer such evidence as it deems appropriate. After evidence is admitted and produced, a ruling is issued according to the evidence.

31. With regard to the offer of friendly mediation made by the Commission at the hearing of October 18, 2005, the State contends that its willingness to resolve the issue is apparent from the measures taken in this connection in Honduras, and that settling the matter will have a high financial cost, involving payments for parcels of land and improvements. The State is not at present in a sound financial position, it explains, and submits a copy of the position of the Tela municipal labor union opposing the request to expand the deed submitted by the petitioner.

32. At the IACHR hearing, the State said that it understands the mistakes made and that there is still a chance to settle these conflicts through its internal procedures.

33. Honduras, the State argues, does not deny the rights of these communities and is one of a few States to have issued full ownership deeds to indigenous peoples. But in this particular case the alleged victims did not exhaust the remedies available under Honduran law. Accordingly, the petition should be ruled inadmissible.

IV. ANALYSIS

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

34. The Commission has jurisdiction *ratione loci* to hear this petition because it alleges violations of rights protected by the American Convention that are said to have taken place in the territory of a State Party.

35. The Commission has jurisdiction *ratione personae* in terms of passive standing because the complaint is directed against a State Party, as generically provided in Article 44 of the Convention.

36. The Commission has jurisdiction *ratione personae* because of the active standing of members of the Triunfo de la Cruz Community under Article 44 of the Convention, which

prescribes that "any person or group of persons, or any nongovernmental entity legally recognized in one or more member states of the Organization" may petition the Commission concerning complaints of violation of the Convention by a State Party to the detriment of one or more individuals.

37. The Commission has jurisdiction *ratione temporis* because the events complained of allegedly took place when the obligation to respect and guarantee the rights established in the Convention was already in force for Honduras, which ratified the Convention on September 8, 1977.

38. Lastly, the Commission has jurisdiction *ratione materiae* because the petition complains of events that, if proven, would be violations of Articles 1 (obligation to respect rights) 8 (right to a fair trial) 21 (right to private property) and 25 (right to judicial protection).

39. Concerning the petitioner's quest for a finding that Honduras violated ILO Covenant 169, the Commission has no jurisdiction in the matter, although it may and must use it as a standard of interpretation of the obligations prescribed by the Convention, as established in Article 29 thereof.

B. Other admissibility requirements

1. Exhaustion of internal remedies

40. Article 46.1 of the Convention states that for a petition or communication filed under Articles 44 or 45 to be admitted by the Commission a) the remedies under domestic law must have been pursued and exhausted in accordance with generally recognized principles of international law.[6] This provision does not apply, according to subparagraph 2, when a) the domestic legislation of the state concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated; b) the party alleging violation of his rights has been denied access to the remedies under domestic law or has been prevented from exhausting them; or c) there has been unwarranted delay in rendering a final judgment under the aforementioned remedies.

41. Both the Court and the Commission have repeatedly declared that, under generally recognized principles of international law and practice, the rule requiring prior exhaustion of internal remedies is intended for the benefit of the State, to spare it from having to defend against charges before an international body before having had an opportunity to remedy them on its own.[7]

42. In this case, the State alleges that the petition is inadmissible because domestic remedies have not been exhausted by the petitioner, who should have completed the administrative procedure provided in the Agrarian Reform Law and the Administrative Procedure Law. The State argues that this administrative procedure may be set in motion *ex officio* by the INA or by a complaint from a group or a community filing a sworn affidavit, and that the proceedings are conducted to some extent *ex officio* and the appeal is to the National Agrarian Council, which serves as a High Court for agrarian matters.

43. The petitioner, for its part, argues for the admissibility of the petition on the basis of the exception in Article 46.2.b of the Convention and Article 31.2.b of the Rules of Procedure of the IACHR, contending that it was materially impossible to exhaust the remedies because the plaintiffs were denied access to or the possibility of exhausting them. Such legal actions as they were able to take domestically were ineffective, resulting in a continual violation of the right of the Garífuna Community of Triunfo de la Cruz to peaceably enjoy the territory recognized to it by the State itself.

---

[6] See I/A Court H.R., Exceptions to the Exhaustion of Internal Remedies (Article 46.1, 46.2.a and 46.2.b of the American Convention on Human Rights), Advisory Opinion OC-11/90 of August 10, 1990, Ser. A No. 11, para. 17

[7] See Report N° 5/04, Petition 720/00, Admissibility, Eduardo Kimel, Argentina, February 24, 2004, para. 31; I/A Court H.R., *Viviana Gallardo et al.*, November 13, 1981, Ser. A No. G 101/81, para. 26

44. The events reported in this case have to do with effectively protecting the right of the Garífuna community to its collective property. The Commission has repeatedly declared that under international law in general and Inter-American law in particular, special protection is required for indigenous peoples and communities of African descent to enable them to exercise full and equal rights alongside the rest of the population.[8] The Court, in turn, has held with respect to indigenous peoples that it is essential for States to insure effective protection with due regard for their singularities, economic and social characteristics, special vulnerability, customary law, values, practices and customs.[9]

45. Reviewing the available documentation, the Commission concludes that the representatives of the Triunfo de la Cruz Community have repeatedly complained to the INA about actions of third parties that affect their peaceable and undisturbed enjoyment of their territory. The documents provided by the petitioner also show that legal actions were initiated as well to protect Community land from third parties.[10] Nevertheless, the Commission notes that both administrative and judicial actions have been fruitless and the conflict has endured for over 10 years.

46. As stated, the rule requiring prior exhaustion of internal remedies is intended for the benefit of the State, for it seeks to forestall its appearance before an international body to defend against charges before having had a chance to remedy the problem on its own. In this case the State argued that the proper procedure to be exhausted by the petitioner before bringing the matter to the Commission was administrative and could be set in motion by the appropriate government agency on its own. The Commission notes that the situation complained of is more than 10 years old and has had many serious consequences for the members of the Garífuna Community of Triunfo de la Cruz even as the State, though it had been made specifically aware of that situation by the competent authorities, did not take the necessary measures to resolve the issue.

47. The Commission believes it is also important to note that the exceptions to the rule on exhaustion of domestic remedies in Article 46.2 of the Convention are strictly connected with the determination of possible violations of certain rights guaranteed in the Convention, such as the rights to a fair trial and to judicial protection. Article 46.2, however, because of its nature and purpose, is a provision that stands on its own vis-à-vis the Convention's substantive rules. Consequently, whether exceptions to the rule on prior exhaustion of domestic remedies are applicable is a question that must be answered prior to and separately from the analysis of the merits, inasmuch as it depends on a standard of review that differs from the standard used to establish a violation of Articles 8 and 25 of the Convention. The causes and effects of the inability to exhaust domestic remedies in the present case will be analyzed, as appropriate, in the IACHR report on the merits of the case, so as to establish whether they constitute violations of the Convention.

48. The Commission believes that the intent of the alleged victims to avail themselves of the internal remedies offered by the State for protection of their ancestral territory has been

---

[8] IACHR, Resolution on "Special protection of indigenous populations. Action to combat racism and racial discrimination," cited in IACHR, Yanomami Case, Report N° 12/85, 1984-85 IACHR Annual Report, para. 8; Report on the Status of Human Rights of a Segment of the Nicaraguan Population of Miskito Origin, OEA/Ser.L/V/II .62, Doc. 10 rev. 3 (November 29, 1983); IACHR, Second and Third Reports on the Status of Human Rights in Colombia, 1993, 1999; Draft American Declaration on the Rights of Indigenous Peoples, approved by the IACHR at its 95th regular session, February 26, 1997; 1997 IACHR Annual Report, Chapter II; IACHR, Report on the Status of Human Rights in Ecuador, OEA, Ser.L/V/II .96, Doc. 10 rev. 1, April 24, 1997, Chapter IX; IACHR Report N° 40/04, Case 12053, Merits, Indigenous Mayan Communities of the Toledo District, Belize, October 12, 2004.

[9] I/A Court H.R., *Case of the Indigenous Community Yakye Axa*. Judgment of June 17, 2005. Series C No. 125, para. 63.

[10] The documents provided by the petitioner and included in the IACHR case file show at least the following actions taken by the representatives of the Garífuna Community of Triunfo de la Cruz with regard to the alleged events: Request to the National Agrarian Institute of June 27, 1969, dossier No. 2000; complaint field with the Prosecutor for Ethnic Groups, dated September 17, 1994; criminal complaint dated June 11, 1996; complaint to the Ministry of Justice dated October 8, 1996; complaint to the Attorney General dated November 30, 1998; complaint to the Prosecutor's Office of the Municipality of Tela dated March 22, 2001; complaint to the Ministry of Justice dated February 18, 2002; complaint to the Special Prosecutor for Ethnic Groups and to the National Agrarian Institute dated February 18, 2002; complaint to the Prosecutor's Coordinator of the Justice Department of Tela, dated February 27, 2003.

established, but those remedies did not provide effective protection. The many actions documented by the petitioner show, in the view of the Commission, many occurrences that are not isolated but rather permanent in nature, within a general situation of defenselessness of the ancestral lands of the Garífuna Community of Triunfo de la Cruz.

49. Accordingly, considering the many remedies attempted by the alleged victims in the present case, the Commission finds that the exceptions in Article 46.2.a and (b) of the Convention are applicable, thereby rendering inapplicable the requirements of the Convention on exhaustion of internal remedies.

2. Filing deadline

50. Article 46.1.b of the Convention stipulates as a requirement for admissibility of a petition that it must be "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." Under Article 46.2, the provision of Article 46.1.b does not apply when: a) the domestic legislation of the state concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated; b) the party alleging violation of his rights has been denied access to the remedies under domestic law or has been prevented from exhausting them; or c) there has been unwarranted delay in rendering a final judgment under the aforementioned remedies.

51. In this case, compliance with Article 46.1.b of the Convention is connected with application of the exceptions to the exhaustion of internal remedies established by the Convention itself, as discussed in the preceding paragraphs.

52. Consequently, the Commission finds that the petition is not subject to the requirement of Article 46.1.b of the Convention and has been filed within a reasonable time frame.

3. Duplication of procedures and *res iudicata*

53. An admissibility requirement under Article 46.1.c of the Convention is "that the subject of the petition or communication is not pending in another international proceeding for settlement."

54. The Commission believes that the subject of this petition is not pending in another international proceeding for settlement and does not duplicate a petition already examined by the Commission or by another international body. It concludes, consequently, that the requirement of Article 46.1.c has been met.

4. Characterization of the alleged events

55. In order to admit a petition the Commission must determine whether the events described in it tend to establish a violation of rights protected by the Convention, as required by Article 47.b, or whether the petition should be dismissed because it is "manifestly unfounded" or out of order, as prescribed by Article 47.b.

56. The Commission is of the view that the petitioner's complaints, should they meet all requirements and be shown to be true, could tend to establish a violation of rights protected by the Convention. The standard to be used in making this determination differs from the one employed to rule on the merits. The Commission must make a *prima facie*assessment to determine whether the complaint shows an apparent or possible violation of a right protected by the Convention. This is a summary review and entails no prejudgment on the merits of the dispute.

57. The Commission believes that, if the facts alleged by the petitioner are proven, they might constitute a violation of rights protected by Articles 8, 25 and 21 of the Convention in relation to Articles 1 and 2 thereof. Consequently, the requirement of Article 47.b of the Convention has been met.

V. CONCLUSIONS

58. The Commission concludes that the petition is admissible under the exceptions established in Article 46.2.a and (c) of the Convention, based on the preceding facts and law, without prejudging the merits of the case.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
DECIDES:

1. To find this petition admissible insofar as it refers to alleged violations of rights protected by Articles 1, 2, 8, 21 and 25 of the American Convention.

2. To notify the parties of this decision.

3. To continue examining the merits of the case, and

4. To publish this decision and include it in its Annual Report to the General Assembly of the Organization of American States.

Done and signed in the city of Washington, D.C., on the 14th day of the month of March, 2006. (Signed): Evelio Fernández Arévalos, President; Paulo Sérgio Pinheiro, First Vice-President; Florentín Meléndez, Second Vice-President; Clare K. Roberts, Freddy Gutiérrez Trejo, Paolo Carozza and Víctor E. Abramovich, Members of the Commission.