

REPORT N° 85/03
PETITION 12.165
ADMISSIBILITY
MONSI LILIA VELARDE RETAMOZO
PERU
October 22, 2003

I. SUMMARY

1, In a petition lodged with the Inter-American Commission on Human Rights (hereinafter "the Commission," "the Inter-American Commission," or "the IACHR") on November 13, 1998, Uldarico Velarde M. (hereinafter "the petitioner") on the occasion of the *in loco* visit by the IACHR to the Republic of Peru (hereinafter "Peru," "the State," or "the Peruvian State") alleged that the State of Peru, to the injury of Monsi Lilia Velarde Retamozo (hereinafter "the victim") had violated certain rights established in the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention"), by detaining her, torturing her, judging her by "faceless judges," and sentencing her to life in prison for the crime of treason, without sufficient evidence for that verdict.

2. The Peruvian State submitted its defense, disputing several of the points in the petition and asserting that it should be ruled inadmissible because it is manifestly groundless and furthermore was submitted after the deadline prescribed in the American Convention.

3. In this report, the Commission concludes that the petition is admissible concerning the alleged violations of the right to personal integrity, personal freedom, judicial guarantees, the principle of legality, protection of honor and dignity, and judicial protection, set forth respectively in Articles 5, 7, 8, 9, 11, and 25, with regard to Article 1(1) of the American Convention, injuring Monsi Lilia Velarde Retamozo.

II. PROCESSING BY THE COMMISSION

4. On November 13, 1998, during the Commission's *in loco* visit to Peru, it received the complaint from Uldarico Velarde M. on behalf of his daughter, Monsi Lilia Velarde Retamozo. On March 1, 1999 the IACHR sent a note acknowledging receipt of the petitioner's denunciation. In a communication dated May 21, 1999, received by the Commission on the 27th of the same month, the petitioner elaborated on his complaint.

5. On June 7, 1999 the Commission opened case no. 12,165 and transmitted the pertinent parts of the petitions received on November 13, 1998 and May 21, 1999 to the State, requesting it to provide information. On the same date, it notified the petitioner of this procedure and requested additional information.

6. In communications dated November 26, 1999, October 6, 2000, June 21, 2001, January 15, 2002, July 5 and 11, 2002, and November 28, 2002 the state presented its comments.

7. In a note of February 21, 2000 the petitioner designated attorney Carolina Loayza Tamayo as his legal representative and authorized Javier Mujica

Petit to work on the case. In communications of May 21, 1999, February 21, 2000, May 19, 2000, February 7, 2001, August 30, 2001, September 3, 2001, April 9, 2002, July 3, 2002, August 7, 2002, October 31, 2002, and December 9, 2002 the petitioner's legal representative submitted her additional comments.

8. On February 28, 2003, during the 117th session, there was a hearing on the case, in which the petitioner's representative presented updated information on the legal status of the alleged victim of the habeas corpus sought on her behalf.

III. POSITIONS OF THE PARTIES

A. The petitioner

9. Uldarico Velarde M. has charged that his daughter Monsi Lilia Velarde Retarnozo was detained with her live-in companion José Galindo Sedano on October 11, 1996 at 6 p.m. at their home, in the Humano Cruz de Motupe settlement, Block Ñ, Lot 19, San Juan de Lurigancho District, Lima. The detention occurred without arrest warrant or justification, and the victim was held at the headquarters of DINCOTE [Peru's Anti-Terrorism Police Force] until January 15, 1997, during the first five days incommunicado and without court order. The petitioner alleges that his daughter "remained there longer than the period allowed by the Peruvian Constitution for investigation of the crime with which she was charged."

10. The petitioner stated that while his daughter was held in the premises of DINCOTE she was the "*victim of blows of her head against the wall in an effort to make her answer questions posed by police, who placed an electric shock on her knees and ear, blindfolded her, tied her hands behind her back, put her face down on the ground, covered her with a blanket, and walked on her. She was also denied the opportunity to quench her thirst or use the toilet, to unbearable limits. Furthermore, they persistently encouraged her to make a financial arrangement for her release.*" He added that Medical Certificate 3720-DL, prepared by forensic doctors of the Office of Public Prosecutions on October 14, 1996, indicating that the victim presented no signs of recent bruises, is not a valid document because it was prepared while the victim was incommunicado.

11. On Police Record 091-DIVICOTE2-DINCOTE of October 30, 1998, police charged Velarde Retarnozo with the crime of treason, referring the case to the Military Tribunal. At that time police displayed the petitioner's daughter to the media along with other detainees as alleged members of the Shining Path, which violated the principle of presumption of innocence, as well as her honor and dignity.

12. On January 27, 1997 the Naval Military Court, without identifying the judges, sentenced Velarde Retarnozo to 30 years in prison for the crime of treason established in Article 1, paragraphs a and b, second paragraph a of Article 2 of Decree Law 15,659. According to the petitioner, the decision was based on testimony lacking credibility because the witnesses had received benefits for testifying against the Shining Path and because some statements were extracted under torture in police investigations and subsequently denied in court. Furthermore, the petitioner said that one piece of evidence allegedly incriminating his daughter is Certificate N 100-D4-DINCOTE of July 25, 1994, which asserts that Aurelio Aquino Pari, involved in another case, had a manuscript identifying Olga Lucelina Velarde Retarnozo, or "Gladys," as a Shining Path member. Other evidence used against his daughter also referred to the alleged participation of Monsi Lilia Retarnozo in Shining Path activities and identified her as Gladys, although that is not her name.

13. The petitioner stated that when the sentence was appealed, the Superior War Council reached a verdict on April 10, 1997 upholding the military court's sentence, which was subsequently nullified by the Council of Military Justice on September 4, 1997. The Superior War Council, meeting as a "faceless" tribunal, issued a new sentence on October 10, 1997. The petitioner alleged that verdict was likewise based on testimony lacking credibility, and pointed out that one of the documents, the General Military Prosecution Sentence, mentioned a letter in which the victim supposedly said that she was detained in Santa Mónica and Canto Grande, which contradicts the fact that Monsi Lilia Velarde Retamozo had no criminal record.

14. The victim appealed to nullify the sentence. The Supreme Council of Military Justice in a decision of January 28, 1998 did not nullify the guilty verdict, but nullified the sentence, changing it to life in prison. The petitioner presented similar arguments to those used to impugn the previous verdicts, alleging specifically that the decision of January 28, 1998 based the verdict on the statement of Armando Huaranca Lactahuamán, a co-defendant who benefited from cooperation with the prosecution. The petitioner also alleged that the sentence erroneously affirmed that the victim had been detained previously, which is not true.

15. After the complaint was lodged with the IACHR, on September 30, 2002, the victim filed a habeas corpus action that was rejected in a decision of October 2, 2002. On appeal, the First Criminal Court for Regular Trials of Free Prisoners of the Superior Court in Lima reached a decision on October 27, 2002, declaring the action valid, the criminal proceeding against her nullified, and the request for release denied. Despite the foregoing, the petitioner has reported that Monsi Lilia Velarde Retamozo had not been formally linked to any case and remained in custody.

16. On the question of legality, as guaranteed in Article 9 of the American Convention, the petitioner stated: "Decree Law 25,659 provides that offenses specified in Decree Law 25, 475 (a regulation establishing the crimes of terrorism and procedures to be followed) and under certain circumstances established in the same regulation are considered as crimes of treason." That determination was questioned by the Commission, in Report 17/97 of March 11, 1997 (cited in the decision on preliminary exceptions in the Castillo Petruzzi case), which stated that the crime of treason regulated by Peru's laws violates "universally accepted principles of international law, legality, due process, judicial guarantees, right to defense, and right to be heard by impartial and independent tribunals."

17. According to the petitioner, his daughter was currently detained at the Maximum Security Penitentiary in Chorrillos in "inhumane conditions, in cells two meters square, damp and cold, without daylight, with practically no ventilation, where she performs most of her daily activities that are possible in that cramped space, with severely restricted visitation rights." In a subsequent communication, he stated that "in recent months these conditions have changed, in response to the installation of a government in transition to democracy."

18. On the matter of exhaustion of domestic remedies, the petitioner reported that the victim's first attorney was detained on charges of terrorism. Successor attorneys requested copies of the file of August 12, 1998, but as of the date the complaint was lodged with the IACHR they had not been provided, so the petitioner could not request review of the case on behalf of his daughter.

19. On the same question of exhaustion of domestic remedies, the petitioner emphasized that he was never notified of the verdict of the Supreme Court of Military Justice that found the victim guilty on January 28, 1998. Formal cognizance of the content of the verdict occurred some time later, making it impossible to submit a request for pardon in June 1998.

20. The petitioner asserts that he presented his complaint to the IACHR in a reasonable period considering the date on which he became aware of the impediments to exhaustion of domestic remedies on behalf of the victim.

21. The petitioner says that in the case of his daughter, Monsi Lilia Velarde Retamozo, the Peruvian State violated Articles 7, 5, 8, 9, 11, and 25.

B. The State

22. The State asserted that victim's criminal trial did not violate the American Convention on Human Rights, indicating specifically that Medical Certificate 3720-DL, prepared by forensic doctors of the Office of Public Prosecutions on October 14, 1996, said that the victim displayed no recent injuries.

23. Concerning the allegation of detention without court order and not involving a person caught in the act of committing a crime, the State said that according to Supreme Decree 057-96DE/CCFFAA of October 30, 1996 the City of Lima was under a state of emergency, and detention of that type was permitted in cases of terrorism, even without court order. The State also said that the complaints concerning irregularities in the criminal proceeding of the military court should have been made during the trial itself.

24. The State added that the victim was assisted by counsel throughout the trial and when she was displayed by the police. The State reported that Velarde Retamozo's preliminary declaration was received on December 30, 1996 and on January 20, 1997 the indictment was issued. On January 24, the victim's attorney filed a motion for exception to refusal of jurisdiction, which was rejected by the verdict of January 27, 1997, which sentenced Velarde Retamozo to 30 years in prison for the crime of treason defined in Article 1, paragraphs a and b, second paragraph a of Article 2 of Decree Law 25,659.

25. Continuing with its description of the facts, the State noted that "The Special Navy War Council upheld this sentence by Resolution of April 10, 1997, but it was nullified on September 4, 1997 by the Special Supreme Military Tribunal, which ordered a new sentence. By Resolution of October 10, 1997 the Special Navy War Council issued a new sentence, confirming that of the first trial. On October 28, 1997 counsel for Velarde Retamozo filed a request for nullification, presenting the records of the Special Supreme Military Tribunal, and on January 27, 1998 the defense presented its written argument and named Dr. Jorge Del Carpio Servillano the new defense counsel. In a decision of January 28, 1998 the Special Supreme Military Tribunal rejected nullification of the conviction of Velarde Retamozo, but nullified the sentence, replacing it with life in prison. In a note of April 7, 1998 Velarde Retamozo named a new defense attorney, Dr. Gloria Cano Legua, and at her request the military court made the case file available to her on June 26, 1998 at the Special Office of Parties for Treason Cases." The State also noted that after the establishment of the Ad Hoc Commission for proposing pardons to the President under Law 26,655, the victim requested a pardon from the Commission and it was denied on July 19, 1999.

26. Regarding the victim's treatment in prison, the State asserted that she is detained in a cell that is three by three meters, with adequate light and ventilation, receiving visitors on Saturdays and Sundays, and corresponding with her husband, José Galindo Sedano, who is detained at the Castro Castro Prison. As to the victim's health condition, it added that "on July 22, 1998 the medical service reported the result of a medical examination of the prisoner, conducted at her father's request made on July 17, 1998. The diagnosis was parasitosis and bilateral gonalgia, for which she was receiving appropriate care. She was seen on March 26, 1999 for dental cavities, on April 3, 1999 for onicomycosis, on June 3, 1999 for leucorrhoea, on May 5, 1999 for a bruise, and on July 9, 1999 for pharyngeal

tracheitis, receiving appropriate medical care in each case. She is currently in good health.”

27. On the requirements for admissibility, the State alleged that the petition is manifestly groundless, adding that “the petitioner wants the IACHR to decide in this case whether the resolutions and verdicts of domestic courts were merited and correctly interpreted the evidence in the criminal process, but as the IACHR stated in its report 8/98, ‘*The Commission is not a court for review of decisions of judicial authorities*’ of the OAS member states, which have acted within their sphere of constitutional and legal powers, so it lacks the authority to consider and rule on the substance of the petition presented in this case.”

28. Furthermore, the State—disagreeing with the petitioner—considers that under Article 689 of the Code of Military Justice the special recourse of review of sentence was not applicable in cases involving the crime of treason established by Decree Law 25,659. Therefore, the State concludes that “since the petitioner did not recur in a timely manner to the inter-American system since June 1998, and did not present his complaint until June 7, 1999, one year later, beyond the time permitted in Article 46.1.b of the Convention, it should be declared inadmissible.”

29. As the petitioner’s representative indicated that the first complaint was received by the Commission on November 13, 1998, the State alleged in a subsequent communication that it received the pertinent parts of the complaint on June 7, 1999, without notification of the date of receipt of the denunciation, so “the State must consider that the communication to which the petitioner referred as having been presented in November 1998 had irreparable defects and was not presented in valid form until June 7, 1999, after the period allowed for its presentation by Article 46.1.b of the American Convention.

30. In its latest communications, the State reported that following the decisions of the Inter-American Court of Human Rights impugning the anti-terrorism law in the Loayza Tamayo and Castillo Petruzzi cases, it has taken “concrete steps to consider reform” of that law, but that this “does not imply admission of responsibility in all facts denounced by the petitioner, especially since they have not been duly confirmed. In addition, it stated that “in the case against Monsi Lilia Velarde Retamozo there has been ample and sufficient evidence to punish her for the acts that gave rise to the trial.” Referring to the provision of the Penal Execution Code that denies benefits of partial release and conditional parole in terrorism cases, the State said that a friendly settlement agreement would not be possible because it would include benefits that are not permitted in Peruvian law.

IV. ANALYSIS

A. The Commission’s competence *ratione materiae*, *ratione personae*, and *ratione temporis*

31. The petitioner is entitled under Article 44 of the American Convention to lodge denunciations with the IACHR. The petition states that the alleged victim is a person for whom Peru has pledged to respect and guarantee the rights contained in the American Convention. As for the State, the Commission notes that Peru has been a party to the American Convention since September 5, 1984, when it deposited its instrument of ratification. The Commission thus is competent *ratione personae* to examine the petition.

32. The Commission is competent *ratione loci* to consider the petition, because it alleges violations of rights protected by the American Convention that would have occurred in the territory of a state that is party to the treaty. Furthermore, the IACHR is competent *ratione temporis* because the obligation to respect and guarantee the rights protected by the American Convention was in force for the State on the date that the events alleged in the petition would have occurred. Finally, the Commission is competent *ratione materiae*, because the petition denounces violations of human rights protected by the American Convention.

B. Requirements for admissibility of the petition

33. In the matter brought before the IACHR a dispute has arisen concerning the requirements for admissibility specified in Article 46.1.a of the American Convention. The State asserts that the facts do not constitute a violation of rights protected by this international instrument.

a. Exhaustion of domestic remedies and deadline for presentation

34. Article 46 of the American Convention states that admission of a case shall be subject to the following requirements:

- a. that the remedies under domestic law have been pursued and exhausted in accordance with generally accepted principles of international law;
- b. that the petition or communication is lodged within a period of six months from the date on which the party alleging violation of his rights was notified of the final judgment;

35. Paragraph 2 of Article 32 of the Rules of Procedure of the Inter-American Commission of Human Rights provides:

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.

36. In his first communication, the petitioner alleged that the victim failed to file a special appeal for review because he did not have access to the file, and that he went to the Commission within a reasonable time after he became aware of that obstacle to his filing. The State, for its part, stated that according to Article 689 of the Code of Military Justice, the special appeal for review is clearly inapplicable in this case and that as a result, the deadline for lodging a petition with the Commission was already past on June 7, 1999, when the petitioner allegedly had presented his first petition to the IACHR. On this point, the petitioner's representative said that the first denunciation was received by the Commission on November 13, 1998, during the visit of the IACHR to Peru. In its communication of October 6, 2000 the State alleged that it received the pertinent parts of the denunciation on June 7, 1999, without having been notified of the date of receipt of the claim, and therefore "the State must consider that the communication to which

the petitioner referred as having been presented in November 1998 had irreparable defects and was not presented in valid form until June 7, 1999, after the period allowed for its presentation by Article 46.1.b of the American Convention.

37. In this regard, the IACHR notes that the petitioner's complaint was received on November 13, 1998 during the *in loco* visit to Peru, and not on June 7, 1999 as the State indicated. The State said it understood that the petition presented in 1998 had serious defects that were corrected on June 7, 1999. However, the Commission notes that the denunciation lodged on November 13, 1998 did not contain those omissions, so it registered it and acknowledged receipt to the petitioner on March 1, 1999. Subsequently, on May 27, 1999 the petitioner sent additional information, which was transmitted with the pertinent parts of the complaint to the State on June 7, 1999, the date that the State originally considered was the date of presentation of the petition. It is clear, therefore, that the date and place of reception of the complaint was November 13, 1998, at 2:20 p.m. in the city of Lima by an official of the Executive Secretariat of the IACHR, and this date is the valid one for purposes of the deadline established in Article 46.1 of the Convention.

38. In presenting additional information, the petitioner alleged that the victim was never notified of the verdict at the conclusion of her trial, and that the defense, including a study of a possible special recourse for review, was blocked by the detention of her lawyer on charges of terrorism, and later by her new lawyers' lack of access to the file. He stated that after lawyer Gloria Cano had a chance to review the case, in June 1998, she presented a request for pardon, which had not been resolved as of the date the complaint was lodged with the IACHR. On these facts the State raised no objection in its subsequent communications, and it reported the request for pardon was denied on July 19, 1999.

39. The Commission considers that according to information provided by the State the appropriate domestic remedies were exhausted by the verdict of the Special Supreme Military Tribunal on January 28, 1998, which sentenced Monsi Lilia Velarde Retamozo to life in prison. The IACHR therefore considers that domestic remedies were exhausted, noting also that the victim also had recourse to requesting a pardon from the President and a petition of habeas corpus.

40. Concerning the deadline for lodging the denunciation with the Commission established in Article 46.1.b, the Commission understands that the victim was notified of the sentence of the Special Supreme Military Tribunal on June 26, 1998, the date when the trial file was put at the disposal of her lawyer. Therefore, the six-months period for lodging a complaint with the Commission must be counted from June 26, 1998. The IACHR concludes that the petition lodged on November 13, 1998 satisfies the deadline set by Article 46(1)(b) of the American Convention.

b. Duplication of proceeding or repetition

41. The Commission understands that the subject of the petition is not pending in another international proceeding or settlement, and is not substantially the same as one previously studied by the Commission or by another international organization. Therefore, the requirements established in Articles 46.1.c and 47.d of the Convention are met.

c. Characterization of the facts

42. The petitioner alleges violations of personal freedom, personal integrity, judicial guarantees, the principle of legality, and judicial protection, guaranteed respectively in Articles 5, 7, 8, 9, 11, and 25 of the American convention, which would mean that the Peruvian State failed to fulfill its international obligation established in Article 1(1) of that international treaty.

43. The State maintains that the petition is manifestly groundless because it does not present facts that would represent a violation of the American Convention. It alleges that the petitioner's complaint refers to questions that should be dealt with by domestic courts and it is not up to the Commission to act as a "tribunal to review national decisions."

44. Paragraphs b and c of Article 47 provide:

The Commission shall consider inadmissible any petition or communication submitted under Articles 44 or 45 if:

- b. the petition or communication does not state facts that tend to establish a violation of the rights guaranteed by this Convention;
- c. The statements of the petitioner or of the state indicate that the petition or communication is manifestly groundless or obviously out of order.

45. Paragraph b of Article 47 of the American Convention must be applied when the facts related in the denunciation do not concern violations of human rights. The sole purpose of paragraph c of the same article is to prevent the Commission from delving into petitions that by their content are clearly groundless or out of order. On this point the Commission has said that:

The IACHR must conduct a *prima facie* evaluation to determine whether the petition establishes grounds for the apparent or potential violation of a right guaranteed by the Convention, but not to establish the existence of a violation. This determination involves a summary analysis which does not imply a prejudgment or advance opinion on the substance of the matter. The Commission's Regulations, by establishing two clear stages, one involving admissibility and the other the substance of the petition, reflects this distinction between the evaluation the Commission must conduct for the purpose of declaring a petition admissible and that required to establish a violation.

46. In the present case, the petitioner says that the Peruvian State violated Articles 5, 7, 8, 9, 11, and 25, to the injury of his daughter, Monsi Lilia Velarde Retamozo. He also alleges that those violations were not suspended or redressed because the State has not offered her the necessary judicial guarantees (Article 8) or judicial protection (25).

47. The State, in its latest communications, noted the decisions of the Inter-American Court of Human Rights impugning anti-terrorist laws established in Decree Laws 25,475, 25,659, and others. It also emphasized that it has undertaken a process of review of the trials for crimes covered by that legislation. It said the Constitutional Court of Peru, on January 3, 2003, issued a decision in which it

declared some rules of Decrees 25,475 and 25,659 unconstitutional, without affecting Article 2 of Decree 254750, which defines the crime of terrorism, including treason.

48. The Peruvian government developed that ruling by issuing legislative decrees 923, 924, 925, 926, and 927 of February 19, 2003, in which it provided that the National Terrorism Court will progressively, and in less than 60 working days from the entry into force of the law, annul all verdicts and trials for terrorism crimes involving unidentified judges or prosecutors, unless this right is waived by the defendant. The IACHR understands that with this new legislation Peru intends to offer new trials to persons who were investigated, tried, and sentenced for terrorism and treason, and their role in this case will be studied in due course.

49. The IACHR therefore considers that the discussion of the existence of violations of Articles 5, 7, 8, 9, 11, and 25 should be the subject of the substantive analysis of the case. For purposes of admissibility, the Commission concludes that there are sufficient grounds that the facts tend to indicate violations of human rights and the denunciation is neither manifestly groundless nor obviously out of order.

V. CONCLUSIONS

50. The IACHR has established in this report that all domestic remedies were exhausted and the petition was presented in a timely manner for the purposes of the American Convention.

51. The Commission concludes that the petition is admissible pursuant to Article 47.a of the American Convention. Based on the arguments of fact and law expressed above,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES:

1. To declare admissible this petition concerning Articles 5, 7, 8, 9, 11, and 25 of the American Convention.
2. To communicate this decision to the petitioners and the State.
3. To publish this decision and include it in its Annual Report to the General Assembly of the OAS.

Done and signed at the headquarters of the Inter-American Commission on Human Rights, in the city of Washington, D.C., on October 22, 2003. Signed by José Zalaquett, President; Clare K. Roberts, First Vice-President; Commissioners: Robert K. Goldman and Julio Prado Vallejo.

Pursuant to Article 17(2)(a) of the Commission's Rules of Procedure, Commissioner Susana Villarán, of Peruvian nationality, did not participate in the consideration or decision of this case.

The petitioner's communication of February 7, 2001, received by the IACHR on March 5, 2001.

Paragraph 12 of the petitioner's communication received by the IACHR on November 13, 1998.

The petitioner's communication of February 7, 2001, received by the IACHR on March 5, 2001.

The Petitioner's communication of February 7, 2001, received by the Commission on March 5, 2001.

Ibid.

Paragraphs 28 and 29 of the petitioner's communication of February 7, 2001, received by the Commission on March 5, 2001.

Communication from the Peruvian State dated November 26, 1999.

Communication of the Peruvian State, dated October 6, 2000.

Communication of the Peruvian State, dated November 26, 1999.

Ibid.

Ibid.

Ibid.

Communication of the Peruvian State of November 26, 1999.

Ibid.

Report No. 2, sent to the IACHR with note of October 6, 2000.

Report No. 05-2002-JUS/CNDH-SE, sent to the IACHR with note of January 15, 2002.

Report No. 51-2002-JUS/CNDH-SE, sent to the IACHR with note of July 11, 2002.

Report No. 2, sent to the IACHR with note of October 6, 2000.

Decree 25,659 of August 12, 1992 regulated procedures for trials involving treason crimes. Its Article 6 suspended the exercise of actions of habeas corpus for these crimes and those of terrorism. Article 2 of Law 26,248 of November 25, 1993 re-established habeas corpus actions in a partial and restricted manner for these crimes, which are dealt with in special anonymous terrorism courts without admitting habeas corpus actions based on the same facts or causes that were the subject of the trial in process or completed.

IACHR, Report No. 128/01, Herrera y Vargas (*La Nación*), Costa Rica, Case No. 12,367, December 3, 2001, paragraph 50.