

**REPORT Nº 77/09**  
PETITION 1349-07  
ADMISSIBILITY  
ORLANDO CORDIA HALL  
UNITED STATES\*  
August 5, 2009

**I. SUMMARY**

1. On October 16, 2007, the Inter-American Commission on Human Rights (the "Inter-American Commission" or the "IACHR") received a petition, along with a request for precautionary measures, from Marica A. Widder and Robert C. Owen, from the University of Texas at Austin, and Owen Bonheimer from Steptoe & Johnson LLP (the "petitioners") against the Government of the United States of America (the "State" or "the U.S."). The petition was presented on behalf of Orlando Cordia Hall ("Mr. Hall" or "the alleged victim"), an African-American who is currently incarcerated in the State of Texas, United States, awaiting execution.

2. According to the petition, in 1996, Mr. Hall was sentenced to death by the United States District Court for the Northern District of Texas following his trial and conviction for his role in the abduction, sexual assault and murder of a person named Lisa Rene.

3. The petitioners complain principally of violations of Mr. Hall's equality before the law and due process rights. In particular, the petitioners allege that he was tried, convicted and sentenced to death in circumstances amounting to racial discrimination; that he was deprived of effective legal representation, particularly during the penalty phase of his trial; that the prosecution was permitted to adduce evidence against Mr. Hall (during the penalty phase of the trial to support the imposition of the death penalty) which was palpably unreliable and ultimately prejudicial to his right to a fair trial; that there was a lack of impartiality on the part of the trial jury; and that Mr. Hall was denied access to effective post-conviction remedies.

4. The petitioners allege that the State is consequently responsible for violating Mr. Hall's rights under Articles I, II, XVIII, XXV, and XXVI of the American Declaration of the Rights and Duties of Man (the "American Declaration"). The petitioners submit that Mr. Hall invoked and exhausted federal domestic remedies culminating with a decision of the U.S Supreme Court on April 16, 2007, denying Hall's petition for writ of *certiorari*.

5. As of the date of this report, the IACHR has not received observations from the State regarding the petition presented on behalf of Mr. Hall.

6. On July 7, 2008, the Inter-American Commission acceded to a request from the petitioners to grant precautionary measures in favor of Mr. Hall.<sup>1</sup> The IACHR requested the State to refrain from executing the death sentence until it had had an opportunity to consider and decide on the petitioner's complaints under the American Declaration.

7. As set forth in this report, having examined the contentions of the petitioners on the question of admissibility --in the absence of any contentions from the State-- and without prejudging the merits of the matter, the Inter-American Commission concludes that the case is admissible, inasmuch as

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\* Commission Member Professor Paolo Carozza did not take part in the discussion and voting on this case, pursuant to Article 17(2) of the Commission's Rules of Procedure.

<sup>1</sup> In support of their request for precautionary measures, the petitioners contend that lethal injection is a mode of execution that inflicts excruciating pain and suffering. This report will not address the issue of lethal injection as a mode of execution, as it does not form part of the petition but relates only to the request for precautionary measures.

it meets the requirements provided in Articles 31 to 34 of its Rules of Procedure. Based on the foregoing, the IACHR decides to notify the parties of its decision and to continue with its analysis of the merits as regards alleged violation of Articles I, II, XVIII, XXV and XXVI of the American Declaration.

## **II. PROCEEDINGS BEFORE THE INTER-AMERICAN COMMISSION**

8. The IACHR received the petition on October 16, 2007, and the relevant annexes on October 18, 2007. Subsequently, on March 10, and April 16, 2008, the petitioners transmitted additional information to the IACHR.

9. By means of a July 7, 2008, communication, the Inter-American Commission transmitted the pertinent parts of the received communications to the State, with a request that it submit information within two months. The IACHR also requested precautionary measures on behalf of Mr. Hall, pursuant to Article 25(1) of its Rules of procedure in order to avoid irreparable damage to the alleged victim. On the same date, the IACHR acknowledged receipt to the petitioners and informed them that the pertinent parts of their petition were transmitted to the State along with a request for precautionary measures.

10. On July 16, 2008, the State responded to the IACHR that its communication of July 7, 2008, had been transmitted to the relevant federal authorities. The IACHR acknowledged receipt on August 19, 2008.

11. As of the date of this report, the Inter-American Commission has not received observations from the State on the admissibility, the merits or any other matters related to the petition.

## **III. POSITIONS OF THE PARTIES**

### **A. Position of the petitioners**

12. The petition revolves mainly around five issues: alleged racial discrimination in the trial of Mr. Hall and the application of the death penalty to him; alleged deficient legal representation at the trial; alleged admission of highly unreliable evidence presented by the prosecution at the penalty phase; jury bias; and the denial of effective post-conviction remedies.

### **Background**

13. The petition indicates that in 1994 Mr. Hall was indicted, along with four accomplices: Demetrius Hall (the brother of Orlando Cordia Hall), Bruce Webster, Stephen Beckley and Marvin Holloway-- for kidnapping in which a death occurred in violation of 18 U.S.C. § 1201 (a)(1) (count 1); conspiracy to commit kidnapping in violation of 18 U.S.C. § 1201(c) (count 2); traveling in interstate commerce with intent to promote the possession of marijuana with intent to distribute in violation of 18 U.S.C. § 1952 (count 3); using a telephone to promote the unlawful activity of extortion (count 4); traveling in interstate commerce with intent to promote extortion in violation of 18 U.S.C. § 1952 (count 5) and using and carrying a firearm during a crime of violence in violation of 18 U.S.C. § 924 (c) (count 6). These offenses fell under the federal jurisdiction of the United States District Court for the Northern District of Texas (hereafter "the District Court"), as the crime involved crossing state lines (between Texas and Arkansas).

14. According to the petition, following the arrest of his accomplices, Mr. Hall surrendered to the authorities without incident and made a full and voluntary confession of his role in the events that led to Lisa Rene's death.

15. Mr. Hall was tried separately from his co-accused, following a successful motion to that effect. Hall's trial before the District Court took place between October 2 and 31, 1995, when he was convicted of counts 1, 2, 3 and 6 of his indictment. According to the petitioners, the evidence presented by the prosecution was developed largely through the testimony of Hall's accomplices: Holloway, Beckley and D. Hall. The petition indicates that the other co-defendant, Bruce Webster, was tried separately and

was ultimately convicted and sentenced to death. The State did not seek a death sentence against any of the other defendants involved in Lisa Rene's kidnapping and death; Holloway received a term of imprisonment of 180 months; Beckley 360 months; and D. Hall received 300 months. Following a sentencing hearing before jury, Hall was sentenced to death on February 12, 1996.

16. Mr. Hall complains that that his trial was vitiated by a number of due process violations, in circumstances amounting to racial discrimination. He further alleges that he was deprived of effective legal representation, particularly during the penalty phase of his trial, and that the prosecution was permitted to adduce evidence against Mr. Hall (during the penalty phase of the trial to support the imposition of the death penalty) which was palpably unreliable and ultimately prejudicial to Mr. Hall's right to a fair trial. Finally, he submits that the jury was not impartial and that he was denied effective post-conviction remedies.

17. Mr. Hall subsequently pursued a series of appeals and other judicial remedies aimed at challenging his conviction and sentence and remedying the alleged violations of his due process rights. This litigation culminated in a petition for writ of certiorari to the United States Supreme Court which was dismissed on April 16, 2007. Listed below is a chronology of the litigation in this case:

- a. Appeal of conviction and sentence to the U.S. Court of Appeals for the Fifth Circuit, dismissed on August 21, 1998;<sup>2</sup>
- b. Petition for re-hearing before the Fifth Circuit, dismissed on October 1, 1998;
- c. Petition for writ of certiorari to U.S. Court of Appeals for the Fifth Circuit, dismissed on August 2, 1999;<sup>3</sup>
- d. First petition for post-conviction relief to District Court; request to file discovery motions granted in June 2002; motions for discovery further denied in April 2002;
- e. Second petition for post-conviction relief to the District Court denied on August 24, 2004, following a limited hearing;
- f. Notice of appeal to the District Court denied on December 6, 2004;

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<sup>2</sup> *United States v. Hall*, 152 F.3d 381, 403-04 (5<sup>th</sup> Cir. 1998).

<sup>3</sup> *United States v. Hall*, 526 U.S. 1117 (1999); the IACHR notes that in a petition for writ of certiorari, the defendant generally asks the Supreme Court to review the case and overrule the decision of the Appeals Court.

- g. Appeal to the Court of Appeals for the Fifth Circuit dismissed on July 5, 2006; and
- h. Petition for writ of certiorari to U.S Supreme Court dismissed on April 16, 2007.<sup>4</sup>

18. The petitioners submit that the Commission has the competence to examine the claims raised in their petition. They state that no petition addressing those claims has been submitted to any other international organization. As the petitioners submit that the April 16, 2007 Supreme Court Decision declining to review the denial of post-conviction relief constitutes the judgment exhausting the domestic remedies, they claim that the presentation of their petition on following October 16 fulfills the timeliness requirement.

#### **Alleged denial of effective remedies by domestic courts**

19. Mr. Hall complains that the rejection of his claims effectively deprived him of any effective post-conviction remedies. In particular, he claims that further to the trial, both the District Court and the U.S. Court of Appeals, contrary to settled practice, refused to conduct evidentiary hearings during post-conviction proceedings on the allegedly deficient performance of Mr. Hall's trial attorney, and on the way that his errors and omissions likely directly influenced the jury's decision to impose a death sentence.

20. Moreover, the petition indicates that the District Court denied Mr. Hall's request for an evidentiary hearing on the issue that key parts of the testimony of witness Nichols were fabricated, despite sworn affidavits of other inmates contradicting Mr. Nichols.

21. Furthermore, the District Court denied Mr. Hall's request to subpoena relevant videotapes of post-trial interviews from area television stations and permission to contact and interview jurors. This denial took place despite a sworn statement from Mr. Hall's sister to the effect that she had seen one of the jurors mention that she participated in a celebration to honor Lisa Rene's memory, where she and other guests prayed for the victim, during the weekend that interrupted the jury's deliberation. Mr. Hall's sister stated that she saw this during a television interview broadcast shortly after the jurors returned their death sentence verdict.

22. Finally, the petitioners contend that, in 2001, after it was brought to the District Court's attention by Mr. Hall that one of the jurors met with Lisa Rene's mother in the hallway of the courthouse during trial, the Court ordered a one-witness hearing, where the juror in question was called upon to testify. However, the District Court did not permit any discovery prior to the hearing, nor did it authorize counsel for Mr. Hall to contact or interview any jurors. As a result, the court rejected the allegations of possible jury misconduct relying only upon the juror's testimony, which, according to the petitioners, Mr. Hall had no meaningful opportunity to challenge, given the court's denial of any discovery.

23. Ultimately, the petitioners contend that the State's failure to permit adequate discovery and to fairly resolve factual questions related to Mr. Hall's fair trial claims during post-conviction proceedings violates his rights to a fair trial and to due process of law, set forth in Articles XVIII and XXVI of the American Declaration.

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<sup>4</sup> *Hall v. U.S.*, S.Ct., 2007.

### **Alleged deficiencies in legal representation**

24. With respect to the issue of ineffective legal representation, the petitioners indicate that two attorneys were assigned to defend Mr. Hall following his arrest. However, after a few months, these attorneys withdrew, due to a conflict of interest. On March 21, 1995, the District Court assigned two new attorneys to defend Mr. Hall, who represented him in the conviction and in the penalty proceedings. However, according to the petition, these new attorneys unreasonably relied on the superficial and incomplete work done by prior counsel, and failed to prepare adequately for the penalty phase of Mr. Hall's trial. According to the petitioners, these attorneys did not obtain or present expert testimony on Mr. Hall's neuropsychological impairment. The petitioners further contend that the attorneys neglected to present mitigating evidence to support a custodial sentence for Mr. Hall;<sup>5</sup> and that they further failed to adduce character evidence in favor of Mr. Hall, save for testimony from his mother and sister.

25. Ultimately, the petitioners contend that the failure of the State to provide competent legal representation at trial violates Mr. Hall's right to a fair trial and to due process of law, under Articles XVIII and XXVI of the American Declaration.

### **Alleged use of unreliable evidence to support the imposition of death penalty**

26. The petitioners allege that the death sentence imposed upon Mr. Hall was influenced by the admission of unreliable and uncorroborated evidence which, together with the previous argument of ineffective counsel assistance, resulted in the violation of his rights to a fair trial and to due process of law, as guaranteed under Articles XVIII and XXVI of the American Declaration.

27. In particular, the petition indicates that the prosecution adduced the testimonies of two individuals who claimed that they once witnessed Mr. Hall and a certain accomplice threatening a man at gun point in an attempt to obtain money from him, as well as the testimony of the parole officer who received the statement of one of these two witnesses. The petitioners underscore that despite the gravity of this accusation, there was no indication that the police took the events seriously enough to undertake any further steps to investigate or prosecute Mr. Hall for this supposed involvement, and that this renders such evidence totally unreliable. The petition indicates that this issue was not addressed or challenged by Mr. Hall's counsel.

28. Moreover, the petitioners highlight the testimony of a fellow inmate, Larry Nichols, who testified that Mr. Hall discussed having physically abused women and elaborated a plan to escape, by taking hostages using a home-made knife. The petition points out that although this witness originally faced up to 200 years of prison and a minimum of 25 years in his own case, he ultimately received a sentence of ten years, after testifying. The petition stresses that this issue was not raised by Mr. Hall's counsel during the cross-examination of Mr. Nichols.<sup>6</sup>

### **Alleged racial discrimination**

29. The petitioners submit that the conviction and sentence of Mr. Hall, an indigent African-American man, by an all-white jury, was administered in a racially discriminatory fashion.

30. In support of this argument, the petitioners contend that the federal government chose to prosecute this case in the Northern District of Texas, Ft. Worth Division, rather than in the Eastern District

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<sup>5</sup> Allegedly including, among other things: that Mr. Hall grew up in a home marked by violence directed at his mother, himself and his siblings; the neuropsychological deficits of Mr. Hall, which undermine his ability to make rational decisions; and that his entry into the illegal drug trade was influenced by the circumstances in which he was placed when his mother abandoned him and the limited economic options for young black men in his hometown.

<sup>6</sup> The petitioners rely upon IACHR Report N° 52/01, Case 12.243, *Juan Raúl Garza*, United States, April 4 2001.

of Arkansas, Pine Bluff Division, where the murder occurred and where African-Americans comprised a significant larger percentage of the prospective jury pool.

31. According to the petitioners, in his second petition for post-conviction relief, Mr. Hall applied to the District Court for an order of discovery to determine the considerations that prompted the prosecution to seek the death penalty against him. The District Court denied Mr. Hall's application.<sup>7</sup> The petitioners plead that the State controls access to this information, which the petitioners require to further corroborate the claim of racial discrimination.

32. Nonetheless, the petitioners submit that other counsel have succeeded in obtaining recent data concerning potentially capital prosecutions arising in the federal courts in Texas. According to the petitioners, this would indicate that the federal administration of the death penalty is not race neutral, particularly in the Texas federal courts, and that African-American defendants face a starkly greater chance of facing the death penalty than non-black defendants.<sup>8</sup>

33. The petitioners present various statistics maintained by the Federal Death Penalty Resource Council (FDPRC)<sup>9</sup> to illustrate that the death penalty is applied more than three times as often against non-whites as against whites and more than twice as often against blacks as against whites. Further, the petitioners submit that there are three times as many blacks and four times as many non-whites as whites awaiting execution. The petitioners submit that the numbers involving federal cases in Texas are even starker, mentioning as an example that black defendants are 5.3 times more likely than white defendants to face the death penalty in Texas federal prosecutions; and 10.3 times more likely than Hispanic defendants.

34. Ultimately, the petitioners argue that the State's failure to guarantee that a defendant's race will not influence the outcome of his or her criminal proceedings violates Mr. Hall's right to equal protection under the law under Article II of the American Declaration.

## **B. Position of the State**

35. As indicated above, the IACHR transmitted the pertinent parts of the petition to the State on July 7, 2008, with a request that it provide its observations within two months. Despite this request, as of the date of this report the IACHR has not received any information or observations from the State regarding Mr. Hall's petition.

## **IV. ANALYSIS OF ADMISSIBILITY**

### **A. Jurisdiction**

36. Upon considering the record before it, the Inter-American Commission finds that it has the competence *ratione personae* to analyze the claims in the present petition. Under Article 23 of the IACHR's Rules of Procedure, the petitioners are authorized to file complaints alleging violations of rights protected under the American Declaration. The alleged victim is a person whose rights are protected under the American Declaration. The State is bound to respect the provisions of the American Declaration, and the IACHR is competent to receive petitions alleging violations of that instrument by the

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<sup>7</sup> *Hall v. U.S.*, 2004 at 37, citing *United States v. Webster*, 162 F.3d 302, 333-35 (5th Cir. 1999).

<sup>8</sup> See Petition, pp. 16 and 17.

<sup>9</sup> The petitioners submit an affidavit of Kevin McNally, who served as FDPRC from 1992 until at least 2000 (when the affidavit was sworn and signed) in which the statistics are presented.

State by virtue of its ratification of the OAS Charter on June 19, 1951 and in conformity with Article 20 of the IACHR's Statute and Article 49 of its Rules of Procedure.<sup>10</sup>

37. Given that the petition alleges violations of rights protected under the American Declaration that have taken place in the territory of the United States, the IACHR concludes that it has the competence *ratione loci* to take cognizance of it. Moreover, the petition is based on facts that occurred at a time at which the obligations undertaken by the State pursuant to the OAS Charter and the American Declaration were in effect, so the Inter-American Commission has competence *ratione temporis* to examine this matter.

38. Finally, inasmuch as the petitioners have filed complaints alleging violation of Articles I, II, XVIII, XXV and XXVI of the American Declaration, the IACHR is competent *ratione materiae* to examine the complaint.

39. Therefore, the IACHR finds that it is competent to address the claims raised in the petition.

## **B. Admissibility Requirements**

### **1. Exhaustion of Domestic Remedies**

40. The Inter-American Commission must verify whether the remedies of the domestic system have been pursued and exhausted in accordance with generally recognized principles of international law, in accordance with Article 31(1) of the Rules of Procedure. As previously detailed, following his conviction for murder in 1998, the alleged victim pursued several legal proceedings, culminating on April 16, 2007, with a U.S. Supreme Court decision denying his petition for writ of *certiorari*. According to the petitioners, this decision fully exhausted the domestic remedies available to Mr. Hall. The State has not provided observations regarding the admissibility of Mr. Hall's claims, and in view of this failure, it may be presumed that this constitutes a tacit waiver of the objection of failure to exhaust domestic remedies.<sup>11</sup> The information before the IACHR indicates that the domestic courts, including the United States Supreme Court, either denied or declined to address the claims raised by the alleged victim. The IACHR thus considers that the petitioners have no further domestic remedies to exhaust and concludes that the petition is not barred from consideration under Article 31(1) of the Inter-American Commission's Rules of Procedure.

### **2. Timeliness of the petition**

41. Article 32(1) of the IACHR's Rules of Procedure require that for a petition or communication to be admitted, it must be lodged within a period of six months from the date on which the party alleging the violation of his rights was notified of the final judgment. In the present case, the petitioners submit that the judgment that exhausted the domestic remedies was the U.S. Supreme Court

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<sup>10</sup> Article 20(b) of the Statute of the IACHR provides that, in respect of those OAS member states that are not parties to the American Convention on Human Rights, the IACHR may examine communications submitted to it and any other available information, to address the government of such states for information deemed pertinent by the IACHR, and to make recommendations to such states, when it finds this appropriate, in order to bring about more effective observance of fundamental human rights. See also Charter of the Organization of American States, Arts. 3, 16, 51, 112, 150; IACHR's Rules of Procedure, Arts. 49, 50; I/A. Court H.R., Advisory Opinion OC-10/8 "Interpretation of the Declaration of the Rights and Duties of Man Within the Framework of Article 64 of the American Convention on Human Rights," July 14, 1989, Ser. A N° 10 (1989), paras. 35-45; I/A Comm. H.R., James Terry Roach and Jay Pinkerton v. United States, Case 9647, Res. 3/87, 22 September 1987, Annual Report 1986-87, paras. 46-49.

<sup>11</sup> I/A Court H.R., *Velásquez Rodríguez Case*. Preliminary Objections. Judgment of June 26, 1987, para. 88. See also IACHR, Report No. 39/96, Case 10,897, Guatemala, October 16, 1996, para. 35; and Report No. 53/96, Case 8,074, Guatemala, December 6, 1996. Annual Report 1996. In addition, see Report No. 25/94, Case 10,508, Guatemala, September 22, 1994. IACHR Annual Report 1994.

decision of April 16, 2007 to decline review of the denial of post-conviction relief. The State has not submitted observations in this regard. Accordingly, since the petition was presented on October 16, 2007, the IACHR considers that it is not barred from consideration under Article 32 of its Rules of Procedure.

### **3. Duplication of procedures and *res judicata***

42. As mentioned above, the petitioners claim that no petition addressing the claims raised in their petition has been submitted to any other international organization. There is no information on the record indicating that the subject of this petition is pending settlement in another procedure under an intergovernmental organization of which the State is a member, or that the case essentially duplicates a petition pending or already examined and settled by the Inter-American Commission or another intergovernmental organization of which the State is a member. The State has not opposed the petition on the ground of duplication. The IACHR therefore finds no bar to the admissibility of the petitioners' claims under Article 33 of its Rules of Procedure.

### **4. Colorable claim**

43. Article 27 of the IACHR's Rules of Procedure mandates that petitions state facts "regarding alleged violations of the human rights enshrined in the American Convention on Human Rights and other applicable instruments." In addition, Article 34(a) of its Rules of Procedure requires the Inter-American Commission to declare a petition inadmissible when it does not state facts that tend to establish a violation of the rights referred to in Article 27 of the Rules.

44. The petition alleges that the State has violated Mr. Hall's rights under Articles I, II, XVIII, XXV and XXVI of the American Declaration. The State has not provided any observations or information on the violations alleged in the petition presented on behalf of Mr. Hall.

45. With regards to the alleged violation of Mr. Hall's right to equality before the law due to his African-American origin, the petitioners present statistics that they claim demonstrate that race is a significant factor in determining which defendants ultimately face the death penalty. Also, the petitioners argue that the federal government chose to prosecute this case in the Northern District of Texas, Ft. Worth Division, rather than in the Eastern District of Arkansas, Pine Bluff Division, where the murder occurred and where African-Americans comprised a significant larger percentage of the prospective jury pool. Finally, as a consequence of the foregoing, the petitioners contend that Mr. Hall was convicted and sentenced by an all-white jury in a racially discriminatory fashion.

46. Upon consideration of the above, the Inter-American Commission finds that, without prejudging on the merits of the case, the alleged facts, if proved specifically for Mr. Hall, may tend to establish a violation of Article II of the American Declaration.

47. Concerning the allegations of violation of the right to a fair trial and the right to due process of law, after carefully reviewing the information and arguments provided by the petitioners in light of the heightened scrutiny test applied by the IACHR in capital punishment cases,<sup>12</sup> and without prejudging the merits of the matter, the IACHR considers that the petition contains allegations that, if proved, may tend to establish violations of Articles I, XVIII and XXVI of the American Declaration.

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<sup>12</sup> According to the IACHR's established jurisprudence, it will review and decide capital punishment cases with a heightened level of scrutiny, to ensure that any deprivation of life that an OAS member state proposes to effect through the death penalty complies strictly with the requirements of the applicable inter-American human rights instruments. See IACHR, Report N° 61/03, Case 4446-02, Roberto Moreno Ramos (United States), para. 66; IACHR, Report N° 57/96, Case 11.139, United States ('Andrews Case'), paras. 170-171; IACHR Report N° 38/00, Baptiste (Grenada), paras. 64-66; Report N° 41/00, McKenzie et al. (Jamaica), paras. 169-171.



48. With respect to Article XXV of the American Declaration, the petitioners submit that the U.S. has violated Mr. Hall's right to humane treatment. The Inter-American Commission considers that the petition contains allegations that, if proved, may tend to establish violations of Articles XXV of the American Declaration and will examine whether there are grounds for such a finding at the merits stage.

49. Based on the foregoing, the IACHR considers that the petition is not manifestly groundless or out of order and concludes, under Article 34 of its Rules of Procedure, that it should be declared admissible with regard to alleged violations of Articles I, II, XVIII and XXVI of the American Declaration.

## **V. CONCLUSION**

50. The IACHR concludes that it is competent to take cognizance of the instant case and that the petition is admissible, pursuant to Articles 31 to 34 of its Rules of Procedure.

51. Based on the arguments in fact and in law presented above, and with no pre-judgment on the merits of the case,

### **THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS**

#### **DECIDES TO:**

1. Declare the claims in the petition admissible with respect to Articles I, II, XVIII, XXV and XXVI of the American Declaration.
2. Notify the parties of this decision;
3. Continue with the analysis of the merits of the case; and
4. Publish this Report and include it in the Annual Report to the General Assembly of the OAS.

Done and signed in the city of Washington, D.C., on the 5<sup>th</sup> day of the month of August, 2009.  
(Signed): Luz Patricia Mejía, President; Victor E. Abramovich, First Vice-Chairman; Felipe González,  
Second Vice-Chairman; Sir Clare K. Roberts and Paulo Sergio Pinheiro, Commissioners.