

CHAPTER II

Freedom of Expression within the Context of the Inter-American System for the Protection of Human Rights

At this time, it would be pertinent to briefly refer to the specific and general norms on freedom of expression found in the American Convention on Human Rights. The relevant jurisprudence developed by organs charged with protecting human rights within the Inter-American system will also be reviewed.

A. Legal Framework

Article 13 of The American Convention on Human Rights says that everyone has the right to freedom of thought and expression, which can be exercised in any medium, and shall not be subject to censorship but rather to subsequent imposition of liability. The Convention states:

1. Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.
2. The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure:
 - a. respect for the rights or reputations of others; or
 - b. the protection of national security, public order, or public health or morals.
3. The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.
4. Notwithstanding the provisions of paragraph 2 above, public entertainment may be subject by law to prior censorship for the sole purpose of regulating access to them for the moral protection of childhood and adolescence.
5. Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law.

Article 4 of The American Declaration of the Rights and Duties of Man provides, "Every Person has the right to freedom of investigation, of opinion, and of the expression and dissemination of ideas, by any medium whatsoever."

Moreover, Article 14 of the Convention consecrates the right to reply or correction, pointing out that anyone injured by inaccurate or offensive information disseminated by the media has the right to reply or to make a correction, under such conditions as the law may establish.¹⁷

These norms which relate specifically to freedom of expression, must be taken in the context of other general norms established by the American Convention, such as the provisions of Articles 1 and 2.

Article 1(1) stipulates that States undertake to respect the rights and freedoms recognized in the Convention and to ensure to all persons subject to their jurisdiction the free and full exercise of them. Thus, the State acquires two obligations: (1) to respect, and (2) to guarantee the rights and freedoms enshrined in the Convention.

With regard to the respect of the rights and freedoms recognized in the Convention, the Inter-American Court of Human Rights has pointed out that:

Whenever a State organ, official or public entity violates one of those rights, this constitutes a failure of the duty to respect the rights and freedoms set forth in the Convention....The State is responsible for the acts of its agents undertaken in their official capacity and for their omission, even when those agents act outside the sphere of their authority or violate internal law.¹⁸

With regard to the second obligation, that of guaranteeing the free and full exercise of the rights recognized by the Convention, the Inter-American Court of Human Rights has said that it implies:

This obligation implies the duty of the States parties to organize the governmental apparatus and, in general, all the structures through which public power is exercised, so that they are capable of judicially ensuring the free and full enjoyment of human rights. As a consequence of this obligation, the States must prevent, investigate and punish any violation of the rights recognized by the Convention and, moreover, if possible attempt to restore the right violated and provide compensation as warranted for damages resulting from the violation.¹⁹

Article 2 of the American Convention specially provides that “the States Parties undertake to adopt ...such legislative or other measures as may be necessary to give effect to those rights or freedoms,” if they do not already exist.²⁰

¹⁷ Article 14 reads: “1. Anyone injured by inaccurate or offensive statements or ideas disseminated to the public in general by a legally regulated medium of communication has the right to reply or to make a correction using the same communications outlet, under such conditions as the law may establish. 2. The correction or reply shall not in any case remit other legal liabilities that may have been incurred. 3. For the effective protection of honor and reputation, every publisher, and every newspaper, motion picture, radio, and television company shall have a person responsible who is not protected by immunities or special privileges.

¹⁸ See, Inter-American Court of Human Rights, Case Velásquez Rodríguez, Judgement of July 29, 1988, Serie C N 4 par. 169 –170.

¹⁹ Inter-American Court of human Rights, Velásquez Rodríguez Case, Judgement of July 29, 1988, Serie C N 4 para. 166.

²⁰ Article 2 of the American Convention reads: “Where the exercise of any of the rights or freedoms referred to in Article 1 is not already ensured by legislative or other provisions, the States Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights or freedoms.

In the same way, the Court has said that “the obligation to ensure the free and full exercise of human rights is not fulfilled by the existence of a legal system designed to make it possible to comply with this obligations –it also requires the government to conduct itself so as to effectively ensure the free and full exercise of human rights”.²¹

B. Summary of Jurisprudence Related to Freedom of Expression in the Inter-American System of Human Rights

This report will next provide a brief summary of the main case law on freedom of expression laid down by the organs charged with protecting human rights in the Inter-American Human Rights System, namely the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights.

Both organs have developed an important body of case law dealing directly with freedom of expression. The Court has done so mainly through advisory opinions, particularly in relation to the compulsory licensing of journalists. The Commission, has established its doctrine through individual cases and a special study of contempt laws in the hemisphere.

In the sections that follows, the Rapporteur reproduces the case law developed by organs of the interamerican system of human rights on the following issues: characteristic and dimensions of freedom of expression; the role of the media in freedom of expression; restrictions to freedom expression; freedom of expression, prior censorship and subsequent liability; freedom of expression and the protection of personal honor and dignity; and freedom of expression and democracy.²²

1. Characteristics and Dimensions of Freedom of Expression

Article 13 indicates that freedom of thought and expression “includes freedom to seek, receive, and impart information and ideas of all kinds...” This language established that those to whom the Convention applies not only have the right and freedom to express their own thoughts but also the right and freedom to seek, receive and impart information and ideas of all kinds. Hence, when an individual's freedom of expression is unlawfully restricted, it is not only the right of that individual that is being violated, but also the right of all others to “receive” information and ideas. The right protected by Article 13 consequently has a special scope and character, which are evidenced by the dual aspect of freedom of expression. It requires, on the one hand, that no one be arbitrarily limited or impeded in expressing his own thoughts. In that sense, it is a right that belongs to each individual. Its second aspect, on the other hand, implies a collective right to receive any information whatsoever and to have access to the thoughts expressed by others.²³

²¹ Inter-American Court of Human Rights, Velásquez Rodríguez Case, Judgement of July 29, 1988, Serie C N 4 para. 169 –170.

²² See, Grossman, Claudio; Goldman, Robert K.; Martin, Claudia; Rodríguez Pinzon, Diego; Zwaak, Leo; *Repertorio de Jurisprudencia del Sistema Interamericano de Derechos Humanos* Tomos I y II; Center for Human Rights and International Humanitarian Law, Washington College of Law, American University.

²³ Inter-American Court of Human Rights, Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism (Arts. 13 and 29 American Convention on Human Rights), Advisory Opinion OC-5/85 of November 13, 1985. Series A No. 5, para. 30. Annex A.

In its individual dimension, freedom of expression goes further than the theoretical recognition of the right to speak or to write. It also includes and cannot be separated from the right to use whatever medium is deemed appropriate to impart ideas and to have them reach as wide an audience as possible. When the Convention proclaims that freedom of thought and expression includes the right to impart information and ideas through “any...medium,” it emphasizes the fact that the expression and dissemination of ideas and information are indivisible concepts. This means that restrictions that are imposed on dissemination represent, in equal measure, a direct limitation on the right to express oneself freely. The importance of the legal rules applicable to the press and to the status of those who dedicate themselves professionally to it derives from this concept.²⁴

In its social dimension, freedom of expression is a means for the interchange of ideas and information among human beings and for mass communication. It includes the right of each person to seek to communicate his own views to others, as well as the right to receive opinions and news from others. For the average citizen it is just as important to know the opinions of others or to have access to information generally as is the very right to impart his own opinions.²⁵

The two dimensions mentioned (supra 30) of the right to freedom of expression must be guaranteed simultaneously. One cannot legitimately rely on the right of a society to be honestly informed in order to put in place a regime of prior censorship for the alleged purpose of eliminating information deemed untrue in the eyes of the censor. It is equally true that the right to impart information and ideas cannot be invoked to justify the establishment of private or public monopolies of the communications media designed to mold public opinion by giving expression to only one point of view.²⁶

2. The Role of Mass Media in Freedom of Expression

If freedom of expression requires, in principle, that the communication media are potentially open to all without discrimination or, more precisely, that there be no individuals or groups that are excluded from access to such media, it must be recognized also that such media should, in practice, be true instruments of that freedom and not vehicles for its restriction. It is the mass media that make the exercise of freedom of expression a reality. This means that the conditions of its use must conform to the requirements of this freedom, with the result that there must be, *inter alia*, a plurality of means of communication, the barring of all monopolies thereof, in whatever form, and guarantees for the protection of the freedom and independence of journalists.²⁷

3. Restrictions on Freedom of Expression

The Convention itself recognizes that freedom of thought and expression allows the imposition of certain restrictions whose legitimacy must be measured by reference to the requirements of Article 13 (2). Just as the right to express and disseminate ideas is indivisible as a concept, so too must it be recognized that the only restrictions that may be placed on the mass media are those that apply to freedom of expression. It results therefrom that in determining the legitimacy of restrictions and,

²⁴ Ibid. para. 31

²⁵ Ibid. para. 32

²⁶ Ibid. para. 33

²⁷ Ibid. para. 34

hence, in judging whether the Convention has been violated, it is necessary in each case to decide whether the terms of Article 13 (2) have been respected.²⁸

These provisions indicate under what conditions a limitation to freedom of expression is compatible with the guarantee of this right as it is recognized by the Convention. Those limitations must meet certain requirements of form, which depend upon the manner in which they are expressed. They must also meet certain substantive conditions, which depend upon the legitimacy of the ends that such restrictions are designed to accomplish.²⁹

Article 13 (2) of the Convention defines the means by which permissible limitations to freedom of expression may be established. It stipulates, in the first place, that prior censorship is always incompatible with the full enjoyment of the rights listed in Article 13, but for the exception provided for in subparagraph 4 dealing with public entertainment, even if the alleged purpose of such prior censorship is to prevent abuses of freedom of expression. In this area any preventive measure inevitably amounts to an infringement of the freedom guaranteed by the convention.³⁰

Abuse of freedom of information thus cannot be controlled by preventive measures but only through the subsequent imposition of sanctions of those who are guilty of the abuses. But even here, in order for the imposition of such liability to be valid under the Convention, the following requirements must be met:

- a) the existence of previously established grounds for liability;
- b) the express and precise definition of these grounds by law;
- c) the legitimacy of the ends sought to be achieved;
- d) a showing that these grounds of liability are 'necessary to ensure' the aforementioned ends.

All of these requirements must be complied with in order to give effect to Article 13 (2).³¹

In fact it is possible, within the framework of the Convention, to understand the meaning of public order as a reference to the conditions that assure the normal and harmonious functioning of institutions based on a coherent system of values and principles. In that sense, restrictions on the exercise of certain rights and freedoms can be justified on the ground that they assure public order. The Court interprets the argument to be that compulsory licensing can be seen, structurally, as the way to organize the exercise of professions in general. This contention would justify the submission of journalists to such a licensing regime on the theory that it is compelled by public order.³²

It is important to note that the European Court of Human Rights, in interpreting Article 10 of the European Convention, concluded that 'necessary,' while not synonymous with 'indispensable,' implied 'the existence of a 'pressing social need'' and that for a restriction to be 'necessary' it is not enough to show that it is 'useful,' 'reasonable' or 'desirable.' (Eur. Court H.R., **The Sunday Times Case**, judgement of 26 April 1979, Series A no. 30, para. 59, pp. 35-36.) This conclusion, which is equally applicable to the American Convention, suggests that the 'necessity' and, hence, the legality of restrictions imposed under Article 13 (2) on freedom of expression, depend upon a showing that the restrictions are required by a compelling governmental interest. Hence if there are various options to achieve this objective, that which least restricts the right protected must be

²⁸ Ibid. para. 36

²⁹ Ibid. para. 37

³⁰ Ibid para. 38

³¹ Ibid para. 39

³² Ibid para. 64

selected. Given this standard, it is not enough to demonstrate, for example, that a law performs a useful or desirable purpose; to be compatible with the Convention, the restrictions must be justified by reference to governmental objectives which, because of their importance, clearly outweigh the social need for the full enjoyment of the right Article 13 guarantees. Implicit in this standard, furthermore, is the notion that the restriction, even if justified by compelling governmental interests, must be so framed as not to limit the right protected by Article 13 more than is necessary. That is, the restriction must be proportionate and closely tailored to the accomplishment of the legitimate governmental objective necessitating it. (**The Sunday Times Case, supra**, para. 62, p. 38. See also Eur. Court H, R., **Barthold** judgement of 25 March 1985, Series A no. 90, para. 59, p. 26).³³

Article 13 (2) must also be interpreted by reference to the provisions of Article 13 (3), which is most explicit in prohibiting restrictions on freedom of expression by 'indirect methods and means... tending to impede the communication and circulation of ideas and opinions.' Neither the European Convention nor the Covenant contains a comparable clause. It is significant that Article 13 (3) was placed immediately after a provision – Article 13 (2) – which deals with permissible restrictions on the exercise of freedom of expression. This circumstance suggests a desire to ensure that the language of Article 13 (2) not be misinterpreted in a way that would limit, except to the extent strictly necessary, the full scope of the right to freedom of expression.³⁴

Article 13 (3) does not only deal with indirect governmental restrictions, it also expressly prohibits 'privacy controls' producing the same result. This provision must be read together with the language of Article 1 of the Convention wherein the States Parties 'undertake to respect the rights and freedoms recognized (in the Convention)...and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms...' Hence, a violation of the Convention in this area can be the product not only of the fact that the State itself imposes restrictions of an indirect character which tend to impede 'the communication and circulation of ideas and opinions,' but the State also has an obligation to ensure that the violation does not result from the 'private controls' referred to in paragraph 3 of Article 13.³⁵

Article 13 may be violated under two different circumstances, depending on whether the violation results in the denial of freedom of expression or whether it results from the imposition of restrictions that are not authorized or legitimate.³⁶

In truth, not every breach of Article 1 of the Convention constitutes an extreme violation of the right to freedom of expression, which occurs when governmental power is used for the express purpose of impeding the free circulation of information, ideas, opinions or news. Examples of this type of violation are prior censorship, the seizing or barring of publications and, generally, any procedure that subjects the expression or dissemination of information to governmental control. Here the violation is extreme not only in that it violates the right of each individual to express himself, but also because it impairs the right of each person to be well informed, and thus affects one of the fundamental prerequisites of a democratic society. The Court believes that the compulsory licensing of journalists, as that issue is presented in the instant request, does not fall into this category.³⁷

Suppression of freedom of expression as described in the preceding paragraph, even though it constitutes the most serious violation possible of Article 13, is not the only way in which that provision can be violated. In effect, any governmental action that involves a restriction of the right to

³³ Ibid para. 46

³⁴ Ibid para. 47

³⁵ Ibid para. 48

³⁶ Ibid para. 53

³⁷ Ibid para. 54

seek, receive and impart information and ideas to a grater extent or by means other than those authorized by the Convention, would also be contrary to it. This is true whether or not such restrictions benefit the government.³⁸

Furthermore, given the broad scope of the language of the Convention, freedom of expression can also be affected without the direct intervention of the State. This might be the case, for example, when due to the existence of monopolies or oligopolies in the ownership of communications media, there are established in practice 'means tending to impede the communication and circulation of ideas and opinions'.³⁹

4. Freedom of Expression, Prior Censorship and subsequent liability

The Convention allows restrictions to be imposed on the right to freedom of expression in order to protect the community from certain offensive manifestations and prevent the abusive exercise of that right. Article 13 authorizes certain restrictions to the exercise of this right and sets out the permissible limits and the requirements necessary to put these restrictions into practice. The principle set forth in that article is clear in that prior censorship is incompatible with the full enjoyment of the rights protected therein. The exception is the one contained in paragraph 4, which allows censorship of "public entertainments" for the moral protection of children. The only restriction authorized by Article 13 is the subsequent imposition of liability. Moreover, any subsequent imposition of liability must have been previously established by law and may only be to the extent necessary to ensure: a) respect for the rights or reputations of others; or b) the protection of national security, public order, or public health or morals.⁴⁰

The prohibition of prior censorship, with the exception present in paragraph 4 of Article 13, is absolute and is unique to the American Convention, as neither the European Convention nor the Covenant on Civil and Political Rights contains similar provisions. The fact that no other exception to this provision is provided is indicative of the importance that the authors of the Convention attached to the need to express and receive any kind of information, thoughts, opinions and ideas.⁴¹

Under Article 13, any restriction of the rights and guarantees contained therein must take the form of a subsequent imposition of liability. Abusive exercise of freedom of expression may not be subject to any other kind of limitation. As that article indicates, anyone who has exercised this freedom shall be answerable for the consequences for which he is responsible.

Based on this reasoning, the Commission considers that the decision to ban the entry, circulation, and distribution of the book "Impunidad diplomática" in Chile violates the right to impart "information and ideas of all kinds", a right that Chile is bound to respect as a State Party to the American Convention. In other words, the decision is an unlawful restriction of the right to freedom of expression, in the form of an act of prior censorship disallowed by Article 13 of the Convention.⁴²

The Commission also ruled on the matter when it decided a case where the Government of Grenada was allegally responsible for the violation of the right to freedom of expression

³⁸ *Ibid* para. 55

³⁹ *Ibid* para. 56

⁴⁰ Inter-American Commission on Human Rights, 1996 Annual Report, Report No. 11/96 (Case No. 11.230 – Francisco Martorell), Chile, para. 55.

⁴¹ *Ibid.* para. 56.

⁴² *Ibid.* paras. 58 and 59.

because of the confiscation of several books.⁴³ In its decision, the Commission pointed out that acts of confiscation and banning of books by the Government have the effect of imposing “prior censorship” on freedom of expression, and therefore such acts affect both dimensions of the right, that is, to receive and to issue information from “any person”, both to and from the community, with no distinction of borders, as guaranteed by Article 13 of the American Convention on Human Rights. The Government failed to prove that the content of the books fit any of the exceptions, namely the “respect for the rights or reputations of others” or “the protection of national security, public order, or public health or morals” as expressed by the aforementioned Article 13.

In light of the above, the Commission found that the Government of Grenada had violated the victims’ rights to freedom of thought and expression when it confiscated and banned their books. The Commission stated:

The two dimensions referred to by the Inter-American Court in (supra 30) of the right to freedom of expression must be guaranteed simultaneously. “One cannot legitimately rely on the right of a society to be honestly informed in order to put in place a regime of prior censorship for the alleged purpose of eliminating information deemed to be untrue in the eyes of the censor. It is equally true that the right to impart information and ideas cannot be invoked to justify the establishment of private or public monopolies of the communications media designed to mold public opinion by giving expression to only one point of view.” The petitioners’ right to transport the books to Grenada and the right to receive such books in Grenada are protected by Article 13 of the American Convention.

Article 2 of the American Convention provides that: “Where the exercise of any of the rights or freedoms referred to in Article 1 is not already ensured by legislative or other provisions, the States Parties undertake to adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to those rights or freedoms.” Therefore, the Grenadian Government must ensure that its Legislation complies with the provisions of Article 13 of the American Convention.⁴⁴

5. Freedom of Expression and the Right of all Persons to Honor and Dignity

The Government of Chile has pointed out that the rights to honor and dignity often conflict with freedom of expression, that the State must endeavor to balance these rights with the guarantees inherent in freedom of expression, and that a right may be sacrificed for the sake of what is considered to be a higher right.⁴⁵

Under the Convention the State of Chile has a positive obligation to protect persons within its jurisdiction from violations of the right to privacy and, whenever that right is breached, to provide

⁴³ Inter-American Commission on Human Rights, 1995 Annual Report, Report No. 2/96 (Case No. 10.325 – Steve Clark), Grenada.

⁴⁴ IACHR Report No. 2/96, paras. 8 and 9.

⁴⁵ IACHR Report No. 11/96, para. 61.

remedies that are prompt, effective and adequate to redress any injury caused by a violation of that right.

In the instant case it is alleged that the content of the book "Impunidad diplomática" impugned the honor of some persons and that, under the pretext of describing the circumstances which led to the Argentine ambassador's departure from Chile, a number of unrelated attacks were made on private individuals. According to the Government, these attacks were described as so severe that only a complete ban of the book could be deemed an adequate and effective solution to protect the victims' right to privacy and their honor.⁴⁶

The Commission considers that it is not for the Commission to examine the content of the book in question or the conduct of Mr. Martorell, because it does not have competence in the matter and because the right to honor is duly protected under Chilean law. Moreover, as the proceedings in the instant case show, those persons who believe that their honor and dignity have been impugned have, in the Chilean courts, adequate remedies to settle that question.

For that reason, the Commission cannot accept the Chilean Government's argument that the right to honor would be higher than the right to freedom of expression.

Likewise, the organs of the State cannot interpret the provisions of Article 11 in a manner that violates Article 13, which prohibits prior censorship...

The Commission cannot accept the Government's argument, because the means that the Chilean State used to protect honor in the instant case were unlawful. To accept Chile's position in the case of Mr. Martorell would be tantamount to giving the organs of the State the authority to limit, through prior censorship, the right to freedom of expression upheld in Article 13 of the American Convention.

When legislating the protection of honor and dignity referred to in Article 11 of the American Convention -and when applying the relevant provisions of domestic law on this subject- States Parties have an obligation to respect the right of freedom of expression. Prior censorship, regardless of its form, is contrary to the system that Article 13 of the Convention guarantees.

...any potential conflict in the application of articles 11 and 13 of the Convention can be resolved by resorting to the language of Article 13 itself.

6. Freedom of Expression and Democracy

Freedom of expression is a cornerstone upon which the very existence of a democratic society rests. It is indispensable for the formation of public opinion. It is also a *conditio sine qua non* for the development of political parties, trade unions, scientific and cultural societies and, in general, those who wish to influence the public. It represents, in short, the means that enable the community, when exercising its options, to be sufficiently informed. Consequently, it can be said that a society that is not well informed is not a society that is truly free.⁴⁷

⁴⁶ Idem, paras. 67-70.

⁴⁷ Inter-American Court of Human Rights, Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism (Arts. 13 and 29 American Convention on Human Rights), Advisory Opinion OC-5/85 of November 13, 1985. Series A No. 5, para. 70.

7. Journalism and Freedom of Expression

Within this context, journalism is the primary and principal manifestation of freedom of expression of thought. For that reason, because it is linked with freedom of expression, which is an inherent rights of each individual, journalism cannot be equated to a profession that is merely granting a service to the public through the application of some knowledge or training acquired in a university or through those who are enrolled in a certain "colegio".⁴⁸

C. Cases Concerning Freedom of Expression Pending Decision within the Inter-American Human Rights System.

The Inter-American Commission of Human Rights is currently processing more than 20 cases that charge various OAS Member States with having violated the right to freedom of expression.

The IACHR has also brought two cases of possible violations of freedom of expression before the Inter-American Court of Human Rights. These are:

Case No. 11.803 "Juan Pablo Olmedo and others" (Chile) The Commission recently referred to the Court a case against Chile regarding the violation of the right to freedom of expression of Juan Pablo Olmedo and others. The case relates to judicial censorship, upheld by the Supreme Court of Chile, which banned the screening of the movie "The Last Temptation of Christ".⁴⁹

Case No. 11.762 Baruch Ivcher Bronstein (Peru) The Commission recently referred a case to the Inter-American Court of Human Rights against Peru regarding, amongst other rights, the right to freedom of expression of Baruch Ivcher Bronstein. Mr. Ivcher, who was effectively deprived of his nationality by the Peruvian State, owns a television channel which was critical of the Peruvian Government. Through various legal mechanisms, Peru deprived him of his nationality in order to prevent him from owning the TV channel which by law are required to be owned by Peruvian nationals.

The Rapporteur is aware of the existence of matters related to freedom of expression that have not been developed in the case law, among others: freedom of expression and gender; freedom of expression and poverty; and precautionary and provisional measures relating to freedom of expression. The Rapporteur will continue reporting on the development of case law on freedom of expression and other related matters.

⁴⁸ Ibid para. 71

⁴⁹ Inter-American Court of Human Rights, Press Release 3/3, 1999.