

**ADDRESS OF THE PRESIDENT OF THE SUPREME COURT OF JUSTICE
OF COSTA RICA, LIC. FERNANDO COTO-ALBÁN, ON TUESDAY, SEPTEMBER 4, 1979,
ON THE OCCASION OF THE VISIT OF THE JUDGES OF THE INTER-AMERICAN
COURT OF HUMAN RIGHTS AT A PLENARY SESSION OF THE COURT.**

Ladies and Gentlemen:

Our Republic has often been the meeting place of distinguished men of letters, who have come to Costa Rica -sometimes from afar- to participate in conferences, congresses, seminars and other international events.

This occurred in the month of November, 1969, for San José had the honor of being chosen as the seat of the first inter-American conference on human rights. On that occasion, on Tuesday, November 11th, the Supreme Court of Justice received the conference participants -most of them from our own Americas, including Costa Rica, but others who had travelled from beyond the Continent to contribute with their learning to the success of the conference. All had gathered together in our nation, driven by their faith in Justice and Law and with the aim of creating a juridical instrument that would, on American soil, serve as an effective means to making the protection of human rights a reality.

We, the judges of Costa Rica, share those concerns; and in receiving in this building the jurists participating in the conference, we were expressing our allegiance to their noble aims, based on the conviction that there can be no real justice so long as the juridical systems are not perfected and the changes demanded by circumstances are not brought about, for the benefit of all and for the protection of the helpless, always keeping in mind the respect for the dignity of the human being.

The Conference of 1969 gave birth to the American Convention on Human Rights, known also as the Pact of San José, Costa Rica, a fact which, as the President of the Inter-American Court, Dr. Rodolfo Piza Escalante, stated yesterday at the National Theater, is a source of great pride for the Costa Rican people.

Today, almost ten years later, we are accorded a new honor; that of receiving at a plenary session of this Court the distinguished judges of the Inter-American Court and other illustrious persons who will be collaborating in their delicate task. What in 1969 was a glimmer of hope and a document that would only become legally effective when ratified or adhered to by the number of American states indicated in its Article 74, has today become a reality; and it will be up to you, distinguished judges of the Court, to apply this instrument during its first days of existence, with the collaboration of the Inter-American Commission on Human Rights. This will be a great responsibility which you will carry out to your own honor and for the protection of the

human being, with the wisdom derived from your talents and studies, with the rectitude and prudence which all true judges must possess, and with the moral support of a clean life.

The Supreme Court of a small country of America receives you in a fraternal embrace; of this Costa Rica which will in a few days celebrate yet another anniversary of its Independence, which was declared in the ancient Captaincy General of Guatemala on September 15, 1821. Communications were not speedy at that time; as a result, the news of this occurrence did not reach us during that same month of September, but rather on the thirteenth day of the following October. Great were the doubts and confusions reigning during those first days; but the men of that time, the men of this Costa Rican territory which had a population of scarcely fifty thousand, knew how to direct the destinies of our country along the paths of law and order; thus, in less than two months, they drafted and issued a Constitution inspired by that of Cadiz of 1812, which they themselves named the «Pact of Concord». The spiritual significance of that name and the extraordinary fact that the representatives gathered in the City of Cartago should draft this Pact in such a short time, invites one to profound reflection. This is not the moment to expound further; however, I do believe it important to emphasize that a sense of legality is one of the authentic characteristics of the Costa Rican people. Among the peasantry, it is commonly said that a person is «legal» to indicate that he is honest; and reference is made to good faith and to the fulfillment of one's duties in the expression «one must be legal in one's dealings, «because in common speech among the people and in certain types of human relationships, legality is identified with goodness or with what is worthy of respect. In other sectors of society, when spirits run high –even in debates conducted in the press– someone is bound to end the discussion with the phrase, «We'll discuss this in Court» or «Take me to Court»; and it is a well-known fact that our forebears always kept their commitments, even if no document had been signed.

In 1908 Costa Rica received one of the highest honors ever bestowed on it in the field of Law and Justice: that of being the seat of the Central American Court of Justice, which functioned for ten years, up to 1918. There is an important book in which the author, Lic. Carlos José Gutiérrez, describes what that Court was like; and in one of the halls of our building we have a photograph of extraordinary historical value, taken when the Central American Court began its work in May of 1908. This photograph was a gift from a good friend of ours, and shows the five Magistrates of the Court and the Representatives of Mexico and the United States who were present at the meetings held in the city of Washington, where the treaty which gave rise to the Court was signed.

Today, seventy-one years later, we Costa Ricans take note that once again Costa Rica is the seat an international tribunal the Inter-American Court of Human Rights.

When other judges visit our home, we usually speak to them about problems of justice and about the organization of the Court and the other Tribunals. I do not want to go into these subjects now; I shall say little about the Supreme Court -only that in the more than sixteen years since I first arrived at the First Civil Court, the Supreme Court has undergone a change of nearly all of its members. Of the judges in office at that time, only Magistrate Jacobo and Magistrate Porter remain. This renewal is a result of normal causes occurring with the inevitable passing of the years; of the Magistrates no longer physically with us, some of whom retired, while others have passed away.

However, I would to add a few words in memory of the great judges our Republic has had; in memory of all those who are a living example to us now and will also be to those who, in the future, follow the same path of Justice and Law. They passed on the flag of the Supreme Court of Justice —the flag of our nation, to succeeding generations of judges, until it came to our hands. We receive it to honor it; and although we do not possess the learning of our forbears, let it never be said justifiably that we did not make every effort to carry out the task entrusted to us, with rectitude and with the austerity in our lives which should be observed by all men whom destiny has given the responsibility to judge the conduct of their peers.

These judges handed down brilliant verdicts which are treasured among the collection of judgments kept by the Court, which we frequently consult. We are not governed by the principle of obligatory jurisprudence, which conflicts with that of the absolute independence of judges which our juridical system upholds. But good decisions provide practically the same effects, not because of a legal imperative making them go beyond the matter judged, but because of what they are worth in themselves; in other words, because of the wisdom with which they determine the scope of a juridical norm. And thus, those judgments from the past continue to guide our present-day judges, not in the manner of a static law, for the changes occurring in general legislation and the transformation brought about in each age must always be taken into account, but as the teachings of other men who interpreted those same constitutional or legal texts, the application of which is discussed of each new case.

The great successes and great errors in judicial verdicts continue to be remembered through the years. The «Dreyfus» case in France is one of the errors in assessment of evidence which has been most widely noted. And whenever the history of the Supreme Court of the United States of America is written about or discussed, two of the most important cases will always be borne in mind; one of the first time ever, the principle that the Constitution has supremacy over the laws, in a decision of Justice Marshall, one of the greatest Chief Justices that Court has ever had. He was succeeded in that post by Roger B. Taney, who had to render judgment on another, no less celebrated case -that of Dred Scott; and just as the verdict in «Marbury vs. Madison» showed great wisdom, so also has this other verdict -in which the problem of slavery was involved- been described as a grave error which contributed to the passions which eventually overflowed, leading to the Civil War between the Northern and Southern States.

I have had the great fortune to deal closely with several of the great judges of the Supreme Court of Justice over the last forty years; some after they had retired from the Bench, and others more recently. From all of them I have received wise teachings. I shall not mention names, but I will tell you that a former Magistrate of the Court who had also been a Professor at the Law School, once gave me some advice which I have often repeated at meetings with young judges. «Look here», he told me, «if a matter has been well-studied and the

solution is the correct one, the reasonings behind the judgment can be drafted easily, for words flow without effort when ideas are based on truth and logic. When you have difficulty in writing a decision be very careful; it might be a sign that the idea that you are developing is wrong.»

All I can add now is that we, the judges of the Court of Costa Rica, are once again reading the American Convention or Pact of San José. But this time we are studying it more profoundly, so that we may do our duty as regards the correct application of the rules and principles contained therein; and we shall recommend that our other judges and officials also study this Pact as it effects them.

Mr. President and Judges of the Inter-American Court of Human Rights. Members of the Inter-American Commission on Human Rights: The Supreme Court of Justice greets you most affectionately and wishes you every success in your difficult mission.

A greeting also to the Minister of Justice and to all the rest of our special guests who are honoring us today with their presence. Thank you very much.