

**SPEECH DELIVERED BY THE DEPUTY SECRETARY GENERAL
OF THE ORGANIZATION OF AMERICAN STATES, DR. JORGE LUIS ZELAYA-CORONADO,
AT THE INSTALLATION OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS
AT THE COSTA RICAN NATIONAL THEATER ON MONDAY, SEPTEMBER 3, 1979.**

It is a very high honor for me to represent the General Secretariat of the Organization of American States at this ceremony, which marks an important milestone in the history of the inter-American system. I bring with me the full and warm support of the Secretary General, Ambassador Alejandro Orfila, as well as his personal greetings which I wholeheartedly join —to the Government of Costa Rica, to whose diligence and generosity the Court owes its headquarters, and to its hardworking people, who with civic fervor have endorsed this important step we take today on the road to achieve full recognition of human rights in America.

I cannot hide the satisfaction which I feel on this occasion. As a Central American, nothing could give me greater pleasure than to fulfill my assignment in this sister nation, a model of democracy in America. To this I should add the fact that I was a member of the Guatemalan delegation which ten years ago participated in the drafting and signing of the American Convention on Human Rights, under these very skies. When I declare my satisfaction, then, I ask that you not interpret it as personal effusiveness, but rather as an expression of the pride that I feel at having represented my country on an occasion of such importance to the juridical and political life of America.

In this long fight for justice in our Continent, we face today a historical fact of the greatest importance. However, no historical fact is in reality anything other than what it means. This meaning is valid for a given social group, for a given community, in the context of its past and the possible influence it might have on its future.

In the first place, the Inter-American Court of Human Rights which we install today, is for the time being, the last chapter in a long series of endeavors. Behind this auspicious occasion lies a past which is proof of the vocation for justice of those who make up our Organization.

The very same Conference of Bogotá at which the OAS Charter was signed in 1948 was also the setting for the signing of the American Declaration on the Rights and Duties of Man which preceded the Universal Declaration of Human Rights of the United Nations, albeit by a short time. A decade later the Fifth Meeting of Consultation held in Santiago, Chile created the Inter-American Commission on Human Rights, whose constant and invaluable activities have been widely recognized. In 1969 the American Convention on Human Rights, or Pact of San José, Costa Rica, was signed; this in turn gave birth to the Court which today comes into being. In the midst of intensive discussions at the OAS regarding human rights as they relate to the deplorable phenomenon of present-day terrorism, in 1978 the American Convention obtained the required number of

ratifications to come into force, as if to prove that though our Organization can indeed have differences of opinion it is anything but indifferent to the difficult problems facing America. With the entry into force of the Convention, the Inter-American Court of Human Rights became a reality.

Without a doubt, the principles behind the basic OAS documents on human rights fall within the context of Western thought in this regard, particularly in its modern stage of development. With the degree of simplification that is inevitable in this type of generalization, we can say that medieval man had nothing but duties: duties towards his lord, his king, his Church, his guild. The recognition of the fact that man possesses inalienable rights that are inherent to the human condition is something pertaining exclusively to our modern era. A classic example of this is the Declaration of the Rights of Man and of the Citizen, a product of the fever for change aroused by the French Revolution. This, however, was not a spontaneous flowering, since not only was it preceded by the Declaration of Rights of Virginia in 1776 -among others- but also its ideas are based on the anti-absolutist European thinking of the XVIII Century.

Nevertheless, in this as in so much else, America has its own historic personality. The conquest and colonization of the New World gave rise to controversies that provide a remote backdrop for our current preoccupation with human rights. The very theologians of the conquering Empire were the ones who questioned the rights of conquest and tempered the initial concept which decreed that the Indians, being infidels, had no right to their domains. Also, there was no lack of defenders of the humanity and rationality of the Indian, opposed to the doctrine of natural servitude. The unity of mankind, as proclaimed by Friar Bartolomé de las Casas, is the precedent which gave rise to the affirmation that «all men are born free and equal in rights and remain so», which would later become the corollary of the French Revolution. Thus, we could state that the struggle for human rights issues from our very origins, from the birth of America.

Our greatest cause for pride today is that we are present at the beginning of a process in which the principles we have adopted have every possibility of being confirmed through action. The proclamation of principles is always a great step forward, since it implies that the human conscience has advanced to a point where it acknowledges their validity and is ready to be governed by them. The history of man, however, is a mixture of reality and idealism; quite often what is in theory accepted without discussion is rejected in practice. As a result, it is imperative that the rights of man, now recognized internationally, be endowed with the necessary protection since no right can be truly secure without the protection of a competent court. In America we have completed the cycle: we have declaration of principles, a ratified Convention, a Commission to investigate irregularities, and, lastly, we have recourse to the Inter-American Court. Of the rest of the world, only Europe possesses a similar court. A protective system at the international level can greatly contribute towards lessening the gap between doctrine and reality, when the latter does not meet the obligations generated by the acceptance of those principles.

The fact that this highly significant step is being taken at a time when human rights and their violations are subjects of heated debates within our regional organization, says much for the moral conscience of America. It means that the sense of responsibility of the Member States of the OAS and the lofty aims of the Organization remain unaltered, despite occasional disagreements.

I have faith that history will demonstrate that the recent upheavals suffered by human rights in America have, in many cases, derived from the confusion inherent in historic situations charged with great tension, from the effects of action and reaction which we hope will be transient and which cannot be considered typical of our nature.

The transcendental value of the principles governing the concept of human rights shall undoubtedly prevail. No sound conscience can refuse to accept them. When basic human rights are infringed, it is not positive law that is being infringed but something far more important the loftiest of all humanistic principles: that which affirms that man is an end in himself. Human rights are based on the highest notion that can be put forward -that of the dignity of man. Law and morality here reach their pinnacle. Here, too, law finds support in the firm rock of ethics. Our own American Declaration of the Rights and Duties of Man states the following: «Duties of a juridical nature presuppose others of a moral nature which support them in principle and constitute their basis.»

The very universality of human rights prevents their assimilation by any given political position. They are beyond ideologies and changing historical situations. On the other hand, their enforceability admits of no exceptions; if they are not fully exercised, all other progress in any community will lack meaning.

Profound reflection on the theme of human rights requires the thoughts of the learned jurist, but also involves the statesman and the ruler. It is perhaps possible to state that the natural rights of man rest on two pillars; equality and justice. Whereas the equality of man can, in juridical terms, be attained by the simple decision of whoever wields the power of the State, justice does present more complex problems. The scope of justice covers not just those human rights which are considered to be basic -civil or juridico-political- but also socio-economic rights. As long as any man or woman in any one of our countries is lacking the essentials as regards food, lodging, health or education, or lives in uncertainty regarding the future of their children, we cannot assure peace in our area; there will be no true justice in America, nor will the observance of basic human rights come to full fruition. The negation of human dignity has many faces.

The OAS Charter recognizes economic and social rights; these are also included in Article 26 of our American Convention, under the significant heading of «Progressive Development.» In contrast to the imperative nature of political rights, this heading would indicate that such rights should be attained progressively. This, of course, reflects the fact that economic and social rights entail a degree of organization in society and require more than mere respect or non-interference by the State. These last considerations are perhaps outside the scope of the circumstances which have gathered us here today; however, it is our obligation to consider the important problems facing us with a broad political vision at all times.

In closing, I would, on behalf of the General Secretariat of the OAS, like to wish the honorable members of the Court the greatest success in the fulfilment of the noble task to be performed by this tribunal. Our wishes are not only that they may continue to uphold the glorious history of America as regards the defense of human dignity -despite negative actions which have never been allowed to pass without censure -but also that they may contribute towards a new future, as full of problems and difficulties as it is of faith in what the common will of the American family can achieve.