

**SPEECH DELIVERED BY JUDGE MÁXIMO CISNEROS-SÁNCHEZ, VICE-PRESIDENT  
OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS, ON TUESDAY,  
SEPTEMBER 4, 1979, ON THE OCCASION OF THE VISIT  
PAID BY THE COURT TO THE SUPREME COURT OF JUSTICE OF COSTA RICA.**

Mr. President of the Supreme Court of Justice,

Honorable Minister of Justice,

Distinguished Magistrates,

Mr. Vice-President of the European Court of Human Rights,

Ladies and Gentlemen:

We, the judge of the Inter-American Court of Human Rights, are highly honored to be here at the Supreme Court, where the judicial branch of the country administers exemplary justice. For personal reasons, which by their nature should perhaps be left out of this ceremony but which I am nevertheless bound to mention for reasons of justice, I am a qualified witness of that justice, for it was on account of it that I came to this country eight years ago, when my own country denied me justice. I was never a fugitive in search of liberty, but a fugitive in search of justice; for this reason I chose Costa Rica, because the prestige of its judiciary is widely recognized, not only in our own Continent, but throughout the world. Costa Rica is an exceptionally fortunate country, for its judiciary is highly respectable and respected. The judges of the Inter-American Court therefore appreciate as support, as an incentive to our difficult task, the significance of the honor of the invitation to meet with the plenary Court.

As judges of the Inte-American Court we are fully conscious of the difficulties, of the long road we have started out on, but we are also sure that the very establishment of our Court, the putting into operation of this Inter-American Court, constitutes a historic step and a decisive one in America's long fight to attain universal recognition of human rights throughout the continent.

In this struggle for human rights, America has been a pioneer. Sometimes one forgets that the first instrument to touch on human rights was not the famous declaration of the French Revolution, so widely known and often mentioned; it was a document born in America. I speak of the Declaration of Virginia, issued some years before the declaration of the French Revolution. One sometimes forgets that the first international

tribunal in the world to recognize the legal capacity of the human being as a subject of international law was the Central American Court of Justice, created as a result of the treaty in Washington in 1907 and established in this country, Costa Rica, in 1908. One forgets that in America we systematized the right to political asylum, which was given shape at the Seventh International American Conference of Montevideo in 1933 and which is so characteristic of our inter-American system and so useful in the defense of the individual, his personal integrity and his inalienable rights.

Unfortunately, that position of leadership, which materialized in 1948 at the Ninth International American Conference of Bogota, when the American Declaration of the Rights and Duties of Man was proclaimed some months before the United Nations Universal Declaration of Human Rights, could not be maintained. After 1948, the historical and political situation of America changed and we imposed on ourselves a silence that lasted many long years. More than twenty years were to elapse before Costa Rica once again placed us on the map of human rights, for it was twenty years later that the American Convention on Human Rights, which gave birth to our Court, was signed here in San José, giving rise to the other name by which this treaty is known: the Pact of San José. And even though it was signed in 1969, it took almost ten years to gather together the sufficient number of ratifications required to give our Convention legal effect.

Nevertheless, I am an optimist. I believe that these same historical and political conditions are leading us towards a greater democratization in Latin America, towards a greater respect for human rights in our continent. The signs are very promising. As we all know, up to now the only country to submit in a general and unconditional manner to the jurisdiction of the Inter-American Court of Human Rights is Costa Rica, thus continuing its long-standing leadership and example. When I (again, I beg you to excuse these constant personal references) appeared before this judiciary during the extradition process filed against me, in my defense I invoked the Pact of San José, for in Costa Rica it was a law that was already in force, though it was in force only in Costa Rica. Costa Rica lived in honorable solitude, being the only country to have ratified the Pact of San José. Today, once again, it is the only country to have submitted to the jurisdiction of our Court. As a result, it continues to serve as a model for America. But I would also like to state here -for it is a source of great pride to me as a Peruvian- that the Constitutional Convention of Peru, presided by my late friend Victor Raul Haya de la Torre, on July 12 this year approved the new Constitution and, as part of that Constitution, the express, generic and unlimited submission to the jurisdiction of the Inter-American Commission on Human Rights and to the Inter-American Court of Human Rights. I take the liberty of quoting a portion of the Constitution. It states thus:

«...We, the Representatives of the Constitutional Convention, invoking God's protection and exercising the supreme powers conferred upon us by the people of Peru, firm believers in the supremacy of the human being and in the fact that all men are of equal dignity and have rights which are valid universally and which rank before and above those of the State, being determined, furthermore, to found a democratic State based on the will of the people and on free and periodic consultations which shall guarantee the full legal effect of human rights through stable and legitimate institutions...»

Its Article 205 runs as follows:

«The precepts contained in the treaties relating to human rights enjoy constitutional rank and may not be amended unless the same procedures governing a modification of the Constitution be followed.»

Article 16 of the General and Final Provisions reads thus:

«The American Convention on Human Rights given in San José, Costa Rica is hereby ratified, including Articles 45 and 62 which refer to the competence of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.»

This historic reality of Peru gives me great pleasure, for it is proof of the urgency, yearning and longing felt by the people of Peru in their search for justice. A mere promise by the military government to hold elections in May of next year and to hand over power on July 28, 1980 has sufficed so that the people, gathered together in a freely elected Constitutional Convention, were unable to repress their desire to give their support to legality and to human rights by means of this exemplary action. And let us hope that other countries of America follow suit, giving all norms for the protection of human rights the same elevated rank enjoyed by constitutional provisions, so that they may not be amended except by following the procedures required for a modification of the Constitution.

These are the things that renew my faith in justice and in the future of our task as judges of the Inter-American Court of Human Rights. We are aware of the difficulties, we are aware of the short-comings of the treaty, but we also bear in mind its conquests and realities. Our Convention, which at present has legal effect in fourteen countries of America, contains a provision which does not exist in the European Convention on Human Rights which predated it: Article 63 empowers the Inter-American Court to intervene in order to adopt urgent provisions when necessary, even in cases not yet submitted to it, when so requested by the Commission. This is a very important step forward for the universal system on human rights, for it provides us with a positive tool for the furtherance of a practical application of human rights in our continent.

In this Suprema Court of Justice I would like to state that those of us who make up the Inter-American Court are ready to fulfill our task with love and an awareness of what it represents for the hopes of all upright men throughout America: that the dream of justice may become a reality for our people.