

## FOREWORD

The protection of human rights constitutes the most important and transcendent mission of juridical order. The democratic States instituted a political society for the preservation of the fundamental rights of persons and set forth the norms and procedures intended to guarantee the protection in their respective jurisdictions. Additionally, they have taken on the great task of creating and developing international human rights law, which tends to the protection of these rights across territorial borders. This recognition presently constitutes a great juridical achievement, based on convictions, which are shared and deposited in convergent projects. In America, the basis of these convictions and projects are within the forum of the Inter-American System of Human Rights Protection which permits the convergence of national and international endeavors.

The American States created, by sovereign agreement, organs for the international protection of human rights: the Inter-American Commission of Human Rights and the Inter-American Court of Human Rights. These organs have served the purpose of international protection throughout several decades. Inter-American jurisdiction, granted to the Court—based in San Jose, Costa Rica, since 1979—has a complementary role regarding national jurisdiction. The Court's main duty is the protection of fundamental rights of the individual. The Inter-American Court interprets and applies international instruments that grant its competence, in particular, the American Convention of Human Rights. The latter forms part of the legal order applied to the American States in such a manner which was foreseen by the very Convention and the internal legal order of such States.

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Decisions —judgments or opinions— of the Inter-American Court carry great significance, which is granted to them by the very international law from which they are based. However, they derive their true strength and wide extension when, using the interpretation of international norms, they provide guidance for the formulation of internal law, the course of national jurisprudence and practices and programs of governments. Such a domestic impact gives true meaning to the international system and immeasurably extends the benefits that otherwise would be reduced to a particular realm of litigation placed before an international judge for consideration.

Presently, one of the most notable and accepted phenomenon in the development of the Inter-American System for Protection of Human Rights, is the acceptance of international norms on human rights in the legal order of various countries —with different modalities— and the corresponding acceptance, at the domestic level, of standards set in international jurisprudence, which has occurred with increasing might and incidence in several American countries. The high courts of the American States -Supreme and Constitutional Courts- have accepted the Inter-American Court of Human Rights, as the interpreter of the American Convention —and, when necessary, other instruments—, thus giving the protection of human rights new horizons.

It is indispensable to give importance to this new reception at the domestic level of these international trends. Promoting this progress, showing its characteristics and broadening its consequences, will contribute to the consolidation of the contemporary culture of human rights and to the effective protection of millions who await the benefits of a fruitful alliance between national and international justice. The Magazine *Diálogo Jurisprudencial* —which is edited by the Inter-American Court of Human Rights, the Inter-American Institute of Human Rights and the Institute of Juridical Researches of the National University of Mexico— seeks to fulfill this goal. The Konrad Adenauer Foundation has joined forces with this editorial initiative, making it possible to double the original press run,

for the great benefit of our potential readers. Presently, the editors of *Diálogo Jurisprudencial* have joined forces in search of this common goal. This effort was formerly realized by the publication of the journal *Iudicium et Vita*, published from 1994 to 2000 by the IIDH, for seven consecutive issues.

This Journal will periodically publish a certain number of judgments—which will include a few examples, for it is not possible to include them all—emitted by the high courts of the Americas. The study of such sentences will shed light on the progress, to which we have referred, and offer the appropriate motivation to move forward in the great task to which the international and national jurisdictions have committed themselves. For this reason, the name of the new publication is *Diálogo Jurisprudencial* (Jurisprudential Dialogue). The interlocutors are the tribunals of both jurisdictions, however, its target audience are the millions of women and men who inhabit the Americas.

In this first edition of *Diálogo Jurisprudencial*, we have assembled eleven judgments regarding diverse topics. They have been handed down in eight countries in our region, which reflect the national acceptance of international jurisprudence. The editors are limited to the compilation of these judicial resolutions in order to serve as a source of knowledge and analysis for readers interested in this matter—which by nature are of interest to all—, without considering commentaries or critiques.\* Further comments and analysis correspond to experts and, in due time, to judges. Both Institutes and the Inter-American Court provide, with objectivity and neutrality—if one should allow such an expression—, this material for examination. The selection is carried out, within the natural limitations of space availability, but does not ignore the importance of other pronouncements. We expect to count on resources in order to increase, in the near future, the number of judgments gathe-

\* Nevertheless, the editors consider it indispensable to include a purely descriptive note on the topic of the judgment before it is reproduced. The correspondent synopses were elaborated by Carlos Rafael Urquilla B., and their English translation by Esmeralda López, Breanne Kaiser and Francisco Rivera, to whom the editors are grateful for this work.

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red in the Journal, for the benefit of the readers and the Inter-American System.

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