

.....
VALENCIA *ET AL.* (PETITIONER)

v.

THE STATE OF LIBERTÉ (RESPONDENT)

MEMORIAL FOR THE STATE

TEAM NO. 647
.....

TABLE OF CONTENTS

- I. Index of Authorities
- II. Statement of Facts
- III. Legal Analysis
 - I. Article 27

I. INDEX OF AUTHORITIES

CASES:

Inter-

Commission Reports

Case 11.166, 1999 IACHR 1200, Report No. 48/00, Peru (2000)

Cases 11.505, 1997 IACHR 512, Report No. 25/98, Chile (1998)

Miscellaneous Cases

A. v. Secretary of State for the Home Department (2002) H.R.L.R. 45

A, X and Y v. Secretary of State for the Home Department (2002) H.R.L.R. 3

TREATIES:

Additional Protocol to the American Convention on Human Rights (Protocol of San Salvador)

American Convention on Human Rights

American Declaration of Rights & Duties of Man

Charter of the Organization of American States

Convention 87 of the International Labor Organization

Convention 98 of the International Labor Organization

European Convention for the Protection of Human Rights and Fundamental Freedoms

International Covenant on Civil and Political Rights

International Covenant on Economic, Social and Cultural Rights

Rules of Procedure of the Inter-American Commission on Human Rights

II. STATEMENT OF FACTS

1. For the 10 years prior to the national election of President Reina and her administration in 1997, Liberté was in a state of constant internal conflict during which systematic and gross human rights violations were committed by the Armed Forces, National Police and the insurgency that discredited the political parties and figures who had previously held power. The signing of the Peace accords, under the auspices of the United Nations, led to the integration of non-traditional political actors into the new administration, which marked an upward turning point for the status of human rights in Liberté. Also contributing to the system of human rights protections was the establishment of a friendly settlement group and the ratification of the Additional Protocol to the American Convention in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador).
2. President Reina was the leader of the Liberté United Party, whose aim it was to minimize rebellion in accordance with the citizen consensus and to eliminate repression through utilizing conservative fiscal approaches and a progressive

approach to social issues, ultimately revitalizing democratic institutions and implementing the peace accords.

3. In implementing the peace accords, the Constitutional Assembly approved of a Constitutional amendment, which was later ratified by a national referendum. Three modifications were aimed at preventing the types of human rights abuses perpetrated during the conflict. The modifications: i) guaranteed the protection of human rights recognized in the treaties ratified by Liberté with such treaties accorded juridical status equivalent to the Constitution itself, ii) defined the role of the Armed Forces as pertaining to external security, with the National Police

7. Although the protests typically reflected real concerns, they increasingly broke

13. On the same day that President Reina declared the state of emergency she notified the OAS Secretary General and the following day she notified the Permanent Council of the OAS that she was invoking Article 17 of the Inter-American Democratic Charter. She reported about the crisis, indicated that she considered Liberté "f go qetcvk" r qtklecn' kpuvkwkqpcn' r tqeguu" vq" dg" wpf gt" y tgcv" and requested assistance in strengthening and preserving it, and requested the OAS send an electoral observer mission, as soon as possible to monitor the upcoming national elections.
14. The Permanent Council of the OAS met and issued a resolution which took note of the gravity of Liberté "ukwcvkp"cpf "chhko gf "y g'hwpf co gpcnr tkpek rgu"qh'y g" OAS in favor of a representative democracy, including as set forth by the Inter-American Democratic Charter. The council resolved to support Liberté and its legal institutions and called on all public institutions to ensure the conditions necessary for a valid electoral process. The Council then agreed to send an electoral observation mission to Liberté as soon as possible.
15. It became clear that the National Police, even after its size had been doubled, could not handle the extent and severity of the protests. The President ordered the Armed Forces to begin joint patrols in accordance with her declaration.
16. On November 17, 2001, a protest in a rural area grew to over 500 people by 9:00 a.m. Scuffles between protesters threatened to become violent. In response, the Armed Forces, consisting of twenty recent military recruits, made over 150 arrests of men, women and some children, including Joel Valencia and 10 of his classmates. They were sent by bus to the nearest military base.
17. Cv'5-22"y cv'chgtppqp."lqgru'r ctgpw"cpf "y qug"qh"j ku"htkpf u"hgkd a petition for writ of habeas corpus on behalf of Joel and his friends, seeking their release. Although the judge quickly located their whereabouts and confirmed by phone that they were at the base, the judge rejected the release request, pursuant to the declaration, which suspended Article 22 of the Constitution.
18. At the base, the detainees were able to eat and drink in the auditorium where they were kept under guard while two recruits recorded and reviewed their basic information. As can be expected, some verbal and physical confrontation went on while the detainees were being identified. But other than being intimidated by this, Joel and his classmates were not involved in any direct confrontation and were able to keep to themselves in a corner of the room until they were allowed to leave at 7:30 p.m. the next day.
19. On December 1, 2001, the Democratic Forum, an organization that had been criticizing the Liberté government and, in particular." Rt gulf gpv" Tgkpcu" declaration, used the November 17 arr8 Tm(e)4(d)] TJETQBT1 012 Tf1004840TBd734(rm 0 0

exercised by the administration from the internal conflict era. The Democratic Forum challenged the legality of: (a) the arrest of the children, (b) the duration of the detention and (c) the suspension of the constitutional protection of prompt access to habeas corpus.

20.

the rule of law and the separation of powers, as articulated in the Inter-American Democratic Charter.

24. On June 30, 2002, the Commission declared the case admissible and offered assistance to reach a friendly settlement, which the parties declined.
25. On November 25, 2002, upon finding in its report, pursuant to Article 50, that violations of those Articles had occurred, the Commission recommended that Liberté reinstate and ensure the enjoyment of the rights concerned to the extent possible and provide reparation where such reinstatement was not possible or sufficient. The Commission also recommended that the Democratic Forum had

of the community of which the Liberté is composed.¹ The European Court on Human Rights (ECHR) affords the states a broad margin of appreciation, because it believes that they are in the best position to decide whether such derogation is warranted as they see the events leading up to the state of emergency first hand. Recognizing the long-term damaging effects of states of emergencies, it lends this deference to the States so that they may stamp out threats of emergency before they transpire into an actual one.²

It is clearly established in the record that an emergency situation existed in Liberté at the time President Reina declared a state of emergency. Specifically, it became clear that the growing incidence of injury and deaths at the riots that had occurred over a course of many months were not necessarily isolated or spontaneous.³ The need for stricter measures became manifest as Liberté could not be expected to wait until the individuals organizing the extreme violence struck again.⁴ Cf. *Lawless v. Ireland*, (1961) 1 E.H.R.R. 15, P.28; *Brannigan and McBride v. United Kingdom*, (1993) 17 E.H.R.R. 539, P.43; *A. v. Secretary of State for the Home Department* (2002) P. 24, citing a decision of the ECHR for refusals to unload food, causing it to rot while the entire economy was already suffering, contributed to further losses that the State could not sustain, as it was already nearing an economic breaking point.

Considering those exigent circumstances and the rate at which conditions were worsening, vis-à-vis Liberté, the appreciation afforded to pursue those obligations during a state of emergency, the

¹ *Lawless v Ireland*, (1961) 1 E.H.R.R. 15, P 28

² *Brannigan and McBride v. United Kingdom*, (1993) 17 E.H.R.R. 539, P.43

³ See Hypothetical Case, paragraph 15

⁴ *A. v. Secretary of State for the Home Department* (2002) P. 24, citing a decision of the ECHR for treatment of suspected terrorists.

declaration was crucial to its survival as a democratic state and proper according to its responsibilities as an OAS Member State.

C. The declaration was within the scope of Article 27 authorization because it called for measures that were only of the extent and for the period of time strictly required by the situation of emergency.

The absolute right to decide what would be the most prudent or expedient policy to combat the threat to national security resides with the State of Libert .5

The temporal reasonableness is further reinforced by Article 101 of the Liberté constitution.¹¹

The declaration was within the scope of Article 27 authorization because it tailored measures specifically to the problems it addressed. Specifically, those areas affected by the emergency situation¹² were the ability to provide free and uninhibited elections and the need to prevent the economy from experiencing further devastation.

In view of the narrow and precise manner in which the suspension was applied to the grave situation that existed in Liberté at the time it was made, and considering that the ultimate right to determine which method would best further its obligation to address the emergency situation belongs to Liberté to determine what measures are necessary, the time and extent of the suspension were authorized by Article 27.

obligations under other international laws.

The common thread of each law governing Liberté, as a member of the OAS, is the principle that State must ensure the effective exercise of a representative democracy, especially when suspending guarantees due to a state of emergency.¹³ Hence, when the r wtr qug" dgj kpf " yj g" Ucvguø" uwur gpukqp" qh" i wctcpvggu" ku" vq" wpf gto kpg" yj g" f go qetatic system, it lacks all legitimacy.¹⁴ Further, Liberté was obligated to respect the rights

¹¹ Hypothetical Case, P. 5: Article 101 provides that the suspension should last no longer than the exigencies require and, in the event that the state of emergency did not lift within 90 days, the suspension would lapse.

¹² Case 11.166, Ann. Rpt. Inter-Am. C.H.R. 1200, Report N 48/00, Peru, April 13, 2000, P. 35

¹³ See footnote iii

¹⁴ Rodriguez-Velasquez, P. 166 and 167.

entitle the State to limit the right to form unions and strike. The Protocol of San Salvador protects the right to form unions and strike. However, Article 16.2 states that those rights are subject to restrictions as may be necessary in the interest of public health or safety and to protect the rights and freedoms of others. The International Covenant on Economic and Social Rights guarantees freedom from hunger.²⁵ The strikes of the dockworkers were essential to its protection of the right to freedom from hunger. Accordingly, Liberté acted under its obligation imposed by those arrangements in limiting the dockworkers right to form unions and strike.

Under the Declaration of Rights and Duties of Man, which provides that every person is entitled to an honest and free election.²⁶ Thus, gaining control over the althat were creating an environment of fear was lial in order for the State to provide free elections.

E. The declaration of emergency was applied in a non-discriminatory manner because it treated individuals of all social conditions equally and its only purpose and effect was to regulate activities that threatened the democratic structure.

Under Article 27(2) and 1(1), Liberté had a duty to ensure the free and full

A. At all times during the state of emergency, Liberté ensured those judicial guarantees essential for the protection of Articles 5, 19, and 23.

Vj g"öi wctcpvöggü"eqpvclpgf "lp"Ctvleng"49*4+tgcf "y kj "Ctvleng"3*3+ "y j lej "cwcej gu" to all free standing rights of the Convention, impose an affirmative duty on the State Parties to protect and ensure the free and full exercise of the rights and freedoms contained therein.²⁹ In its advisory opinion on habeas corpus in emergency situations, the Court determined that certain components of Articles 7, 8 and 25 cannot be suspended even though they are not stated in 27(2). Liberté ensured that those components of Articles 7, 8 and 25, which amount to habeas corpus and amparo guarantees, were protected.³⁰

1. Liberté provided habeas corpus rights at all time during its state of emergency, thus ensuring those non-

release was different in character from those cases where the denial amounted to a failure to ensure against arbitrary detentions and invasion of physical integrity. The Commission conceded in *Valasquez Rodriguez*. require mechanical attempts at formal procedures; but rather to require a case-by-case analysis of the reasonable possibilit

Measures are more likely to violate habeas corpus when they are preventive in nature rather than correctional in this case. *The Rosero Court*, where the detainee was ngr v'ht "58"j qwtu'dcugf "qp"õr tngxgpcvkg'tgcuqpu.õ"hqwpf "j cv'j ku'tki j u'qh'j cdgcu'eorpus were violated. Accordingly, the detention was arbitrary.³⁴

remedy, free from arbitrariness and physical invasion, its interpretation of what constitutes effective protection of amparo tends to focus broadly on whether the parties

rights, was expressly authorized by the Convention because the Court has interpreted the Convention to mean that in times of a state of emergency, only those components essential to judicial guarantees of the other rights listed in 27(2) may not be suspended.

2. The restriction adopted by the legitimate will of the people because it established by a law adopted by Congress.

The Liberté law that established the restriction Although the restriction was essentially voiced by President Reina, Congress delegated that authority to her through Article 101 of the Liberté Constitution.³⁹ The Convention approves of such a delegation power because it is backed by a checking mechanism on that power.⁴⁰

Convention.⁴² Article 101 of the Liberté Constitution allows for strengthening capabilities and affords flexibility to the courts whose caseload was undoubtedly increased due to the extreme g'pwo dgt "qh'xkqngpv'r tqvguu0"Nkdgtv? au'kpvtguv'lp'o ckpcklpi " the effectiveness of those institutions crucial to its democratic structure, such as the r qnleg"hqteg"cpf "yj g"lwflekct { ."o wuv'vr "yj g"uecrg"kp"Nkdgtv? au'hcxqt0"Hwtj gt. "Nkdgtv?" limited its restriction to the just demands of a democratic society because the declaration only increased the amount of time for judicial review to 48 hours, a reasonable time. There were so many protests that the Armed Forces were forced to use military recruits, even after the National Police had recently doubled its size and had joined with the Armed Forces. On November 17, 2001, it only took 34 hours for the detainees to be processed and released.

Accordingly, because any restrictions on Articles 7, 8 and 25 were pursuant to a legislatively established law and with the general interest in mind, they were warranted according to Article 30 of the Convention.

B. Liberté protected Article 7, 8 and 25 in a manner that ensured equal treatment.

The ECHR recognized that whereas an acute risk of arbitrary and thus discriminatory treatment is present during a state of emergency, it is minimized when the

r rights to physical, mental and moral integrity and their inherent dignity as human persons were protected during the reasonable and necessary arrest.

Whereas the Court has found prolonged isolation and incommunicado detention to violate Article 5(1) and 5(2) right to humane treatment in the past, those decisions are distinguished from this case. In the *Suarez Rosero* case, where the Court found that incommunicado detention for 36 days amounted to amount to cruel, inhuman or degrading treatment. The outcome of that case turned on the fact that the detention was ctdktct {"cpf "ecttkgf "qwl"p"xlqr"vqp"qh'vj g"Ucvga'f qo guke"ry u0⁴⁴ There, the detained person had to sleep on newspapers in a damp underground cell measuring 15 square meters with 16 other prisoners and during his detention he was subjected to several beatings and threats. Here, however, during the comparatively brief detention of 34 hours, the applicants were given food and water and were able to find peace in a corner of the auditorium.⁴⁵

Furthermore, in *Rodriguez*, the Court stressed that Article 5 requires States Parties to take reasonable steps to prevent situations which are *truly* harmful to the rights protected. In that case, the Court found that prolonged isolation interfered with the mental and psychological integrity of those detained. The conditions of that detention were entirely distinguishable from the very brief detention of Joel and his friends. Mr. Velasquez had been missing for 7 years by the time the claim was filed. Because the Honduras government failed to refute the claim that the detainees in that case were subjected to methods of torture, the Court deferred to the individuals and found that their

⁴³ Brannigan and McBride v. United Kingdom, Series A, No. 258 B. (1993), P.63

⁴⁴ *Suarez Rosero Case (1997)*, P 84-92.

subject those lawfully arrested to any amount of torture, whatever, removing any need for presumption of a violation. Accordingly, those cases where the court has found a violation of Article 5 involve conditions of a nature much graver than those which Joel and his friends underwent.

C. The State treated the individuals in a manner consistent with its obligation under the Convention on the Rights of the Child.

Although Article 19 is listed in Article 27(2) as exempt from suspension under any circumstances, it may still be restricted according to Article 30, as the Court has distinguished between restrictions and suspensions. Liberté, then, could restrict its protection of Article 19 to the extent that the restricted protection is authorized by the American Convention, established by a legislative law and is in the general interest. Ceeqtf kpi n{."Nldgt v' a" Ct v'eng"52"tki j v'o wuv have been exercised in a manner consistent with the terms of the Convention on the Rights of the Child.⁴⁶

Article 9(4) of the Convention on the Rights of the Child provides that parents shall be provided with the essential information concerning the whereabouts of the absent member(s) when their children have been detained by the State. Article 12 entitles detainees to the right to be heard. The arrest and detention of the individuals was consistent with both of those articles because the State quickly provided information concerning vj g'lpf kxf wcnu' y j gtdqwu' Ur gekkcm{."vj g'Eqwtv'tgur qpf gf 'r tqo r w{ "cpf " ghgevkgn{ "v"vj g"r ctgpw' y tk"qh"j cdgcu"eqtr wu"d{ "f gyto kpi "vj g"rcy hwpguu"qh"vj g" arrest and detention and ascertained the whereabouts of the kpf kxf wcnu' "Vj g'Eqwt wu" measures provided habeas corpus and amparo. Because the Liberté Court guaranteed habeas corpus in carrying out the arrest and detention, it ensured the protection of those articles contained in the Convention on the Rights of the Child that pertain to judicial procedure.

Articles 13(2) (b), 4(3), and 15(2) of the Convention on the Rights of the Child limit the right to freedom of expression and speech when such limitation is necessary to

protect the national security, public order, public health and democratic structure. In Liberté, the national security, public order, public health and the democratic structure were all threatened by the atmosphere of violence and fear created by the protests. Accordingly, it was necessary for Liberté to gain control over the protests by arresting people who were creating violence.

D. The arrest and detention of Joel and his friends was consistent with Article 27 because Liberté did not suspend the Article 19.

The limited protection of rights is distinguished from the suspension of rights. Whereas Liberté was at no time entitled to suspend Article 19 rights of the child, it was permitted to limit its protection accordance with the terms of Article 30.⁴⁷ Liberté only limited its protection of the rights of Mr. Valencia and his friends to the extent required by the terms of the Convention on the Rights of the Child. Accordingly, Liberté provided adequate protection of Article 19 of the Convention on the Rights of the Child.

VI. The State of Liberté did not violate Article 23 of the American Convention when it postponed the national election for one month.

The State did not violate Article 23 of the American Convention.⁴⁸ The political system in Liberté during the last few months of 2002 w

uj cm'dg"j qpguw"r gtlkfl e"cpf "ltgg0⁵¹ The State postponed the election in part to ensure that it would be fair. If the election were held on December 10, 2002 as originally scheduled, the violent protests and planned disruptions at the polls would call in to question the validity of the results. Many voters may have chosen not to participate in the election rather than face the potential violence.

Article 20 states that *every* person having legal capacity is entitled to participate.⁵² The State interprets this to mean the every person is entitled to participate in the election without fear of reprisal or interference from opposing political parties. The postponement of the election was an effort to preserve the integrity of the election process and to ensure that all citizens of Liberté would be guaranteed the opportunity to participate in the election.

B. The measures taken by the State did not violate the Convention because

54 The people of Liberté were entitled to participate in a fair election that included all political parties. The State had an obligation to prevent any one political party from unfairly affecting the voting through intimidation of voters or blocking access to polling booths.

A democratic society cannot survive when the people are not free to express their will in regards to their government. The ability of all citizens to participate in their own government is one of the core concepts of democracy. For the State to allow the election to be held during a time when there was such political unrest that many citizens would be unable to vote, would go against the idea that all citizens have an equal voice in the government.

Democracies traditionally value truth, fairness and honesty. An election in which opposing political factions interfere with the voting process promotes neither fairness nor honesty. The election was held on January 10, 2002, one month after it was originally scheduled. The election was held in accordance with Article 20 of the American Declaration. By postponing the election, the state was able to protect the rights of the citizens to participate in a fair and honest election.

Additionally, the measures taken by the State were non-discriminatory in that they were applied to all citizens who were eligible to participate in the election. In *Gitonas v. Greece*, the European Court of Human Rights found that the exclusion of the plaintiffs' servants from standing for election] does not appear reconcilable with the interest

referred to in Article 3 of Protocol No. 1, that is, the holding of elections under conditions which will ensure the free expression of the opinion of the people in the choice of the representatives.⁵⁵ But the aim of the State in this case is completely reconcilable with the intent of Article 23. The intent of Article 23 is that all citizens should have a fair and equal opportunity to participate in government, both by voting for their representatives and by having the opportunity to run for office.⁵⁶ The purpose of the election was to ensure that all citizens would be able to vote without fear of retaliation from opposing political parties.

C. The measures taken by the State did not violate Article 23 of the American Convention because the citizens were not denied the right to vote or participate in the election.

run for office on the newly scheduled date. No one was denied the right to vote or to participate in the election.

The electoral observers the State requested to oversee the election reported that the election was carried out in an orderly fashion, implying that the measures implemented by the state were successful. All citizens were able to vote in the election without interference. The protests were brought under control and the elections were held in a fair and impartial manner.

D. The measures taken by the State were imposed in an effort to protect the rights guaranteed under Article 23 of the American Convention and were permissible under Article 27 of the Convention due to the declaration of the state of emergency.

The controls that Liberté has placed on the election were implemented to ensure that the rights guaranteed under Article 23 of the American Convention were not violated. It is apparent that the conditions imposed were not intended to deprive the rights guaranteed in Article 23 of their effectiveness, but rather to ensure their effectiveness. The postponement of the election served the legitimate aim of preserving the integrity of the election.

Although Article 27 prohibits the suspension of Article 23 at all times, the right may be restricted according to Article 30. Article 30 allows the restricted application of rights when authorized by the Convention, established by law through legislative procedure, and in the general interest.⁵⁸

pursuant thereto.⁵⁹ Further, the postponement was in the general interest because furthered the public interest.⁶⁰ A free election is an essential element of a successful democratic government. The election was not cancelled, but merely postponed for a short period of time to enable the State to maintain public order during the weeks prior to the election. The State was then able to restore an atmosphere of peace in which the citizens could vote without fear of reprisal. The controls imposed upon the timing of the election were in accordance with Article 27 of the American Convention.

The State has not violated the rights of the citizens of Liberté to vote and

strike, Liberté continues to allow the dockworkers to engage in collective bargaining to protect their interest.

Further, Article 16.2 provides that the exercise of the right to join trade unions and participate in collective bargaining is subject to such restrictions as may be necessary in the interest of public health, public safety and to protect the rights and freedoms of others.⁶² The dockworkers strike was limiting the food supply to the agricultural district of Liberté. By calling an end to the strike, the State was protecting the health and safety of citizens living in the agricultural district.

Under Article 8 of the Additional Protocol to the American Convention on Human Rights workers are guaranteed the:

1. right to organize trade unions and to join the trade union of their choice for the purpose of protecting and promoting their interests, and
2. right to strike.⁶³

The State has not denied the workers their right either to join trade unions or their right to strike. The dockworkers had initiated a work slowdown in July 2001 and began a formal strike in October 2001.⁶⁴ The State did not interfere with the work slowdown during the period from gy s-21(joi) State

The strike occurred in conjunction with a severe drought, which had a serious

The suspension of these rights complied with the requirements of Article 27 in that they were for a limited time period of 90 days and were not inconsistent with the Ucvga"qvj gt"qdrki cvkpu"wpf gt"kpvtpcvkpcn'rcy 0⁶⁹ Rather, the suspension of rights was kp"fkgevuwr rqtv'qh'yj g"Ucvga"qvj gt"qdrki cvkpu0"Vj g"Ucvg'y cu'cwgo r vki "q'r tqvget the rights of its citizens to proper food and nutrition.

C. Under Article 11.2 of the International Covenant on Economic, Social and Cultural Rights, the State has an obligation to protect the right of its citizens to be free from hunger.

Most importantly, the State was protecting the right guaranteed in Article 11.2 of the International Covenant on Economic, Social and Cultural Rights, which recognizes

support the rights of the dockworkers trade union. The State is attempting to balance the rights of the workers with the rights of the other citizens; however in a situation such as this, the rights of the citizens not to go hungry must take priority.

rights of the dockworkers with the rights of the other citizens of Liberté and complied with the restrictions allowed under Article 5 of the Protocol of San Salvador.

The Charter of the OAS Article 34 lists as one of its basic goals the right to proper nutrition.⁷³ The State must try to balance this right with those guaranteed in Article 45: the rights to collective association and to strike.⁷⁴

However, the workers right to strike is limited by the rights of other citizens. The State balanced the rights and decided it had a greater obligation to protect the right of its citizens to have proper food and nutrition. There had been a drought lasting almost a year in the agricultural center of the country. It impacted not only the harvests of the farmers, but also seriously impacted the inland water fishing industry of Liberté. As a result, the citizens living in the southwest agricultural areas became dependent on imported foods to survive. The dockworkers strike left these imports rotting on ships

improve methods of production, supply and distribution of food.⁷⁵ The dockworkers strike was infringing upon these rights. Further, Article 5 of the Protocol of San Salvador restricts the exercise of the rights established herein by means of laws promulgated for the purpose of preserving the general welfare.⁷⁶

Vj g"Ucvgau"tgutkvqp"qp"vj g"f qeny qtngtu"tki j v"vq"utknq"y cu"pqv"lpeqo r cvkdnq" with the purpose of preserving the general welfare. Rather, it was specifically for the purpose of preserving the welfare of all the citizens that the State ordered an end to the strike through binding arbitration.

Liberté has an obligation to protect the rights guaranteed to all its citizens. On this occasion, to protect the rights of the citizens in the drought-stricken areas of the country, it was necessary for Liberté to infringe upon the rights of the dockworkers. The State ordered binding arbitration in an effort to allow the dockworkers and the employers to reach an agreement that would both end the strike and satisfy some of the workers' demands. The State's actions were necessary to protect the welfare of the dockworkers and the remaining citizens.

IV. REQUEST FOR RELIEF

The State of Liberté respectfully requests that this Honorable Court find that there was no violation of Articles 1(1), 5, 7, 8, 19, 16, 23, 25 or 27 of the American Convention or Article 8 of the Protocol to the American Convention.

⁷⁵ Additional Protocol to the American Convention on Human Rights (Protocol of San Salvador), Article 12.

⁷⁶ Additional Protocol to the American Convention on Human Rights (Protocol of San Salvador), Article 5.

WORD COUNT: 7,467