THE DISCONTINUANCE AND ACCEPTANCE OF CLAIMS IN THE JURISPRUDENCE OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS

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I. INTRODUCTION

When analyzing the contentious jurisprudence of the Inter-American Court of Human Rights ("the Court" or "Inter-American Court"), it is necessary to emphasize the fact that, during its first seventeen years of work, the Court has ruled on the merits of nine cases presented for its consideration. In three cases, the demanded States have accepted the claims formulated by the Inter-American Commission of Human Rights ("the Commission"). In another case, the Court admitted the

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discontinuance of the action presented by the Commission.\textsuperscript{3} It should also be pointed out that in one of the nine cases, the Court released the demanded State from all responsibility.\textsuperscript{4} In one case, the Court accepted three of the preliminary exceptions interposed\textsuperscript{5} and in another, the Court did not accept the interposed petition and remitted it to the Commission for its consideration.\textsuperscript{6}

When analyzing the aforementioned information, it is important to note that in five cases in which the Court has entered judgment on the merits and found a State responsible for violating the American Convention on Human Rights ("the Convention"),\textsuperscript{7} the processes have concluded in an unusual manner. That is, as consequence of "[t]he situation or the procedural act, either unilateral or bilateral, voluntary or mandatory, which interrupts the normal development of the process."\textsuperscript{8} To wit, the \textit{Cayara Case}\textsuperscript{9} concluded during the preliminary exceptions stage. \textit{Maqueda Case}\textsuperscript{10} concluded because of the discontinuance presented by the Commission and in the cases \textit{Aloeboetoe et al Case},\textsuperscript{11} \textit{El Amparo Case}\textsuperscript{12} and \textit{Garrido and Baigorria Case},\textsuperscript{13} the States recognized their international responsibility for the events that gave rise to the demand. In other words, there have been five cases in which the process has not normally developed until its completion.

\begin{itemize}
\item \textsuperscript{8} Luis Alvarez Juliá et al., \textit{MANUAL DE DERECHO PROCESAL} 299 (Editorial Astrea 1992).
\end{itemize}
There are four cases that are important to analyze because the process has finished in an unusual manner because of the discontinuance in one case and the acceptance of the claim in three other cases. Consequently, it is convenient to analyze the procedural forms of discontinuance and acceptance of a claim. Subsequently, it is necessary to analyze their regulation in the Rules of the Court and in the European Court of Human Rights, the two regional international courts currently existing regarding human rights, as well as in the Rules of the International Court of Justice. Finally, it is important to analyze its application in the inter-American system of protection of human rights by the Court in the four cases previously mentioned.

A. Discontinuance

The discontinuance is an unusual manner of completing the process, by means of a procedural act of a dispositive nature, without entering a judgment on the merits. To such end, one abdicates the right to act or the right is waived in the course of the process, creating a form similar to that of the renouncement, a means to extinguish obligations. That is to say, the discontinuance can be of two classes: action and of right. In the first case, the renouncement does not prevent the matter in question from being outlined in a subsequent action. In the second case, giving up the right upon which the action is founded terminates the proceedings. In any event, the discontinuance is always a unilateral act on the part of the plaintiff.

B. Acceptance of a Claim

The procedural form of acceptance of a claim takes place when the demanded party subjects itself to the substantial causes of action formulated in the claim. Acceptance may be made at any time during the process, but before a judgment on the merits is entered, since it implies the subjection the petitioner’s demands. It may be effective, if it is accompanied by the fulfilling obligation. It may be expressed or implicit and may also be total or partial, if it covers some or all of the petitioner’s pretenses. In any event, it implies the renouncement to the right to a defense.

14. Alvarez Juliá et al., supra note 8, at 300-01; 2 Mario Alberto Fornaciari, Modos Anormales de Terminación del Proceso 111 (Editorial DePalma 1988); José Ovalle Favela, DERECHO PROCESAL CIVIL 191 (Editorial Harla 1994); 2 Juan Montero Aroca et al., DERECHO JURIDICIONAL 349 (Editorial José María Bosch 1994); 2 Aldo Bacre, TEORÍA GENERAL DEL PROCESO 557 (Editorial Abeledo-Perrot 1991); 1 ENCICLOPEDIA JURÍDICA BÁSICA 2438 (Editorial Civitas 1995) 2 NUEVAS ENCICLOPEDIA JURÍDICA 282 (Editorial Seix, 1950).

15. Alvarez Juliá et al., supra note 8, at 300, 302; Alberto Fornaciari, supra note 14, at 112; Ovalle Favela, supra note 14, at 191; Montero Aroca et al, supra note 14, at 331; 1 Eduardo J. Couture, ESTUDIO DE DERECHO PROCESAL CIVIL 357 (Editorial DePalma 1979); Bacre, supra note 14, at 406; ENCICLOPEDIA JURÍDICA BÁSICA, supra note 14, at 434; NUEVAS ENCICLOPEDIA JURÍDICA, supra note 14, at 615.
C. Rules of the Inter-American Court of Human Rights

Article 52.1 of the Rules of the Inter-American Court of Human Rights regulates the form of discontinuance. This article states as follows:

When the party that has brought the case notifies the Court of its intention not to proceed with it, the Court shall, after hearing the opinions of the other parties thereto and the representatives of the victims or their next of kin, decide whether to discontinue the hearing and, consequently, to strike the case from its list.

The Rules of the Inter-American Court are limited to regulating the effects of the discontinuance, if such is applicable, previous consultation with the petitioner’s counsel, the presumed victim or relatives, if proper, and consequently, whether it follows to supersede the case and file it. However, even when a discontinuance is granted, article 54 of the Rules provides that “the existence of the conditions indicated in the preceding paragraphs notwithstanding, the Court may, bearing in mind its responsibility to protect human rights, decide to continue the consideration of a case.” One of these conditions is the discontinuance.

As for the procedural form of acceptance of the claim, the Rules of the Inter-American Court do not contemplate it and article 31 of the Rules regulates the application of article 63.1 of the Convention. That article would also be applied in the event of an acceptance of a claim. This article states:

If the Court finds that there has been a violation of a right or freedom protected by this Convention, the Court shall rule that the injured party be ensured the enjoyment of his right or freedom that was violated. It shall also rule, if appropriate, that the consequences of the measure or situation that constituted the breach of such right or freedom be remedied and that fair compensation be paid to the injured party.

17. Id. art. 52.1.
18. Id. art. 54.
19. The Convention, supra note 7, art. 63.1.
D. Rules of the European Court of Human Rights

Article 48 of the Rules of the European Court of Human Rights is very similar to article 52.1 of the Inter-American Court of Human Rights, because the latter was taken from the former. Indeed, in Europe there is also express regulation concerning the discontinuance, but these regulations do not mention the acceptance of a claim. It is also stated that the Chamber of the Court familiar with the case, considering its responsibilities concerning the court in accordance with article 19 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, can order to continue the examination of a case in the presence of a discontinuance. Article 48, in its pertinent parts states the following:

When the party which has filed the case before the Court notifies the Secretary of his intention not to proceed and the other parties accept the discontinuance, the Chamber, after consulting with the Commission and the applicant, will decide whether or not there is place for the acceptance of the discontinuance and, consequently, the closing of the case.

The Chamber, according to the responsibilities that concern the Court following to article 19 of the Convention, may order that the examination of the case continue regardless of the discontinuance, friendly settlement, transaction, etc. Article 49 of the Rules of the European Court is also similar to article 31 of the Rules of the Inter-American Court. It regulates what is relevant to the application of article 50 of the European Convention, which is applied in the case of a discontinuance. Article 50 states that:

If the decision of the Court declares that a resolution or a measure ordered by a judicial authority or any other authority of a contracting party is totally or partially against the obligations

23. Id.
derived from the present Convention, and if the internal right of this party only allows in an imperfect manner to repair the consequences of this resolution or measure, the decision of the Court will grant, if it proceeds, a just satisfaction to the injured party.\textsuperscript{24}

It is important to emphasize that article 48 regulates what is established by article 37 of the European Convention that states in part as follows:

The Commission may at any stage of the proceedings decide to strike a petition of its list of cases where the circumstances lead to the conclusion that:

The applicant does not intend to pursue his petition, . . .

However, the Commission shall continue the examination of a petition if respect for human rights as defined in this Convention so requires.\textsuperscript{25}

E. \textit{Rules of the International Court of Justice}\textsuperscript{26}

The Rules of the International Court of Justice regulate matters related to the discontinuance in a wide and detailed manner. Article 88 states that:

1. If at any time before the final judgment on the merits has been delivered the parties, either jointly or separately, notify the Court in writing that they have agreed to discontinue the proceedings, the Court shall make an order recording the discontinuance and directing that the case be removed from the list.

2. If the parties have agreed to discontinue the proceedings in consequence of having reached a settlement of the dispute and if they so desire, the Court may record this fact in the order for the removal of the case from the list, or indicate in, or annex to, the order, the terms of the settlement.

3. If the Court is not sitting, any order under this article may be made by the President.\textsuperscript{27}

\textsuperscript{24} \textit{Id.} art. 50.

\textsuperscript{25} Eur. Conv. H.R., \textit{supra} note 21, art. 37.

Article 89 further states that:

1. If in the course of proceedings instituted by means of an application, the applicant informs the Court in writing that it is not going on with the proceedings, and if, at the date on which this communication is received by the Registry, the respondent has not yet taken any step in the proceedings, the Court shall make an order officially recording the discontinuance of the proceedings and directing the removal of the case from the list. A copy of this order shall be sent by the Registrar to the respondent.

2. If, at the time when the notice of discontinuance is received, the respondent has already taken some step in the proceedings, the Court shall fix a time-limit within which the respondent may state whether it opposes the discontinuance of the proceedings. If no objection is made to the discontinuance before the expiration of the time-limit, acquiescence will be presumed and the Court shall make an order officially recording the discontinuance of the proceedings and directing the removal of the case from the list. If objection is made, the proceedings shall continue.

3. If the Court is not sitting, its powers under this article may be exercised by the President.28

It is appropriate to highlight that the Rules of the Inter-American Court and those of the European Court of Human Rights do not make reference to acceptance of a claim.

II. CONTENTIOUS JURISPRUDENCE OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS

A. Discontinuance

Maqueda v. Argentina29

The Maqueda Case was filed in the Inter-American Court by the Inter-American Commission on May 25, 1994.30 The issue was whether there had been a violation, by the Argentinean Government, of the American

27. Id. art. 88.
28. Id. art. 89.
30. Id. para. 1.
Convention by virtue of the sentencing of Guillermo José Maqueda, an Argentine citizen, to ten years of imprisonment, in violation of the Convention. Among the rights that the Commission alleged that Argentina had violated in detriment of the alleged victim, were the right to be heard by an impartial court; the right to the presumption of innocence; and the right to appeal a decision before a judge or superior tribunal. The Commission also requested that the Court find that the Argentinean State ordered Guillermo Maqueda's immediate release by means of pardon or commutation of the sentence, the payment of an appropriate compensation, and of the costs of the proceedings.

According to the petition, Guillermo Maqueda was an active member of Movimiento Todos por la Patria (All for the Fatherland Movement), a political movement of a democratic nature that is legally recognized. Mr. Maqueda attended a movement meeting held on January 22, 1989. At the meeting, motivated by the possibility of a military uprising in the La Tablada Quarters, he decided to participate in a demonstration against the uprising that was to take place the following day. Upon his arrival to the vicinity of La Tablada Quarters, the group was faced with an armed confrontation among a group of people that attempted to take over the base and the military. These circumstances prevented the group from carrying out the peaceful mobilization programmed and Maqueda left the place a few hours later. Several members of the Movimiento Todos Por La Patria participated in the attack and were detained and condemned for the commission of several offenses.

Several months later, on May 19, 1989, Mr. Maqueda was arrested. On June 11, 1990, the San Martín Federal Chamber sentenced him to ten years of prison as an accomplice in the crime of qualified unlawful assembly, and an accessory in the offenses of rebellion, illegal seizure, aggravated robbery, aggravated unlawful imprisonment, consummated and attempted doubly aggravated homicides, and serious and minor damages.

31. Id. para. 2.
32. The Convention, supra note 7, art. 8.1.
33. Id. art. 8.2.
34. Id. art. 8.2.h.
35. Maqueda, (Ser. C) No.18, para. 2.
36. Id. para. 3.
37. Id.
38. Id.
39. Id. para. 4.
40. Maqueda, (Ser. C) No.18, para. 4.
41. Id. para. 5.
42. Id. para. 6.
43. Id.
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His legal representatives lodged a special appeal that was rejected by the San Martin Federal Chamber of Appeals on October 25, 1990. In view of such denial, they lodged a complaint appeal for rejection of the special appeal with the Supreme Court of the Nation which was also rejected on March 17, 1992, thereby exhausting all existing procedural possibilities provided for in the internal jurisdiction. According to the Commission, Guillermo Maqueda did not have the possibility to lodge a remedy for review of the judgment, since Law 23.077 does not provide for the possibility of any appeal or broad remedy before any Court of Appeals (only Appeal After Execution of the Judgment, an exceptional resource and subject to restrictions), for which he also requested the Court that it declared that Argentina should establish an ordinary mechanism that guaranteed the double instance in the procedure established by the stated Law 23.077. The Argentinean Government was notified of the complaint on June 24, 1994.

On October 4, 1994, less than four months after filing the complaint, the Commission notified the Court of its decision to discontinue the action in the Maqueda Case because an agreement had been executed which "welcomes the interests of the parties and ... is in conformity with the spirit and letter of the Convention." In accordance with this agreement signed on September 20, 1994, the Argentinean State committed to dictate an ordinance of commutation of sentence which allowed Mr. Maqueda to be paroled immediately. Subsequently, in December of 1994, Cejil and Human Rights Watch/Americas in representation of Guillermo Maqueda's parents informed the Court that they consented to the discontinuance formulated by the Commission, and on December 12, 1994, the Government expressed its favorable opinion concerning the request by the Commission.

Consequently, taking into account the above mentioned and considering that the principal matter of the case was the violation of Mr. Maqueda's right to freedom, and that this right had been restored by the agreement between the parties, the Court decided that the agreement did not violate the letter and spirit of the American Convention. Although the Commission submitted other rights protected under the Convention in its complaint citing mechanisms and provisions of internal law, these rights were pleaded in relation to the right to freedom. Notwithstanding such conditions, the Court, mindful of its responsibility to protect human rights,

44. Id.
45. Maqueda, (Ser. C) No.18, para. 6.
46. Id.
47. Id. para. 12.
48. Id. para. 16.
49. Id. para. 18.
50. Maqueda, (Ser. C) No.18, para. 21, 22.
reserves the power to reopen and proceed with consideration of the case, should at any future time a change occur in the circumstances that gave rise to the agreement.\(^{51}\)

Therefore the Court, by means of its January 17, 1995 resolution, admitted the discontinuance of the action presented by the Commission in the *Maqueda Case*, and dismissed it.\(^{52}\) However, the Court reserved the authority to reopen it and to continue the procedure of the case if there would be in the future a change of circumstances that may give rise to the agreement.\(^{53}\)

**B. Acceptance of a Claim**

*Aloeboetoe et al. v. Suriname*\(^{54}\)

This case was filed in the Inter-American Court by the Inter-American Commission on August 27, 1990.\(^{55}\) The issue was whether the Government of Suriname violated the American Convention to the detriment of Daison Aloeboetoe, Dedemanu Aloeboetoe, Mikuwendje Aloeboetoe, John Amoida, Richenel Voola, Martin Indisie Banai and Beri Tiopo, all citizens of Surinam. Among the rights that the Commission alleged were violated by Suriname were the right to life; the right to humane treatment; the right to personal freedom; and the judicial protection.\(^{56}\) The Commission also requested that the relatives of the victims be awarded a fair compensation.\(^{57}\)

In accordance with the guidelines of the Rules of the Court, the Commission presented its memorandum of law on April 1, 1991, and the Court received the memorandum in response from Suriname on June 28, 1991.\(^{58}\) The Government of Surinam presented preliminary exceptions along with its memorandum.\(^{59}\) A public hearing was held on December 2, 1991, with the purpose of hearing the arguments of the parties regarding preliminary exceptions.\(^{60}\) Although the hearing was scheduled to deal with

\(^{51}\) *Id.* para. 27.

\(^{52}\) *Id.*

\(^{53}\) *Id.*


\(^{55}\) *Id.* para. 1.

\(^{56}\) *Id.* para. 2.

\(^{57}\) *Id.*

\(^{58}\) *Id.* para. 8.

\(^{59}\) *Aloeboetoe*, (Ser. C) No. 11, para. 8.

\(^{60}\) *Id.* para. 9.
preliminary exceptions, at the meeting, the Government also recognized its responsibility for the events giving rise to this case. 

According to the facts denounced before the Commission, the events occurred on January 15, 1988, in Atjoni (landing stage of the village of Pokigron, District of Sipaliwini) and in Tjongalangapassi, off kilometer 30 in the District of Brokopondo. In the first of those places, Atjoni, more than twenty unarmed, male maroons were beaten with rifle-butts by soldiers who had detained them under the suspicion that they were members of the Jungle Commando. They were forced to lie facedown on the ground while the soldiers stepped on their backs, tortured them, and urinated on them. The Captain of the village of Gujaba made a point of telling Commander Leeflang of the Army that the persons in question were civilians from several different villages. Commander Leeflang ignored this information. 

Following the Atjoni incident, the soldiers allowed some of the maroons to continue their trip. However, the seven people previously mentioned were blindfolded and dragged into a military vehicle and driven towards Paramaribo along the Tjongalangapassi road. Upon reaching the kilometer 30, the vehicle stopped, and the victims were taken out and ordered to dig. Richenel Voola tried to escape. They shot at him and he fell to the ground, wounded, but they did not go after him. Soon after, shooting and screaming were heard. The other six maroons were killed.

On Monday, January 4, 1988, men from Gujaba and Grantatai arrived at kilometer 30 at 7 p.m. They found Aside, who was seriously wounded and in critical condition, as well as the bodies of the other victims. Aside indicated that he was the only survivor. The bodies of the other victims

61. Id. para. 10.
62. Id. para. 11.
63. Id.
64. Aloeboetoe, (Ser. C) No. 11, para. 11.
65. Id. para. 12.
66. Id.
67. Id. para. 13.
68. Id.
70. Id.
71. Id.
72. Id.
74. Aloeboetoe, (Ser. C) No. 11, para. 15.
75. Id.
76. Id.
had been partially devoured by vultures.Aside was admitted in the Academic Hospital of Paramaribo on January 6, 1988, but died soon after. The accusation before the Inter-American Commission was signed by Stanley Rensch who talked to Aside twice about what happened and who corroborated the information stated by more than fifteen persons.

At the hearing, convened on December 2, 1991, for the purpose of dealing with the preliminary objections, the Agent for Suriname declared that “[t]he Republic of Suriname, having reference to the first case being considered in the proceedings now before the Court, accepts responsibility for the consequences of the Pokigron case, better known as Aloeboetoe et al” He later added: “I simply wish to reiterate [that Suriname] accepts its responsibility in the instant case.” Following a request for clarification by the Commission’s Delegate, Mr. Jackman, the Agent for Suriname subsequently explained: “I believe my statement was clear: it accepts responsibility. Consequently, the Court has the right to close the case, file it, determine the compensation payable or do whatever is appropriate under the law.”

Consequently, a judgment dated December 4, 1991, noted the admission of responsibility made by the Republic of Suriname and decided that the controversy had ceased regarding the facts that gave rise to this case. Later, by judgment dated September 10, 1993, the Court ordered the pertinent actions on the reparation in this case.

El Amparo v. Venezuela

The Inter-American Commission filed this case in the Court on January 14, 1994. The issue to be decided was whether the government of Venezuela had violated the American Convention in detriment of José R. Araujo, Luis A. Berrios, Moisés A. Blanco, Julio P. Ceballos, Antonio Eregua, Rafael M. Moreno, José Indalecio Guerrero, Arín O. Maldonado, Justo Mercado, Pedro Mosquera, José Puerta, Marino Torrealba, José

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77. Id.
78. Id.
79. Aloeboetoe, (Ser. C) No. 11, para. 16.
80. Id.
81. Id. para. 22.
82. Id.
83. Id. decision, para. 1.
86. Id. para. 1.
Torrealba and Marino Rivas, all Venezuelan citizens.\textsuperscript{87} The Commission alleged that Venezuela had violated the right to life; the right to humane treatment; the judicial guarantees; the equality before the law; and the judicial protection.\textsuperscript{88} The Commission also requested that Venezuela compensate and reimburse the direct relatives of the victims.\textsuperscript{89} Venezuela answered the demand on August 1, 1994.\textsuperscript{90}

According to the petition, on October 29, 1988 in the "La Colorada" canal, Distrito Páez, State of Apures, Venezuela, sixteen fishermen residents of the town "El Amparo" were traveling in the direction of the 'La Colorada' Canal on the Arauca River to participate in a fishing trip, at approximately 11:20 a.m.\textsuperscript{91} When some fishermen were leaving the boat, members of the military and the police of the "Comando Específico" José Antonio Páez" that were conducting a military operation denominated "Anguila III," killed fourteen of the sixteen men.\textsuperscript{92} Two of the fishermen, Wollmer Gregorio Pinilla and José Augusto Arias, escaped by jumping into the water and swimming across the "La Colorada" Canal.\textsuperscript{93} The survivors were protected by the Commander of the Police of El Amparo, Adán de Jesús Tovar Araque, in spite of the fact that he was subjected to pressure by police and military functionaries of San Cristóbal, State of Táchira.\textsuperscript{94} According to the petition, the Chief Inspector of the Intelligence and Prevention Services Directorate, Celso José Rincón Fuentes, visited the Chief of Police of El Amparo in the afternoon of October 29, 1988, and said that they had killed fourteen guerrilla members and two had escaped.\textsuperscript{95}

By note of January 11, 1995, the government informed the President that Venezuela "[d]oes not contest the facts referred to in the complaint and accepts the international responsibility of the State,"\textsuperscript{96} and requested the Court to ask the Commission "[t]o come together to a non-litigious procedure with the object of determining in friendly fashion, under supervision by the Court, the reparations applicable, the preceding in conformity with the provisions of articles 43 and 48 of the Rules of Procedure of the Court."\textsuperscript{97} The Inter-American Commission was informed

\textsuperscript{87.} Id. para. 2.
\textsuperscript{88.} Id.
\textsuperscript{89.} Id. para. 4.
\textsuperscript{90.} Id. para. 10.
\textsuperscript{91.} El Amparo, (Ser. C) No. 19, para. 9.
\textsuperscript{92.} Id. para. 11.
\textsuperscript{93.} Id. para. 12.
\textsuperscript{94.} Id. para. 19.
\textsuperscript{95.} Id.
about this note by the Secretariat, and acknowledged receipt of the same on January 13, 1995.98 Consequently, by judgment dated January 18, 1995, the Court, took note of the recognition of responsibility made by the Republic of Venezuela.99 The Court decided that the controversy concerning the facts that originated the case had ceased, and it decided that Venezuela was liable for the payment of damages and to pay a fair indemnification to the surviving victims and the next-of-kin of the deceased.100

_Garrido and Baigorria v. Argentina_101

This case was filed in the Court by the Inter-American Commission on May 29, 1995.102 The issue was whether the Government of Argentina violated the American Convention in the disappearance of Raúl Baigorria and Adolfo Garrido, Argentinean citizens.103 The Commission alleged that Argentina had violated the alleged victims’ right to life;104 the right to humane treatment;105 the judicial guarantees;106 and the judicial protection.107 The Commission also requested that Argentina fully indemnify the families of the victims for the grave material and moral injury caused.108 On September 11, 1995, Argentina answered the petition.109

According to the demand, based upon the testimony of eyewitnesses, on April 28, 1990, at approximately 4:00p.m., Adolfo Argentino Garrido-Calderón and Raúl Baigorria-Balmaceda were detained while driving around.110 They were detained by uniformed personnel of the Police of Mendoza in the General San Martin Park.111 The vehicle in which the detainees traveled was found by their relatives in the Fifth Police Station of Mendoza.112 The Police stated that the vehicle had been found in the

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98. _Id._

99. _Id._ decision, para. 1.

100. _Id._ para. 1, 2.


102. _Id._ para. 1.

103. _Id._ para. 2.

104. _See_ The Convention, _supra_ note 7, art. 4.

105. _Id._ art. 5.

106. _Id._ art. 8.1.

107. _Id._ art. 25.


109. _Id._ para. 7.

110. _Id._ para.10.

111. _Id._

112. _Id._ para.12.
General San Martín Park as a result of an anonymous call claiming that there was an abandoned car in that location.\textsuperscript{113}

Mr. Garrido's relatives asked that Attorney Mabel Osorio find his whereabouts since there was a judicial order for his detention.\textsuperscript{114} However, Mr. Garrido was not detained at any police division.\textsuperscript{115} On April 30, 1990, a writ of habeas corpus was filed on behalf of Mr. Garrido without any results and the same thing happened to another habeas corpus filed on May 3, 1990, on behalf of Mr. Baigorria.\textsuperscript{116} On September 19, 1991, a new writ of habeas corpus was filed on behalf of both missing persons, but it was rejected.\textsuperscript{117} The resolution was appealed before the Third Criminal Chamber of Mendoza, which denied the appeal on November 25, 1991.\textsuperscript{118}

On May 2, 1990, the Garrido family filed a formal complaint for the disappearance of both men, which was processed in the Fourth Court of Investigation of the First Judicial District.\textsuperscript{119} Several years later the court documents in this case were still in the initial stage of the proceedings.\textsuperscript{120} The family also denounced the facts before the governmental authorities of the County of Mendoza.\textsuperscript{121}

During the first five years following the disappearance of Mr. Garrido and Mr. Baigorria, their relatives denounced the events at the local, national, and international level.\textsuperscript{122} They made diverse claims before the governmental authorities and they carried out an intense search in judicial, police, and health facilities, all to no avail.\textsuperscript{123}

The Court considered it pertinent to transcribe the following two paragraphs of Argentina's answer to the complaint:

\begin{quote}
The Government of Argentina accepts the facts set forth in Item II of the application in relation to the situation of Mr. Raúl Baigorria and Mr. Adolfo Garrido, facts which substantially coincide with those raised in the presentation before the Illustrious Inter-American Commission on Human Rights that were not questioned at that time.\textsuperscript{124}
\end{quote}
The Government of the Republic of Argentina accepts the legal consequences to the Government resulting from the facts referred to in the previous paragraph in light of article 28(1) and (2) of the American Convention on Human Rights inasmuch as the competent court has not been able to identify the person or persons criminally responsible for the crimes against Raúl Baigorria and in that way clarify their whereabouts."

During the hearing held on February 1, 1996, the Alternate Agent from Argentina, Ambassador Humberto Toledo expressed that his government "[t]otally accept[ed] its international responsibility" and reiterated "the acceptance of international responsibility of the Argentine State in a case of this kind."126

At the same hearing, the Commission expressed its agreement to the terms of the acceptance of responsibility made by the Alternate Agent of Argentina.127

Consequently, by means of judgment entered on February 2, 1996, not having outlined the discontinuance of the right, but instead of the action, it took note of the acceptance made by Argentina of the acts stated in the application and the acceptance of international responsibility for those acts.128 Additionally, it granted the parties a period of six months to reach an agreement on reparations and compensation.129 Failure to reach an agreement would allow the Court to continue the proceedings regarding reparations and compensations.130

III. CONCLUSION

The following conclusions may be reached from the analysis of the use of the procedural forms of discontinuance and acceptance of a claim in the jurisprudence of the Inter-American Court:

1. The discontinuance is a procedural form of extreme importance because it is a medium to which the Commission can appeal, after it has presented a case to the Court and arrived to an agreement with the demanded State to terminate the process. It reflects a serious and responsible attitude by the parties in a case,

125. Id.
126. Id. para. 25.
127. Id.
129. Id. para. 2.
130. Id. para. 4.
to utilize the principle of procedural economy and thus, avoid unnecessary expenses to the Inter-American System.

2. The acceptance of a claim also has an enormous importance because it represents a serious and responsible attitude by the States demanded before the Court, since they opt to assume its responsibilities rather than contend the facts of the demand and they do not subject the Court and the system to a long and difficult process.

3. The procedural form of acceptance of a claim is properly regulated in the Rules of the Court.

4. In the case of the acceptance of a claim, this procedural form is not in the Rules of the Court therefore, given its importance, it would be convenient to regulate it as well as its procedural effects. Mainly, the Court should expressly point out the rights that the demanded States would be responsible of violating as a consequence of the acceptance of a claim.

5. The precedents invoked in this comment can end up being relevant in the measure in which in the future, other States decide to follow them thereby strengthening the Inter-American system for the protection of human rights.