

PERMANENT COUNCIL OF THE  
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COMMITTEE ON JURIDICAL AND POLITICAL AFFAIRS

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OBSERVATIONS ON THE DRAFT ADDITIONAL PROTOCOL TO THE  
AMERICAN CONVENTION ON HUMAN RIGHTS RELATIVE TO  
ABOLITION OF THE DEATH PENALTY

Venezuela

REPUBLIC OF VENEZUELA  
PERMANENT MISSION TO THE  
ORGANIZATION OF AMERICAN STATES  
WASHINGTON, D.C.

OEA-968

12 September 1988

Excellency:

I have the honor to enclose the comments of the Government of Venezuela on the work in progress for the drafting of an Additional Protocol to the American Convention on Human Rights on abolition of the death penalty.

I would be very grateful if you would distribute this document to the members of the Committee on Juridical and Political Affairs.

Sincerely,

Edilberto Moreno  
Ambassador  
Permanent Representative

His Excellency  
Ambassador Carlos Lemos Simmonds  
Chairman of the Committee on  
Juridical and Political Affairs  
Organization of American States  
Washington, D.c.

Enclosure

COMMENTS ON AN ADDITIONAL PROTOCOL TO THE AMERICAN CONVENTION ON  
HUMAN RIGHTS ON ABOLITION OF THE DEATH PENALTY

The drafting of an instrument for the abolition, prevention or prohibition of the death penalty is a first priority at both the inter-American and world level, and every effort must be made to produce a text for the purpose that will be most widely accepted. As recalled by the Delegation of Uruguay, in the last stage of adoption of the American Convention on Human Rights in 1969 several countries, including Venezuela, presented a document in which they stated, among other things, their firm aspiration to see the death penalty eradicated from the American scene and their unalterable resolve to bend every effort to make possible the signing before long of an additional protocol to that Convention enshrining the final abolition of the death penalty.

The reasons for abolishing the death penalty are sufficiently set out in the Annual Reports of the Inter-American Commission on Human Rights for 1986 and 1987.

Venezuela is obligated by the preamble to its Constitution to cooperate with other nations, and with those of the Hemisphere in particular, toward the ends of the international community on the basis, among other principles, of the universal guarantee of the rights of the individual human being, and first and foremost among them the right to life, which is patently violated by establishment of the death penalty for any reason or cause.

Moreover, Article 58 of the Fundamental Charter of Venezuela states that:

"The right to live is inviolable. No law may establish the death penalty or confer any authority to apply it."

All these reasons prompt us to recommend that we take the lead in seeking the approval of a binding document in which the States of America undertake not to establish the death penalty in their legislation and not to apply this penalty in their jurisdictions. In our view, the instrument finally approved must be as clear and categorical as possible on the matter.

As for how this prohibition on the States would be implemented, there are two alternatives, as noted by the Inter-American Commission on Human Rights: either to amend Article 4 of the American Convention on Human Rights, or to write an Additional Protocol to the Convention, to which latter course Commission inclines and in which this Mission concurs.

Between the texts proposed by the Delegation of Uruguay and the Inter-American Commission on Human Rights, we favor, on the whole and for the present, the text of the Delegation of Uruguay as simpler and more realistic than the Commission's.

However, this Mission has the following observations to offer on the draft of the Delegation of Uruguay, which would apply to any text proposed.

1. The obligation to prohibit the death penalty must be as broad and comprehensive as possible. Therefore, Article 1 of the draft Protocol should stipulate that the States Parties to it undertake not to establish the death penalty in their legislation and to rescind any provisions on this penalty that may be present in their laws, and not just not to impose the death penalty within their borders. As previously noted, the prohibition of the death penalty must be as inclusive as possible.

2. A distinction should be drawn between signature and subsequent ratification of the Protocol, and adhesion to it, which is not apparent in the draft considered. Hence, that this difference between the two procedures may be clear, a deadline should be given for the signing of the Protocol, which means that a State that does not sign the Protocol within the deadline and cannot become a Party to it tby signature followed by ratification, may do so through the procedure of adhesion.