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**REPORT No. 61/14**  
**PETITION 1235-07**  
REPORT ON ADMISSIBILITY

GEORGINA GAMBOA GARCÍA AND FAMILY  
PERÚ

Approved by the Commission at its session No. 1994 held on July 24, 2014  
151 Regular Period of Sessions

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**I. SUMMARY**

1. On September 21, 2007 the Inter-American Commission on Human Rights (hereinafter also “the Inter-American Commission” or “the Commission”) received a petition submitted by the Human Rights Commission (COMISEDH) (hereinafter “the petitioner”) representing Georgina Gamboa García (“the alleged victim”). The petition alleges the State of Peru’s international responsibility for having failed to act with the due diligence required to investigate and sanction the masterminds and perpetrators of the rape of Ms. Georgina Gamboa García – aged 17 at the time – by the Peruvian police in 1980, leaving these offenses in impunity to this day. The petitioner states that the events described occurred within the context of the internal armed conflict Peru went through in the 1980s and 1990s.

2. Specifically, the petitioner asserts the violation of Articles 5, 7, 8, 24, and 25 of the American Convention on Human Rights (hereinafter “the Convention” or “the American Convention”) in connection with Articles 1.1 and 2 of the same instrument. It also alleges the violation of Articles 1, 2, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture (hereinafter the “Inter-American Convention against Torture”) and Articles 3, 4, and 7 of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (hereinafter the “Convention of Belém do Pará”), to the detriment of the alleged victim.

3. For its part, the State argues that the petition is inadmissible in that domestic remedies have not been exhausted because an investigation remains open regarding the facts submitted to the IACHR, leaving a series of procedures to be carried out that would clarify and provide knowledge regarding the events covered by this complaint.

4. After examining the positions of the parties in the light of the admissibility requirements established in Articles 46 and 47 of the American Convention, and without prejudging the merits of the case, the Inter-American Commission decides to declare the petition admissible with respect to the alleged violation of Articles 5, 7, 8, 11, 19, 24, and 25 of the American Convention, in connection with Article 1.1 of the same international instrument. In addition, it decides to declare admissible the alleged violation of rights enshrined in Articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture and Article 7 of the Convention of Belém do Pará, to the detriment of Ms. Georgina Gamboa. Finally, the Commission decides to notify the parties of this decision, order the publication of this report, and include it in its Annual Report to the General Assembly of the Organization of American States.

**II. PROCESSING BY THE COMMISSION**

5. The Commission received the petition on September 21, 2007 and assigned it No. 1235-07. It acknowledged receipt of the petition on March 14, 2008, informing the petitioner that the petition was under review. The petitioner submitted additional observations on March 23, 2009, March 13, 2012, and August 22, 2013, which were duly forwarded to the State. The State submitted observations on January 3, 2012 and January 7, 2013, which were duly forwarded to the petitioner. The State submitted new observations on March 17, 2014.

### III. POSITION OF THE PARTIES

#### A. Position of the petitioner

6. The petitioner maintains that on December 24, 1980 there was a violent raid *on an hacienda – called San Agustín de Ayzarga – by alleged members of Shining Path*. The hacienda was located in the district of Vilcas Huamán in the province of Canllago, Ayacucho department. The perpetrators allegedly murdered the hacienda owner and several of his workers, vandalizing the property. The *hacienda* owner's family members reported the events to the Civil Guard Post of the district of Vilcas Huamán.

7. As part of the investigation, on December 25, 1980 the police authorities asked the inhabitants of the community of the alleged victim – aged 17 at the time of the events – to go to a police statement near the community to make statements. The petitioner indicates that Ms. Georgina Gamboa, along with her mother and eight month old brother, voluntarily appeared at that police station on the very day they were asked to appear. There the alleged victim and her family were arrested by the police authorities and were told they would continue to be detained until Ms. Georgina Gamboa's father was arrested or appeared at the police station. The father of the alleged victim appeared three days later and Georgina Gamboa was released due to her parents' pleas, since she had to take care of her seven younger siblings. However, her mother and brother remained in detention for two years.

8. According to the petitioner, during the night of December 29, 1980, the home of the alleged victim was subjected to a search led by the *Sinchis*, a special police force involved in combating subversion. The *Sinchis* entered the home of the alleged victim by breaking the door and padlock, removed Ms. Georgina Gamboa from her bed, dragging her by the hair and slapping her in front of her seven siblings. They then proceeded to tie her hands while other uniformed officers searched the house, causing damage to the home. They also pressured the alleged victim to accuse her father of being a terrorist and tell where he had hidden his weapons. The petitioner states that the uniformed police also mistreated several of Georgina Gamboa's neighbors for the same reasons.

9. The petitioner states that the alleged victim was arrested and taken to the police station in Vilcas Huamán, where she was held in a completely dark room. During her detention, seven police officers entered, began to interrogate her and tried to extract information from her. In response to her refusal to speak, the petitioner indicates that the uniformed officers tore off her clothes and underwear, put a scarf over her mouth, and proceeded to rape her. The petitioner indicates that the alleged victim tried to flee but was raped again. In response to her screams, the alleged victim was beaten and shouted at with orders not to report or say anything about what had happened.

10. The petitioner alleges that the following day Ms. Georgina Gamboa was ordered to wash herself and remove the blood. She refused to obey the order so they forced her to do so. Her hands, legs, and face were completely covered with dried blood, her nose was broken as were her lips, and she could not stand up. The petitioner adds that under those conditions the daughter of the murdered *hacienda* owner identified Georgina Gamboa as one of the people who had participated in the act of terrorism and that the clothing seized by the *Sinchis* belonged to the deceased. In addition, the petitioner noted that the *hacienda* owner's daughter seized Georgina Gamboa by the hair and began to beat her, demanding that the alleged injured party return the things she had taken from the hacienda.

11. The petitioner alleges that after being detained for nearly a month at the police station in Vilcas Huamán, the presumed victim was transferred to the police station in Cangallo. During the transfer, two of the uniformed officers threatened to kill the alleged injured party's younger siblings and parents if she reported that she had been raped. They also threatened to poison her food and for that reason she refused to eat for several days.

12. The petitioner states that Ms. Georgina Gamboa remained in Cangallo for just one day and was then transferred to the city of Ayacucho. On January 26, 1981, she was brought before the Criminal Court

of Huamanga, with the allegation that a revolver, five thirty-eight caliber cartridges, a stick of dynamite, cases, and a green shirt had been found in her room.

13. The petitioner alleges that on February 2, 1981, the alleged victim's defense attorney informed the Criminal Court of Huamanga that she was a minor and petitioned for an expert medical examination because she had been the victim of rape. On February 3, Ms. Georgina Gamboa submitted her testimony, confirming and reporting the sexual violence she had endured. The petitioner also states that on February 11, 1981, a preliminary expert traumatological, gynecological, and dental examination was conducted at the Health Center of the Ayacucho Police Forces, with the conclusion that the alleged injured party showed no signs external injuries and that her chronological age was approximately 17. The petitioner states that on February 16 of the same year, a second expert examination was conducted, with the conclusion that the person at issue had a chronological age of 18 and, according to the gynecological examination, Ms. Georgina Gamboa had a broken hymen, with tears extending to the base of the hymen at about three and nine o'clock.

14. The petition states that on May 13, 1981, the judge in the case ruled that the alleged victim had been raped by the *Sinchis* while she was detained at the Civil Guard post in Vilcashuamán and that she was pregnant as a result. The judge also ordered that the investigation be expanded regarding those who proved to be responsible for the crime of rape to the detriment of the alleged victim. The judge also ordered that a procedure be performed to determine the status of the pregnancy as well as the victim's chronological age. The petitioner alleges that on May 28, 1981 and after the minor age of the alleged injured party had been determined, the judge decided to shorten the proceeding and ordered her release, after she had been held for four months in a prison for adults.

15. According to the petitioner, on January 6, 1982, the Senior Prosecutor of Ayacucho indicated that although the crime of the rape of Ms. Georgina Gamboa was proven, there was no point in proceeding with the trial against those responsible, since the identity of the perpetrators of the crime of rape was not proven. On January 11, 1982, the Upper Chamber of Ayacucho decided that, in accordance with the view expressed by the Senior Prosecutor, the alleged injured party's case should be provisionally archived with the original court.

16. The petitioner states that due to the creation of an Ad Hoc Court headquartered in Lima responsible for trying terrorism cases, the proceeding that had been opened with regard to the rape was transferred to that court in April 1982. Thus, the proceeding was referred to the Eleventh Provincial Prosecutor's Office for Criminal Matters in Lima, which ruled on February 21, 1983, asking the Criminal Judge of Lima to expand the investigation into the crime of rape against the alleged victim because the case had been archived without having been investigated in depth and without an assessment as to the magnitude of the offenses.

17. On March 16, 1983, the Criminal Judge decided to ask the Upper Chamber of the Court to expand the case of rape of the alleged victim and to consider the Civil Guard personnel who participated in her detention as the defendants. The petitioner states that the court granted that request and the records were referred to Lima's Provincial Prosecutor's Office for Criminal Matters. The petitioner states that after various procedures, the Seventh Correctional Court of Lima issued the judgment on December 10, 1985, acquitting all the accused of the crime of rape, given the lack of evidence that could be used as the basis for a conviction.

18. The petitioner alleges that the presumed victim was unaware of the result of the proceeding because she was not informed of the decision. However, the petitioner maintains that when the Truth and Reconciliation Commission was formed, the alleged injured party was invited to submit her testimony at a public hearing held on April 8, 2002, which was incorporated in the Final Report. Subsequently, Ms. Georgina Gamboa began to inquire what had happened in the proceeding but obtained no information in this regard. For that reason, on November 7, 2004 the alleged victim filed a criminal complaint for the crime of rape before the Supraprovincial Prosecutor's Office of Ayacucho – Investigation No. 85 - 2005. In the context of this new investigation, Ms. Georgina Gamboa learned about the results of the first proceeding.

19. The alleged victim also indicates that during the early months of pregnancy, while she was detained for four months, she thought her child would be born with defects, and she also thought about committing suicide as a result of the rape. She states that after being released she received help from a parliamentarian and from some human rights organizations. She indicates that she initially tried to have an abortion but that became medically impossible. She then decided to have her daughter and then give her up for adoption. However, once her daughter was born on October 19, 1981, she decided to raise her despite the adversities that would entail. The petitioner states that at that point she could not return to her town because her father was still in prison and the hacienda owner's relatives threatened her so she wouldn't return. The petitioner adds that she was treated for approximately one year at the Police Forces Health Center due to the birth of her child and was also given psychological treatment because her mental health was very deteriorated due to what had happened to her.

20. Based on these considerations, the petitioner alleges the violation of rights recognized in Articles 5, 7, 8, 24, and 25 of the American Convention in connection with Articles 1.1 and 2 of that instrument. In addition, the petitioner maintains the violation of duties enshrined in Articles 1, 2, 6, and 8 of the Inter-American Convention against Torture and Articles 3, 4, and 7 of the Convention of Belém do Pará, to the detriment of the alleged victim.

21. The petitioner also states that the Final Report of the Truth and Reconciliation Commission maintained that during the armed conflict in Peru there were numerous acts of sexual violence against Peruvian women by attackers aligned both with the State and with subversive groups, and this is the context underlying the petition. In this context, serious human rights violations were committed against the civilian population by some agents of the State, which became systematic and/or widespread practices involving human rights violations.

22. Regarding the exhaustion of domestic remedies, the petitioner alleges that the fact that the investigation has lasted for more than thirty years without any indications of an indictment demonstrates unwarranted delay in the investigation. The petitioner thus alleges that application in this case of the exception established in Article 46.2 (c) of the American Convention is appropriate.

## **B. Position of the State**

23. In its initial submissions, the State clarifies that the change in government that occurred in Peru brought with it a different concept of the State, where the defense of the civic freedoms of all people and their human rights are a priority. The State indicates that it conducts itself seriously and diligently to meet all its international obligations in good faith and has the political will to find a solution to this case and to strengthen its relations with the inter-American system. The State also makes it clear that the information it submits to the IACHR does not mean it is advancing an opinion on the admissibility of this petition, reserving the right to formulate that opinion when it has all the essential information to analyze it and present its views. In other words, the State does not waive its right to submit objections to the admissibility of this petition. However, with regard to the petition, it indicates its desire to assert its position of cooperation with the work of the IACHR.

24. In this respect, the State submits information regarding the disciplinary sanctions imposed on police personnel who were involved in the events that are the subject of this petition. Nonetheless, the State notes that in a Constitutional State the only autonomous bodies that have powers to conduct and resolve a criminal proceeding are the Prosecutor's Office and the Judicial Branch and that the Executive Branch may not interfere in or influence their decisions.

25. The State then reports on the current status of Investigation No. 146-2006, pursued by the Supraprovincial Provincial Prosecutor's Office for Criminal Matters of Huancavelica and Ayacucho in connection with the petitioner's complaints. It clarifies that the investigation was opened on November 7, 2005 and a series of procedures was ordered. A resolution of June 25, 2007 decreed that the investigation would continue at the level of the Prosecutor's Office. Subsequently, the investigation was extended on five occasions, during which time various procedures were carried out. On September 7, 2011, the Second

Supraprovincial Prosecutor's Office for Criminal Matters ordered the provisional archiving of the investigation, indicating that despite the documentation compiled and the procedures carried out, it had not been possible to establish the identity of the seven individuals responsible for the rape.

26. Subsequently, the investigation was referred to the Provincial Prosecutor's Office for Criminal Matters of Huancavelica, and was transferred to the city of Ayacucho without loss of jurisdiction. It is also reported that the Second Supraprovincial Prosecutor's Office of Ayacucho, after issuing the resolution on provisional archiving, continued to pursue this investigation, calling for a hearing on May 30, 2012. On January 2, 2013, the Provincial Prosecutor of the Supraprovincial Prosecutor's Office for Criminal Matters of Huancavelica and Ayacucho issued a resolution indicating that although the investigation has concluded, there are still procedures to be carried out for purposes of resolving the investigation in accordance with the law. As a result, it ordered that the investigation in the Prosecutor's Office be extended for a period of ninety days, ordering that a series of procedures be conducted.

27. The State indicates that those prosecution activities represent a series of measures carried out by national authorities in order to investigate the facts, identify those allegedly responsible, and punish them should their responsibility be demonstrated. According to the State, these initiatives confirm the existence of an open criminal process and an investigation currently under way before the Prosecutor's Office, conducted in accordance with the principles of due process. The State also submits information on various reparations programs in which Ms. Georgina Gamboa and her family are entered. In its communication of March 17, 2014, the State confirms that its authorities continue investigating the facts denounced by the petitioner and that they are adopting measures to clarify these events. The State also reiterates that it has adopted a number of actions to offer reparations to Georgina Gamboa García and her daughter for the facts alleged, including their inscription in the Single Registry of Victims (RUV).

28. The State indicates that those allegedly responsible for the reported crimes were prosecuted earlier in Case No. 0345-1981 in the Seventh Correctional Court of Lima. This proceeding ended with an acquittal dated December 10, 1985 with respect to José Grimaldo Prado Arango and 11 other defendants charged with the crime of the rape of Mrs. Georgina Gamboa García. This judgment, which was appealed, was upheld by the First Criminal Chamber of the Supreme Court of Justice of the Republic of May 8, 1986. On May 21, 1986, the Supreme Court's case file was returned to the Seventh Correctional Court of Lima. Thus concluded the criminal process related to the events that are the subject of this petition.

29. The State asks the IACHR to declare the petition inadmissible in accordance with the provisions of Articles 46 and 47 of the American Convention, as well as Articles 31 and 32 of the IACHR Rules of Procedure. On the reasonable period requirement in particular, the State argues that the date that put an end to the domestic judicial process was May 8, 1986. The petition was submitted on September 21, 2007, exceeding the period established in the American Convention. The State believes that sending a communication 20 years after the final and definitive judicial decision is extremely unreasonable.

30. In addition, the State argues that the petition is partially inadmissible in that the Commission does not have competence *ratione temporis* to examine the alleged violations in the light of the Inter-American Convention against Torture and the Convention of Belém do Pará. The State maintains that the two instruments took effect on April 28, 1991 and July 4, 1996, respectively. It is as of these dates that the Peruvian State is required to respect and guarantee the rights set forth in the two Conventions. As a result, the State believes that these Conventions are not applicable to this case, given that the facts alleged by the petitioner happened on December 29, 1980, before the Peruvian State had ratified those Conventions. Accepting the application of the two Conventions would be to assign them retroactive effect, which is not allowed under international law.

31. The State finally indicates in its communication of March 17, 2014, that it reserves the right to present its merits arguments until the Commission decides on the admissibility of the present case. It considers that it does not correspond in this phase of the process to establish whether there has been a violation of the American Convention. However, it requests from the State generally to dismiss the allegations of the petitioners under several dispositions of the American Convention.



#### IV. ANALYSIS OF ADMISSIBILITY

##### A. Competence *ratione personae*, *ratione loci*, *ratione temporis*, and *ratione materiae* of the Commission

32. The petitioner is entitled by Article 44 of the American Convention to submit complaints to the IACHR. The petition refers to the specific situation of Ms. Georgina Gamboa García, an individual who was under the jurisdiction of the Peruvian State on the date of the facts reported. In addition, the Commission highlights that Peru has been a State Party to the American Convention since July 28, 1978, the date on which it deposited its ratifying instrument. In addition, it has been a party to the Convention of Belém do Pará since June 4, 1996 and the Inter-American Convention against Torture since March 28, 1991. Thus, the Commission is competent *ratione personae* to review the petition.

33. The Commission is competent *ratione loci* to hear this petition in that it alleges violations of rights protected in the American Convention, the Convention of Belém do Pará, and the Inter-American Convention against Torture that would have taken place within the territory of a State Party to those treaties.

34. The Commission is competent *ratione temporis*, in that the facts alleged in the petition took place when the obligation to respect and guarantee the rights established in the American Convention was already in effect for the State.

35. Regarding the allegations on possible violations of the Inter-American Convention against Torture and the Convention of Belém do Pará, the Commission notes that Peru ratified those Conventions on March 28, 1991 and June 4, 1996, respectively. The doctrine of the IACHR establishes that the obligation to investigate acts of torture and violence against women persists until the facts are properly clarified and those responsible are punished. In this case, the alleged acts of sexual violence and torture reported are the subject of an open criminal investigation, in which those allegedly responsible have not been identified and punished. Based on these considerations, the IACHR concludes that it is competent to interpret and apply those treaties with respect to the duty to investigate allegations of sexual violence since the respective dates of ratification.<sup>1</sup>

36. Finally, the Commission is competent *ratione materiae*, because the petition reports violations of human rights protected by the American Convention, the Inter-American Convention against Torture, and the Convention of Belém do Pará, instruments ratified by the Peruvian State, in the terms detailed in the characterization section of this report.

##### B. Other admissibility requirements

###### 1. Exhaustion of domestic remedies

37. Article 46.1 (a) of the American Convention establishes that in order for a complaint to be admissible the domestic remedies must have been pursued and exhausted in accordance with generally recognized principles of international law. The purpose of this requirement is to allow the domestic authorities to hear the alleged violation of a protected right and, if appropriate, to settle the dispute within their own legal framework before it is heard by an international body.

38. The prior exhaustion requirement applies when the domestic system provides remedies that are adequate and effective for remedying the alleged violation. In this sense, Article 46.2 specifies that the requirement does not apply i) when the domestic legislation does not afford due process of law for the protection of the right in question; ii) if the alleged victim did not have access to the domestic remedies; and iii) if there is unwarranted delay in rendering judgment in those remedies. As indicated by Article 31 of the

<sup>1</sup> IACHR, Report No. 54/01, Case 12.051, *Maria da Penha Maia Fernandez* (Brazil), Admissibility and Merits, April 16, 2001, para. 27; Report No. 73/01, Case 12.350, *MZ* (Bolivia), Admissibility, October 10, 2001, para. 24; IACHR, Report 8/11, Petition 302-03, *Aníbal Alonso Águas Acosta and Family* (Ecuador), March 22, 2011, para. 41.

Commission's Rules of Procedure, when the petitioner alleges one of these exceptions, it is up to the State to demonstrate that the domestic remedies have not been exhausted, unless this is clearly deduced from the record of the case.

39. As the Commission has indicated, in order to analyze compliance with the exhaustion of domestic remedies requirement, a determination must be made as to what is the appropriate remedy to be exhausted according to the circumstances in the case, which should be understood as the remedy that is capable of remedying the legal situation. In cases related to an alleged rape, the Commission has established that the appropriate remedy to be exhausted is criminal prosecution to identify and punish those responsible, a proceeding that the State must pursue with due diligence.<sup>2</sup>

40. The petitioner suggests that in this case there has been an unwarranted delay in investigating and punishing the alleged acts of sexual violence that Ms. Georgina Gamboa had suffered at the hands of the police during the internal armed conflict that Peru went through in the 1980s and 1990s. The petitioner argues that the investigation opened by the Prosecutor's Office remains in the preliminary phase while more than 30 years have elapsed since the events occurred. According to the Peruvian State, the Prosecutor's Office is pursuing a series of procedures in order to investigate, prosecute, and punish those responsible for the acts of sexual violence suffered by Ms. Georgina Gamboa. In effect, the State indicates that the procedures have not been exhausted to date, and there are still various procedures to be carried out to clarify and gain knowledge regarding the facts that are the subject of this complaint. The State thus considers the case to be inadmissible.

41. The information available indicates that on December 10, 1985 the Seventh Correctional Court of Lima handed down a judgment acquitting all those accused of the rape of Georgina Gamboa. Subsequently, on November 7, 2004, the alleged victim filed a criminal complaint with the Supraprovincial Prosecutor's Office of Ayacucho for the crime of rape, with the result that the investigation of these events was restarted on November 7, 2005. After eight years, that investigation is still in the preliminary stage while the alleged acts of sexual violence that are the subject of this case began more than 30 years ago. In light of these considerations, the Inter-American Commission deems – for purposes of admissibility – that an unwarranted delay in the investigation of the reported facts has been confirmed. As a result, the IACHR applies to this case the exception to the exhaustion of domestic remedies indicated in Article 46.2 (c) of the American Convention.

## **2. Deadline for submitting the petition**

42. Article 32 (2) of the IACHR Rules of Procedure provides that in cases in which the exceptions to the prior exhaustion of domestic remedies requirement are applicable, the petition must be submitted within a reasonable period of time in the judgment of the Commission. For this purpose, the Commission should consider the date when the alleged violation of rights occurred and the circumstances in each case.

43. In this particular case, the petitioner alleges an unwarranted delay in the domestic procedures investigating the events alleged to have occurred in 1980, a situation that allegedly continues to this date. The parties confirm that there was an initial proceeding related to the facts presented that culminated with an acquittal on December 10, 1985. However, after the Truth and Reconciliation Commission was formed in Peru, Ms. Georgina Gamboa filed a new criminal complaint on December 7, 2004 regarding the events that are the subject of this case. The State has corroborated that this process remains open and within the framework of that process it has pursued certain procedures intended to investigate, prosecute, and punish those responsible for the alleged acts of sexual violence. Based on these considerations, the Commission believes that the petition has been submitted within a reasonable period of time.

<sup>2</sup> IACHR, Report No. 154/10, Petition 1462-07, Admissibility, *Linda Loaiza López Soto and Family*, Venezuela, November 1, 2010, para. 49.



### 3. Duplication of proceedings and international *res judicata*

44. The case file does not indicate that the subject of the petition is pending in any other international proceeding, or that it reproduces a petition already examined by this or any other international body. Therefore, it is appropriate to consider the requirements established in Articles 46.1.c and 47.d of the American Convention to have been met.

### 4. Characterization of the facts alleged

45. In this admissibility stage, the IACHR must determine only whether facts are presented that, if proven, could represent violations of the Convention, as stipulated in Article 47(b) of the American Convention, or whether the petition is “manifestly groundless” or “obviously out of order,” in accordance with paragraph (c) of the same article. The IACHR must perform a *prima facie* evaluation and determine whether the complaint establishes the apparent or potential violation of a right guaranteed by the Convention, but not establish the existence of that violation. The examination to be performed at this point is simply a summary analysis that does not imply a prejudgment or advance opinion regarding the merits of the case.

46. Neither the American Convention nor the IACHR Rules of Procedure require the petitioner to identify the specific rights alleged to have been violated by the State in the matter submitted to the Commission, although petitioners may do so. It is up to the Commission, based on the system’s jurisprudence, to determine in its admissibility reports which provision of the relevant inter-American instruments is applicable and that its violation could be established if the alleged facts are proven based on sufficient evidence.

47. The Commission considers that the petitioner’s complaints regarding the alleged illegal and arbitrary detention of Ms. Georgina Gamboa García – who was 17 at the time of the events – the acts of sexual violence that she suffered, and the lack of proper and timely judicial investigation of these events, could characterize a violation of Articles 5, 7, 8, 19, 24, and 25 of the American Convention, in connection with Article 1.1 of the same instrument. The Commission will also analyze the effects of the reported facts on the relatives of Georgina Gamboa under Article 5.1 of the American Convention.

48. Based on its precedent, the Commission also considers it relevant to analyze these facts under Article 11 of the American Convention, Article 7 of the Convention of Belém do Pará, and under Articles 1, 6, and 8 of the Inter-American Convention against Torture.<sup>3</sup> Regarding Articles 3 and 4 of the Convention of Belém do Pará, these articles do not constitute legal bases for admitting the petition, but the Commission will take them into account as relevant in its interpretation of Article 7 of the Convention of Belém do Pará in the merits phase.<sup>4</sup>

## V. CONCLUSION

49. Based on the factual and legal considerations presented, and without prejudging the merits of the issue, the Inter-American Commission concludes that the petition meets the admissibility requirements indicated in Articles 46 and 47 of the American Convention. Consequently,

### THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

#### DECIDES:

1. To declare this petition admissible with respect to alleged violations of the rights protected in Articles 5, 7, 8, 11, 19, 24, and 25 of the American Convention, in connection with Article 1.1 of that

<sup>3</sup> IACHR, Report No. 67/11, Case 11.157, Admissibility and Merits, Gladys Carol Espina Gonzalez (Peru), March 3, 2011, paras. 54-57.

<sup>4</sup> IACHR, Report No. 93/09, Admissibility, Petition 337-03, Samanta Nunes da Silva, Brazil, September 7, 2009, para. 52.

international instrument, as well as the alleged violation of the rights enshrined in Articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture and Article 7 of the Convention of Belém do Pará.

2. To inform the Peruvian State and the petitioner of this decision.

3. To publish this decision and include it in the Annual Report to be submitted to the General Assembly of the Organization of American States.

Done and signed in the city of Washington, D.C., on the 24 day of the month of July, 2014. (Signed): Tracy Robinson, President; Rose-Marie Belle Antoine, First Vice President; Felipe González, Second Vice President; Rosa María Ortiz, Paulo Vannuchi, and James L. Cavallaro, Commissioners.