Introduction from the Editor-in-Chief

The scope and substance of fundamental labor rights are interpreted by different human rights bodies. On a regional level, inter-American human rights entities have been particularly active in defending social rights in their decisions and judgments. This issue of the *International Labor Rights Case Law* includes two commentaries on cases from the Organization of American States (OAS) human rights system.

The OAS Charter established the Inter-American Commission on Human Rights which was later complemented by the Inter-American Court of Human Rights, established by the American Convention on Human Rights. These organs are the primary institutions for protecting and promoting human rights in the Americas. The Commission's reports are not formally legally binding. The final decisions of the Court are.

Professor Katherine Bermúdez Alarcón of Externado University, Colombia discusses the Court's judgment in *Duque v Colombia*. The case concerns Ángel Alberto Duque, who was denied survivor's pension benefits on the grounds that under Colombian law only heterosexual couples qualify for such rights. Duque, who was diagnosed with HIV, pursued legal action out of necessity; he needed both protection of his right to a pension and his rights under the American Convention on Human Rights. Colombia, the Court explained, had failed to provide an "objective and reasonable justification" for the differential treatment. Despite Colombian legislation having changed since the suit was filed, a three-year statute of limitations applied to survivor's pension claims. It was therefore unclear whether Duque would receive compensation back to 2002—when he filed the claim—by relying on internal remedies. Bermúdez Alarcón explains that the obligation to retroactively provide survivor's benefits led the Court to award monetary and other reparations.

Professor Angela B. Cornell of Cornell University Law School discusses Advisory Opinion OC-22 of the Inter-American Court. In this opinion, the Court addressed the legal standing of trade unions before OAS human rights entities. The main question was whether nonhuman or legal entities meet the definition of *person* under Article 1(2) of the American Convention in order to have standing before the Court. The Court considered the object, purpose, and context of the treaty in light of dynamic interpretation of human rights instruments and conducted a comparative investigation of international

and regional procedures. It also examined trade union rights under the ILO Declaration on Fundamental Principles and Rights at Work and Convention No. 87, in particular those also recognized under Article 8 of the San Salvador Protocol. The Court ruled that trade unions—just as individuals and indigenous peoples—have both legal standing as victims of human rights violations and full access to remedies within the Inter-American system, but that corporations do not. Cornell explains that this is a significant step forward, in that expanding trade union access to the Inter-American system of human rights will strengthen the ability of unions to advance fundamental labor rights.

As always, the editorial team welcomes suggestions from our readers of cases for inclusion in later issues. Please send an email to: ILaRC@TheHagueInstitute.org.

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