

2008 Inter-American Human Rights Moot Court Competition
Hypothetical Case: Arizmendi et al. v. Chuqui

during the past six months of unknown causes, but that in all of the cases their blood was found to contain elevated levels of mercury and other contaminating agents. Surprised by this news, the Director immediately sent out an internal memorandum at the Hospital and asked to be informed of all cases in which elevated levels of mercury or other contaminating agents were found in blood.

6. In December of 1999 Doctor Juan Bautista sent a communiqué to the Minister of Health, reporting that seven children and five adults had died in the past 18 months of unknown causes, but that all of the cases showed elevated blood levels of mercury and other contaminating agents. Finally, he reported that over 30 people had been hospitalized for severe intoxication from mercury or chemicals, which in some cases had severely and irreversibly affected organs including the kidneys, lungs and stomachs of different patients.

7. On February 8, 2000, the Minister of Health created an Ad-Hoc Technical Committee that was given three months to issue a report on the causes of death of the individuals specified in the communiqué from the Director of the Kinkili Public Hospital. On May 8, 2000, the Technical Committee issued the requested report and indicated that the deaths were due to contamination by mercury and other chemicals, which had been released into the environment by one or more unknown sources.

8. On June 1, 2000, the Minister of Health sent the report to the Minister of the Environment, requesting that the appropriate measures be taken to determine the origin of the mercury contamination that had caused th

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immediately the fine assessed against it and to initiate with the government a campaign to raise awareness at the national level on the importance of living in a pollution-free world.

16. On August 2, 2001, in the exercise of his authority, the Minister of the Environment ordered a two-month suspension of the order to close the company and stipulated that at the end of that period technical personnel from the Ministry would conduct an inspection to examine whether the company had taken the appropriate measures to refrain from dumping waste on the adjacent land. The company would be closed immediately if it did not pass the inspection. On October 2, 2001, the technical inspection was carried out and it was concluded that the company was no longer dumping chemical waste on the land where it had normally done so, and therefore could continue operating as usual.

17. On August 20, 2001, the Director of the Kinkili Hospital sent a new communiqué to the Minister of Health, reporting that two minors and three adults had died during the past year of causes apparently resulting from contamination by mercury or other chemical agents. Furthermore, an additional 17 individuals had been hospitalized as a result of chemical contamination. The Minister of Health again conveyed the new background information to the Minister of the Environment and to the Attorney General.

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measures be adopted to mitigate the harm already caused to the environment, property and possibly the health of hundreds of inhabitants.

21. The Prosecutor assigned to the case initiated the criminal investigation immediately. On July 20, 2002, the Prosecutor issued an i

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decided to go to the Inter-American System of Human Rights to seek effective justice in this case and prevent acts like these from occurring again.

C. Proceedings before the Inter-American System of Human Rights

25. On June 1, 2004 the Organization for a Clean World filed a complaint before the Inter-American Commission on Human Rights against the State of Chuqui for the violation of articles 4, 5, 8, 25, 17, 19, 21 and 26 of the American Convention on Human Rights in connection with articles 1.1 and 2, as the party liable for the death of Mr. Jorge Arizmendi and 20 other individuals, the contamination of 61 individuals and the resulting effects on their health and personal integrity. The complaint also indicated that this pollution continued to affect the property of the specified individuals and their families.

26. The complaint before the Commission also asserted that these violations apply to all such persons who, subsequent to the filing of the complaint, can demonstrate in the proceedings before the Inter-American System of Human Rights that they have been affected in some way by the harmful effects of the contamination, because such effects are ongoing.

27. During the course of the proceedings before the Commission, the State of Chuqui asserted that the case was a matter between private parties (affected persons and Androwita S.A.) that did not give rise to the international liability of the State under any