

**Supreme Justices
Constitutional Chamber
Supreme Court of Justice
Republic of Costa Rica**

The undersigned, Luis Roberto Zamora Bolaños, of age, single, lawyer, resident of Heredia and bearer of id number 1-1086-0159, appears before this court to submit an **unconstitutionality action** against the decision to resume sending police to the School of the Americas (WHINSEC) in Fort Benning, Georgia, USA. The submission of the action is grounded on articles 9 of the Constitution of Costa Rica and 73rd and following of the Constitutional Jurisdiction Law. Violation to the Right to Peace is claimed, along with violation to articles 7 (binding character of international law), 11 (legality principle) and 12 (army abolishment and establishment of civilian police) in derogation of the Right to Peace.

STANDING

Constitutional Jurisdiction Law's article 75 establishes the possibility for direct submission of an unconstitutionality action when; *“due to the nature of the affair there is no individual and direct damage, or it verses on diffuse interests or those pertaining to the collectivity”*. This is precisely this case's scenario.

As mentioned above, the action claims both direct and indirect violation of the Right to Peace, a right that has been recognized by this Court as a diffuse interest in two previous cases, by judgments 9992-04 and 14193-08.

About diffused interests, this Constitutional Chamber in the aforementioned judgment 9992-04 ruled:

“Finally, the topic under discussion in this case, has strict relation with a founding value of our nation, which is, the Right to Peace, currently classified as a third generation right, which legitimates any Costarrican to defended, no need of pending trial. To this, is important to add that, as established by ruling 8239-01, it can also be considered as a “diffused interest pertaining to the collective as a whole:

I... Finally, when Constitutional Jurisdiction Law's article 75 refers to interests "pertaining the collective as a whole", it rules on those "legal assets" explained in the previous lines... [the environment, cultural patrimony, defense of national territorial integrity and the good use of public wealth, among others]... in other words, those whose ownership rest on the sovereignty bearers themselves, in each one of the inhabitants of the Republic. This does not mean that anybody can come before the Constitutional Chamber in protection of any interest (popular action), but that every individual might act in defense of those assets belonging to the national collective, to whom any attempt of restrictive listing is invalid".

The Court concluded: "Consequently, the Court considers that the applicant has standing to appear before this court, for which proceeds to the analysis of merits". It has been enough demonstrated that the applicant does have standing to appear before this Court.

VIOLATED LAW

Article 7 of the Constitution. *Establishes the binding character of international law.*

Article 12 of the Constitution. *"For the vigilance and conservancy of public order, police forces will be as necessary".*

Article 11 of the Constitution. *"Public officers are mere depositaries of authority. They are obliged to fulfill all duties imposed by law and prevented from arrogating faculties not given by law..."*

Right to Peace. Established by ruling 14193-08:

*"V.- On the Right to Peace. True as it is that the Constitution refers to peace, it rules on its concert and negotiation as part of certain functions of specific offices (articles 121.6) and 147.1)), yet, the reach of this concept has been recognized and potentiated by this Court's jurisprudence. On the issue, the Court has pointed that **it is a supreme principle of the Political Constitution** (judgment 1739-92) and a core value of Costa Rican identity (judgment 1313-93). **Moreover, it has been considered as a value both of domestic and international hierarchy, derived from the texts of the United Nations Charter, the Declaration on the Right of the Peoples to Peace adopted by UN General Assembly's Resolution 39/11 of November 12 1984,***

the Declaration on inadmissibility of intervention in domestic affairs of other States and protection of its independence and sovereignty, adopted by UN General assembly's Resolution 2131 of December 21 1965, the Declaration on the principles of International Law concerning friendship and cooperation relations among States, adopted by UN General Assembly's Resolution 2625 of October 24 1970 (judgment 9992-2004 of September 8 2004). On Judgment 9992-2004, the Court said:

“it is evident that the people of Costa Rica, tired of a history of death, clashes, dictators, and ostracism from benefits of development, decided from 1949 on, free and wisely, collect a principle cherished long among Costa Ricans and adopt peace as a guiding principle of our society. On this date a historical turn takes place, a new spirit is proclaimed, a spirit of peace and tolerance. From there on, military headquarters symbolically transforms into a museum, a learning center, and the country adopts reason and law as mechanisms to resolve disputes, in and out of the country. Furthermore, a bet is taken on human development while the right to live free and peacefully is proclaimed. On that day, the nation changed, we decided that any cost that the pursuit of peace could bring, would be always far lesser than the irreparable costs of war. This philosophy culminates on our “Perpetual, active and non-armed Neutrality Statement” and the numerous international instruments signed on this sense, as extension of that deeply rooted constitutional principle, which arises as constitutional parameter for the legality check of challenged acts.

This Court's jurisprudence has ruled accordingly, highlighting peace as a legal and political principle by stating:

“... from there that the laws, in general, the rules and acts of authority, require for its validity, not only having being promulgated by competent bodies and due process, but also pass the revision for its compliance with the rules, principles and highest values of the Constitution ..., such as

order, peace, security, justice, freedom, etc, which are set as standards of reasonableness (see sentence number 1739-92).

In another statement, referring to the fundamental values of Costa Rican identity:

"... can be summarized... among those of democracy, the social state of law, fundamental human dignity and a system of freedom, as well as peace (Article 12 of the Constitution), and Justice ... "(see sentence number 1313-93)."

The aforementioned demonstrates that, within the Costa Rican system, the right to peace is legally acknowledged, not just by the text of the constitution but also due to the International Instruments ratified by our country, along with a jurisprudential recognition derived from Constitutional Court's rulings; above all, a social acknowledgment in accordance with the spirit and behavior of Costa Ricans themselves. Now, peace building, as certain doctrine affirms, constitutes an open duty which achievement involves and compromises every single inhabitant of the country, especially those in exercise of power within the State. This principle demands a bigger effort from Government Authorities in order to achieve, keep and consolidate peace in the country, while strengthening peaceful cooperation relations among peoples. Thus, the effects of the pursuit of peace by a State has effects beyond internal ones, shall it be respected by third States..."

FACTS

On March 16th, 2007, former president Oscar Arias, in his double condition of head of State and head of the Government, within his powers as plenipotentiary, unilaterally committed the State of Costa Rica to prohibit its police to receive training at the School of the Americas (currently WHINSEC), which locates at Fort Benning, GA, USA. Such international commitment and obligation was admitted by Arias and ratified by himself to international media.

On March 16th, 2007, along with former security ministry Fernando Berrocal, Arias hold a meeting with SOA Watch representatives Father Roy Bourgeois, Lisa Sullivan and peace activist Isabel MacDonald. After Bourgeois explanations on the School's activities and anti-

pacific and anti-democratic purposes, President Arias agreed on prohibiting the sending of police to the School of the Americas.

After the meeting, Arias told NOTIMEX journalist George Rodriguez that *“We, as soon as the current training are over –three civil officers- for our police, we will not send nobody else”*, précising later that he was specifically referring to the *“School of the Americas”-WHINSEC*.

Such declarations, ratified to international media, constitute a unilateral promise legally binding, which, for its reversion, would require the appropriate administrative act, act that never happened.

As Wikileaks revealed and “La Nacion” newspaper reported on March 6th, 2011, Ministry Berrocal created a plan according to which we would request Arias to revoke his decision but Arias wouldn’t reply, and we would understand that such silence would represent a yes, on application of “positive silence” rules. Small problem. “Positive silence” does not apply to request made by the Administration itself. “Positive silence” applies for simple grants, not for requests that go against legally binding decisions. De nullity of such “positive silence” becomes more evident when applying the principle of legality established in articles 11 of both the Constitution and the Public Administration Law, which establishes the need for a **manifest authorization**, not a “silent” authorization. Consequently, Arias’ silence cannot be legally taken as a renunciation of the unilateral obligation, and as such, all the subsequent sending result both illegal and unconstitutional.

Notwithstanding the latter, and as “Semanario Universidad” newspaper reported in March 2011, since the Berrocal maneuver, cops had been sent are still being sent to the School of the Americas. Even now, there are cops being trained there.

In order to continue with the grounds, it is fundamental to at least briefly refer to the history of the School of the Americas, due to its continued relation to bloody, bellicose and anti-democratic actions in the region.

Briefing on the School of the Americas

On November 16, 1989, 26 Salvadoran soldiers made their way into the Pastoral Center at the Central American University in San Salvador. Six priests, the housekeeper, and her 16 year-old daughter were murdered. The priests for being “subversive”, the women, for the sole fact of being there. 19 out of the 26 soldiers involved had been trained at the School of the Americas. Three of them had received training in “human rights”.

Located in Fort Benning, Georgia, and part of the US Military, the School of the Americas was renamed as WHINSEC in 2001.

On 2002, Amnesty International condemned its long and documented history of Human Rights abuses. The organization highlighted that in 1996, the Pentagon made public that in such School manuals on torture, extortion, kidnapping and murder are under application. The School had been constantly criticized as training camp for military leaders that had been notorious rapists of Human Rights. School of the Americas Graduates have been implicated in some of the worst scourges in the Americas, including the killing of priests, labor leaders, women, children, nuns, entire workers communities and neighborhoods.

School of the Americas graduates had been key players in almost all dictatorships in Latin America for the past 70 years. Some of the worst cases are as follows:

In Argentina, Leopoldo Galtieri, School of the Americas’ graduate, led the Military Junta that ruled Argentina during the “Dirty War” years and in which at least 30,000 people were murdered or disappeared. Also, Roberto Viola, another SOA graduate, was judged guilty for murderer, assassination, kidnapping and torturing during the “Dirty War”. Both came into power through coups and were convicted for Human Rights abuses.

In Bolivia, Tito Montaña Belzú heads the list of more than 3800 Bolivians trained at SOA. Montaña Belzú is known for its conviction for assassination and genocide related to the

1980 coup. Many other Bolivian graduates had been convicted for drug-dealing, armed insurrection and homicide. Brutal dictator Hugo Banzer was also SOA graduate.

In Chile, 1 out of every 7 Pinochet officers were SOA graduates. They, along with other Chilean high officers are reputed with some of the worst atrocities during the Pinochet dictatorship.

In Ecuador, Dictator Guillermo Rodriguez, another SOA graduate, reached power by coup.

In Guatemala, Dictator Romero Lucas Garcia ruled from 1978 to 1982. In this short period of time, his regime cumulated more than 5000 political assassinations and more than 25000 civilian deaths.

In Panama, Manuel Noriega, the greatest drug lord in the last century, was trained and graduated from SOA, becoming at some point Panama's dictator.

In Peru, Juan Velazco Alvarado became dictator by coup. During his regime, university students were massacred, drug was trafficked, summary executions took place, dead squads were created and civilians were tortured.

The list of scourges and assassins can keep going on and on, without leaving aside the sad case of Costa Rica, where Minor Masis, SOA graduate and "Cobra Squad" leader is purging 42 years in jail for rape and homicide during a drug raid in the southern Caribbean of Costa Rica.

After years of denial, in 1996 the Pentagon finally recognized the utilization of training manuals to promote "executions, extortions, torture and other forms of coercion".

As a consequence of all the aforementioned, there are several questions to be legally raised, such as: Can Costa Rica send police officers to such kind of schools? Does Costa Rica really want to send police officers to a military school? The answer to both questions is **NO**.

As was mentioned before, and the Supreme Court ruled in the case related to the position of the Costa Rican Government related the war on Iraq, EVERY SINGLE administrative act must pass the constitutionality check. This control of constitutionality includes the analysis

not only of the purposes, but also of the means to achieve such goals. The Constitutional Chamber ruled that:

“VIII. From the analysis of these positions, this Court concludes that, in this case, the discrepancy emerges because the Parties are emphasizing two different aspects of the group of actions being challenged; two different so-called organizing principles, one relating to the objectives of the Coalition, and the other relating to the means used by this alliance to achieve its objectives; both are considered as a unit before which the Executive Branch positions itself regarding the conflict in Iraq. For analysis and assessment purposes, however, these criteria can be divided and they materialize, on the one hand, in the support behind specific purposes and, on the other hand, in the support behind the means chosen and employed to fulfill the objectives.

IX. We begin the process of assessment of the second principle involved in the set of acts being challenged that is the one that relates to the different means used of that could be used to promote, support and achieve the fulfillment of the worthy, stated objectives. For that purpose, let's begin by accepting that there can be fair and constitutionally admissible goals, but that these do not validate any means wanted or intended to be employed to achieve these goals; to be more precise, the means used for a fair cause must also be assessed and evaluated separately to determine their intrinsic constitutional validity; because there could be a case in which these means turn out to be incorrect or unacceptable pursuant the legal system, even if they were for a good cause.”

In this case, it is clear that both the goals and the means promoted and provided by the School of the Americas are incompatible with; the Right to Peace, Human Rights, democracy and above all, freedom. All of these principles are under the protection of our constitutional system.

COSTA RICA'S government is impeded, even without Arias' decision, to send officers to be trained at the School of the Americas, also known as the “School of Death”, “School of Assassins”, or the “School of Terror”.

IN RELATION TO THE OBLIGATION ACQUIRED BY THE STATE OF COSTA RICA ND THE ALLEGED POSITIVE SILENCE.

The topic has been reviewed by the Supreme Court in several occasions, particularly in the “case related to the war on Iraq” (ruling 04-992) and the “Arms Decree Case” (ruling 08-14193).

In these cases, the International Court of Justice criteria on the “Nuclear Tests” case have been recognized. In these cases, the ICJ ruled:

“42. Before considering whether the declarations made by the French authorities meet the object of the claim by the Applicant that no further atmospheric nuclear tests should be carried out in the South Pacific, it is first necessary to determine the status and scope on the international plane of these declarations.

43. It is well recognized that declarations made by way of unilateral acts, concerning legal or factual situations, may have the effect of creating legal obligations. Declarations of this kind may be, and often are, very specific. When it is the intention of the State making the declaration that it should become bound according to its terms, that intention confers on the declaration the character of a legal undertaking, the State being thenceforth legally required to follow a course of conduct consistent with the declaration. An undertaking of this kind, if given publicly, and with intent to be bound, even though not made within the context of international negotiations, is binding.

In these circumstances, nothing in the nature of a quid pro quo nor any subsequent acceptance of the declaration, nor even any reply or reaction from other States, is required for the declaration to take effect, since such a requirement would be inconsistent with the strictly unilateral nature of the juridical act by which the pronouncement by the state was made.

...

46. One of the basic principles governing the creation and performance of legal obligations, whatever their source, is the principle of good faith. Trust and confidence are inherent in international co-operation, in particular in an age when this CO-operation in many fields is becoming increasingly

essential. Just as the very rule of pacta sunt servanda in the law of treaties is based on good faith, so also is the binding character of an international obligation assumed by unilateral declaration. Thus interested States may take cognizance of unilateral declarations and place confidence in them, and are entitled to require that the obligation thus created be respected.”

As has been ruled by the ICJ and upheld by the Supreme Court, it is clear that Presidential declarations made public internationally spread with the intention to become a boundary to the State are actually binding and mandatory.

Before such obligation and its international legally binding character, it is impossible and illegal to attempt to apply the so-called “positive silence” argued by Berrocal, which has been used to send more than 60 officers to the SOA, since the spurious maneuver. It has to be taken into account that in this particular case, **Arias declaration was rather specific, indicating that “when the current trainings taking place at the School of the Americas are over, we will send nobody else”.**

The issue of unilateral acts and unilateral customary rules of law has been widely treated by the Supreme Court in the Case concerning “the position of the Government of Costa Rica towards the invasion of Iraq”, in which the Supreme Court stated:

*“For an act of this nature to be considered as a source of International Public Law, it should have the following conditions: a) it should be an expression of an unequivocal will by the State to bind itself by means of such an act; b) it should not require the acceptance of another State to become an international agreement, and c) its validity should not be subordinated to another legal act. Within the comprehensive typology of unilateral acts under Public International Law, there is the unilateral promise, by virtue of which a State is linked to the terms it has formulated in a proclamation **or statement**. The observance of these types of promise depend also **full compliance in good faith** by the State of its own terms, which other subjects of international law may invoke before organs or authorities in charge of assuring compliance...”*

Indeed, the position adopted by Costa Rica's Government and expressed by Arias after listening to SOA's history, in terms of absolutely rejecting the Schools of the Americas methods and practices (dictatorships, drug-dealing, tortures, genocide and human rights violations), constitutes a an international obligation that goes along and reinforces the recognized customary rule of the **human right to peace**. The denial to keep sending police to SOA is one more act taken by Costa Rica that demonstrates the indisputable unconditional intention of the State of Costa Rica to commit itself with peace, in a free, unilateral and intentional manner, this latter aspect being fundamental in terms of establishing the legal value of the renunciation to the sending of police to SOA.

The applicant has gone over these topics in the hearing of the case concerning the position of the government of Costa Rica towards the invasion of Iraq:

“All the aforementioned demonstrate that Costa Rica has made continuous practices leaning to favor peace and International Law. From the pointed acts also derives the clear existence of OPINIO IURIS SIVE NECESSITATIS, psychological element that makes evident the will of Costa Rica to commit itself to observe in good faith in accordance with the PACTA SUNT SERVANDA principle, all the unilaterally acquired obligations.

Regarding OPINIO IURIS, the ICJ stated in the Case concerning the North Sea Continental Shelf (Germany vs Denmark):

“Not only must the acts concerned amount to a settled practice, but they must also be such, or be carried out in such a way, as to be evidence of a belief that this practice is rendered obligatory by the existence of a rule of Law requiring it. The need for such a belief, i.e., the existence of a subjective element, is implicit in the very notion of the opinio iuris sive necessitatis. The States concerned must therefore feel that they are conforming to what amounts to a legal obligation. The frequency, or even habitua¹ character of the acts is not in itself enough. There are many international acts, e.g., in the field of ceremonial and protocol, which are performed almost invariably, but which are motivated only by considerations of courtesy, convenience or tradition, and not by any sense of legal duty.”

Such Statement from the ICJ is reinforced by the Pacta Sunt Servanda principle, as it has been said. Such principle can be found in article 26 of the Vienna Convention on the Law of Treaties of 1969 and has been exposed and unfolded by the ICJ in the Nuclear tests case, in which declared:

46. One of the basic principles governing the creation and performance of legal obligations, whatever their source, is the principle of good faith. Trust and confidence are inherent in international co-operation, in particular in an age when this CO-operation in many fields is becoming increasingly essential. Just as the very rule of pacta sunt servanda in the law of treaties is based on good faith, so also is the binding character of an international obligation assumed by unilateral declaration. Thus interested States may take cognizance of unilateral declarations and place confidence in them, and are entitled to require that the obligation thus created be respected.”

In addition to this, in ruling 2313-95 the Constitutional Chamber of the Supreme Court of Justice stated:

“This circumstance makes unavoidable to conclude that the decision contained in Consultative Opinion OC-5-85 (from the LACHR) was binding to Costa Rica.... In other words, the argument related to the “moral strength” of the consultative opinion –if can be called as such- can be legally upheld in regards to other States that didn’t even took part of the consultative process”

The juridical relevance of such determination can hardly be overrated. The Supreme Court established that even consultative opinions issued by International Courts (LACHR) and not related to Costa Rica, are also binding to our State, at least as a parameter of constitutionality.

Given this circumstance and understanding that Human Rights deserve to be understood and applied extensively, we can finally understand that resolutions issued by the UN are also binding to Costa Rica, even more when these resolutions refer to Human Rights...”

The renunciation to the sending of police officers to the “School of Assassins” represent only one additional action within the uncountable and wide chain of actions towards peace that only a country like Costa Rica can compile in its short history. Since its independence, Costa Rica has clearly confirmed and established its principles of peace and brotherhood,

resulting as soon as 1824 in acts with international consequences such as the annexation of the State of Nicoya (now Guanacaste). Nicoya established as main motivation for its annexation to Costa Rica that:

“... the clouds obfuscate the horizon, because belonging to Costa Rica, we will have forever honor and splendor and above all, that sweet gift of peace, which is the trademark sign which distinguishes such nation...”

This Peace has been recognized by the Constitutional Chamber of the Supreme Court in ruling 14193-08, which made Costa Rica the first and only country in the world to include within its constitutional system the Right to Peace, by stating that:

“V.- On the Right to Peace. True as it is that the Constitution refers to peace, it rules on its concert and negotiation as part of certain functions of specific offices (articles 121.6) and 147.1)), yet, the reach of this concept has been recognized and potentiated by this Court’s jurisprudence. On the issue, the Court has pointed that it is a supreme principle of the Political Constitution (judgment 1739-92) and a core value of Costa Rican identity (judgment 1313-93). Moreover, it has been considered as a value both of domestic and international hierarchy, derived from the texts of the United Nations Charter, the Declaration on the Right of the Peoples to Peace adopted by UN General Assembly’s Resolution 39/11 of November 12 1984, the Declaration on inadmissibility of intervention in domestic affairs of other States and protection of its independence and sovereignty, adopted by UN General assembly’s Resolution 2131 of December 21 1965, the Declaration on the principles of International Law concerning friendship and cooperation relations among States, adopted by UN General Assembly’s Resolution 2625 of October 24 1970 (judgment 9992-2004 of September 8 2004). On Judgment 9992-2004, the Court said:

“it is evident that the people of Costa Rica, tired of a history of death, clashes, dictators, and ostracism from benefits of development, decided from 1949 on, free and wisely, collect a principle cherished long among Costa Ricans and adopt peace as a guiding principle of our society. On this date a historical turn takes place, a new spirit is proclaimed, a spirit of peace and tolerance. From there on, military headquarters symbolically

transforms into a museum, a learning center, and the country adopts reason and law as mechanisms to resolve disputes, in and out of the country. Furthermore, a bet is taken on human development while the right to live free and peacefully is proclaimed. On that day, the nation changed, we decided that any cost that the pursuit of peace could bring, would be always far lesser than the irreparable costs of war. This philosophy culminates on our “Perpetual, active and non-armed Neutrality Statement” and the numerous international instruments signed on this sense, as extension of that deeply rooted constitutional principle, which arises as constitutional parameter for the legality check of challenged acts.”

This Court’s jurisprudence has ruled accordingly, highlighting peace as a legal and political principle by stating:

“... from there that the laws, in general, the rules and acts of authority, require for its validity, not only having being promulgated by competent bodies and due process, but also pass the revision for its compliance with the rules, principles and highest values of the Constitution ..., such as order, peace, security, justice, freedom, etc, which are set as standards of reasonableness (see sentence number 1739-92).

In another statement, referring to the fundamental values of Costa Rican identity:

“... can be summarized... among those of democracy, the social state of law, fundamental human dignity and a system of freedom, as well as peace (Article 12 of the Constitution), and Justice ... ”(see sentence number 1313-93).”

The aforementioned demonstrates that, within the Costa Rican system, the right to peace is legally acknowledged, not just by the text of the constitution but also due to the International Instruments ratified by our country, along with a jurisprudential recognition derived from Constitutional Court’s rulings; above all, a social acknowledgment in accordance with the spirit and behavior of Costa Ricans themselves. Now, peace building, as certain doctrine affirms, constitutes an open duty which achievement involves and compromises every single inhabitant of the country, especially those in

exercise of power within the State. This principle demands a bigger effort from Government Authorities in order to achieve, keep and consolidate peace in the country, while strengthening peaceful cooperation relations among peoples. Thus, the effects of the pursuit of peace by a State has effects beyond internal ones, shall it be respected by third States. When referring to Peace as a value, it must be understood that every constitutional value has three dimensions, as the European doctrine establishes: a) in a static layer, founder of all constitutional institution and disposition, b) in a dynamic layer, guiding the legal order as well as the political order, grounded in goals and purposes that make illegitimate and legal disposition pursuant of different goals and leaning to impede such constitutional values; and c) critic, which implies that the constitutional value results suitable to constitute valuing parameter of all the legal system, and for such reasons, any under constitutional regulation can be controlled regarding its compatibility to the constitutional values. As such, Peace thought as a value, possesses all three dimensions... These three dimensions shall be observed by the State”

In the current case, throughout history SOA has demonstrated that it pursues values and purposes contrary to the Constitution and International Law, in particular the International Law of Human Rights.

Through its history, SOA has been subject of criticism and accusations from governments and organizations, due to its practices contrary to the Right to Peace, Democracy and Human Rights. These practices were finally recognized by the Pentagon in 1996, situation that immediately turns WHINSEC into an unconstitutional and non-suitable mean to achieve any goal pursued by the State of Costa Rica.

All the aforementioned demonstrates and evidences the unconstitutionality of any sending of personnel to SOA, and establishes the supreme character of Arias decision in order to stop and prohibit the sending of officers to WHINSEC, making impossible the application of the so-called positive silence alleged by Berrocal.

The legality principle established the mandatory need of **written and explicit authorization** to perform any administrative act. As such, the Cost Rican legal framework prohibits the “implicit authorization” illegally and fraudulently pretended by Berrocal and revealed by Wikileaks. Also, it has to be understood that “positive silence” cannot apply in favor of the Administration itself, even less when such “positive silence” goes against legally binding international obligations acquired by the State of Costa Rica concerning, peace, democracy and Human Rights.

In this way, the spurious maneuver made in order to resume sending officers to SOA violates the legality principle established in article 11 of the Constitution. It violates binding international law as established in article 7 of the Constitution. It also violates the Right to Peace, because the SOA promotes and trains tactics contrary to human rights, while it has played key roles in the bloodiest coups and regimes in Latin America.

Because of all the aforementioned, the sending of the SOA must be declared unconstitutional and as such I request.

IN RELATION TO PEACE, DEMOCRACY AND HUMAN RIGHTS.

The argument here is quite simple. SOA trains people in tactics contrary to peace, democracy and human rights, and as such, it results incompatible to Costa Rica’s constitutional frameworks.

COSTA RICA CANNOT TRAIN ITS PERSONNEL IN MILITARY SCHOOL THAT PROMOTES PRACTICES CONTRARY TO PEACE, DEMOCRACY AND HUMAN RIGHTS.

COSTA RICA CANNOT SEND ITS POLICE PERSONNEL TO BE TRAINED AT SOA.

The Supreme Court ruled unconstitutional the support given to the invasion of Iraq for being it contrary to peace, democracy and human rights, as well as international law. In the same sense, it must declare unconstitutional the sending of police staff to the “School of Terror”.

“VIII. From the analysis of these positions, this Court concludes that, in this case, the discrepancy emerges because the Parties are emphasizing two different aspects of the group of actions being challenged; two different so-called organizing principles, one relating to the objectives of the Coalition, and the other relating to the means used by this alliance to achieve its objectives; both are considered as a unit before which the Executive Branch positions itself regarding the conflict in Iraq. For analysis and assessment purposes, however, these criteria can be divided and they materialize, on the one hand, in the support behind specific purposes and, on the other hand, in the support behind the means chosen and employed to fulfill the objectives.

IX. We begin the process of assessment of the second principle involved in the set of acts being challenged that is the one that relates to the different means used of that could be used to promote, support and achieve the fulfillment of the worthy, stated objectives.”

All that has been alleged in this application constitutes enough proof that SOA cannot fit within Costa Rica’s constitutional framework, and results contrary to the goals pursued by the State of Costa Rica. SOA does not comply with the constitutional right to peace, and as such, it has to be declared unconstitutional any sending of staff to SOA.

In virtue of all the above mentioned, the sending of staff to SOA or any other military academy must be declared unconstitutional.

REGARDING THE VIOLATION OF ARTICLE 12 OF THE CONSTITUTION.

Article 12 of Costa Rica’s constitutions is one of the most cherished ones due to its pacifist vocation, even though it does not refer to peace as such. However, the abolition of the army still constitutes an historical landmark.

This article, while establishing the civil conservation of public order and security, clearly determines the will and intention of the State of Costa Rica to cut any possible link with the military apparatus within the State. With the abolition of the army, it got expressed our repudiation to violence and war, the army and its means.

As the attached instruction programs shows, Costa Rican officers not only had been trained in military tactics, but what is worse, they had been trained to train other officers in military tactics, which brings us to one single logical conclusion: Costa Rican police has been undergoing a militarization process which exceeds the State power in terms of defining police policies, and results contrary to the non-militaristic spirit of the Constitution.

The sending of staff to WHINSEC, school that belongs to the US military, is contrary to the abolition of the army in Costa Rica and the prohibition of military mechanisms, and as such, it must be declared unconstitutional as requested.

PETITION

According to all the above mentioned, I duly request the following:

1. As a cautionary measure, and until the Executive demonstrates the existence of explicit revocation of the prohibition, I request the Court to order the Government to cease the sending of Staff to the School of the Americas until this process reaches final judgment.
2. To rule this case as for the applicant.
3. To declare unconstitutional the sending of police staff to military schools, particularly those where military tactics contrary to Human Rights are taught, particularly, to declare unconstitutional the sending of police to SOA.

Luis Roberto Zamora Bolaños.