COUR INTERNATIONALE DE JUSTICE

RECUEIL DES ARRÊTS, AVIS CONSULTATIFS ET ORDONNANCES

# AFFAIRE HAYA DE LA TORRE

(COLOMBIE / PÉROU)

**ARRÊT DU 13 JUIN 1951**

# 1951

INTERNATIONAL COURT OF JUSTICE

REPORTS OF JUDGMENTS, ADVISORY OPINIONS AND ORDERS

# HAYA DE LA TORRE CASE

(COLOMBIA / PERU)

**JUDGMENT OF JUNE 13th, 1951**

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« *Affaire Haya de la Torre,*
*Arrêt du 13 juin 1951 : C.I.J. Recueil 1951, p. 71.* »

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*Judgment of June 13th, 1951 : I.C.J. Reports 1951, p. 71."*

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**June 13th, 1951**

# HAYA DE LA TORRE CASE

## (COLOMBIA / PERU)

*Diplomatic asylum.*

*Intervention under Article 63 of the Statute and Article 66 of Rules. —Admissibility of intervention.—Its limits.*

*Jurisdiction based on attitude of Parties.—Manner of carrying out Judgment of November 20th, 1950.—Choice between various means.— Judicial function of Court.*

Res judicata.—*Provisional character of diplomatic asylum.—Methods of terminating asylum under Havana Convention on Asylum of 1928. —No surrender of political offenders to territorial authorities.*

*Character and legal consequences of Judgment of November 20th, 1950. —Termination of asylum.*

## JUDGMENT

*Present:* *President* BASDEVANT; *Vice-President* GUERRERO; *Judges* ALVAREZ, HACKWORTH, WINIARSKI, ZORIČIĆ, DE VISSCHER, Sir Arnold MCNAIR, KLAESTAD, BADAWI PASHA, READ, HSU MO; MM. ALAYZA Y PAZ SOLDÁN and CAICEDO CASTILLA, *Judges* ad hoc; *Registrar* HAMBRO.

In the Haya de la Torre case,

*between*

the Republic of Colombia, represented by :

M. José Gabriel de la Vega, Envoy Extraordinary and Minister Plenipotentiary of Colombia to The Netherlands, as Agent, assisted by

M. Camilo de Brigard, Ambassador, Professor of International Law, former Member of the Advisory Committee of the Colombian Ministry for Foreign Affairs, as Counsel,

*and*

the Republic of Peru, represented by :

M. Felipe Tudela y Barreda, Advocate, Professor of Constitutional Law at Lima, as Agent, assisted by

M. Fernando Morales Macedo R., Parliamentary Interpreter,

M. Juan José Calle y Calle, Secretary of Embassy,

and, as Counsel :

M. Gilbert Gidel, Professor of the Faculty of Law of the University of Paris,

M. Julio López Oliván, Ambassador,

*with, as intervening Party,*

the Republic of Cuba, represented by :

Mme. Flora Díaz Parrado, Chargé d'Affaires of the Republic of Cuba at The Hague, as Agent,

THE COURT,

composed as above,

delivers the following Judgment :

On December 13th, 1950, the Government of Colombia filed in the Registry of the Court an Application which referred to the Judgments given by the Court on November 20th, 1950, in the Asylum Case, and on November 27th upon the Request for the Interpretation of that Judgment. After stating that Colombia and Peru were unable to come to an agreement on the manner in which effect should be given to the said Judgments as regards the surrender of the refugee Víctor Raúl Haya de la Torre, the Application made a request to the Court in the following terms :

"*(a)* PRINCIPAL CLAIM :

Requests the Court to adjudge and declare, whether the Government of the Republic of Peru enters an appearance or not, after

such time-limits as the Court may fix in the absence of an agreement between the Parties :

In pursuance of the provisions of Article 7 of the Protocol of Friendship and Co-operation between the Republic of Colombia and the Republic of Peru signed on May 24th, 1934, to determine the manner in which effect shall be given to the Judgment of November 20th, 1950 ;

And, furthermore, to state in this connection, particularly :

Whether Colombia is, or is not, bound to deliver to the Government of Peru M. Víctor Raúl Haya de la Torre, a refugee in the Colombian Embassy at Lima."

"*(b)* ALTERNATIVE CLAIM :

In the event of the above-mentioned claim being dismissed,

May it please the Court, in the exercise of its ordinary competence, whether the Government of Peru enters an appearance or not, and after such time-limits as the Court may fix in the absence of an agreement between the Parties, to adjudge and declare whether, in accordance with the law in force between the Parties and particularly American international law, the Government of Colombia is, or is not, bound to deliver M. Víctor Raúl Haya de la Torre to the Government of Peru."

The Application was accompanied by a certified true French translation of Article 7 of the Protocol of Friendship and Co-operation between the Governments of Colombia and Peru signed at Rio de Janeiro, May 24th, 1934, and also of two notes exchanged between those two Governments.

Notice of the Application was given under Article 40, paragraph 3, of the Statute of the Court to Members of the United Nations through the Secretary-General, and also to the other States entitled to appear before the Court. It was also transmitted to the Secretary-General of the United Nations.

At the suggestion of the Parties, the written proceedings were limited to the submission of a memorial and a counter-memorial, and these pleadings were filed within the time-limits prescribed in the Order of January 3rd, 1951.

As the Court did not include upon the Bench any judges of the nationality of the Parties, they availed themselves of the right provided by Article 31, paragraph 3, of the Statute. The Judges *ad hoc* chosen were M. José Joaquín Caicedo Castilla, Doctor of Law, Professor, former Deputy and former President of the Senate, Ambassador, for the Government of Colombia, and M. Luis Alayza y Paz Soldán, Doctor of Law, Professor, former Minister, Ambassador, for the Government of Peru.

By a letter dated January 22nd, 1951, the Colombian Agent informed the Registrar that his Government relied on the Convention on Asylum signed at Havana on February 20th, 1928 ; he requested the Registrar to give effect to the provisions of Article 63 of the Statute. Accordingly, the Registrar informed the States

which were parties to that Convention, other than those concerned in the case, of this fact.

The Minister of State of Cuba on February 15th, 1951, addressed to the Registrar, in reply, a letter and a Memorandum which contained the views of his Government concerning the construction of the Convention of Havana of 1928, as well as this Government's general attitude in regard to asylum.

This letter, considered as a Declaration of Intervention under Article 66, paragraph 1, of the Rules of Court, was, in accordance with paragraphs 2 and 3 of that Article, communicated to the Parties in the case and to the Members of the United Nations and other States entitled to appear before the Court. The Memorandum annexed to that letter was at the same time communicated to the Parties.

The pleadings and documents annexed had already been placed at the disposal of the Government of Cuba, at the request of that Government and with the consent of the Parties.

On March 28th, 1951, the Agent of the Government of Colombia stated that he did not raise any objection to the intervention of Cuba. On April 2nd, 1951, the Agent of the Government of Peru addressed a letter to the Registrar in which he requested the Court to decide that the intervention was not admissible.

In application of Article 66, paragraph 2, of the Rules of Court, the Court decided to hear the observations of the Agents of the Parties and of the Government of Cuba on the admissibility of that Government's intervention before the argument on the merits. A public hearing was held for that purpose on May 15th, 1951, during which the Court heard statements submitted on behalf of the Government of Peru by M. Felipe Tudela y Barreda, Agent, and M. G. Gidel, Counsel ; on behalf of the Government of Colombia by M. Camilo de Brigard, Counsel ; and on behalf of the Government of Cuba by Mme. Flora Díaz Parrado, Agent.

At this public hearing the following Submissions relating to the Request for Intervention were presented to the Court :

On behalf of the Government of Peru :

"May it please the Court to adjudge :

that the present case cannot give rise to the construction of a convention within the meaning of Article 63 of the Statute of the Court, and in particular of the Havana Convention, concerning the meaning of which the Court gave judgment on November 20th, 1950 ;

and that, therefore, the intervention of the Government of Cuba is not admissible."

On behalf of the Government of Colombia :

"May it please the Court to decide that the Government of Cuba is entitled to intervene in the present case."

On behalf of the Government of Cuba :

"May it please the Court to declare that the request to intervene is admissible."

On May 16th, 1951, the Court decided, for the reasons which are stated below, to admit the intervention of the Government of Cuba and to open immediately the oral proceedings on the merits of the case.

In the course of public hearings held on May 16th and 17th, 1951, the Court heard statements by M. José Gabriel de la Vega, Agent, on behalf of the Government of Colombia, and by M. G. Gidel, Counsel, on behalf of the Government of Peru ; furthermore, in accordance with Article 66, paragraph 5, of the Rules of Court, it heard a statement on the interpretation of the Havana Convention, presented on behalf of the Government of Cuba by Mme. Flora Díaz Parrado, Agent.

Ar the end of the written proceedings, the Parties presented the following Submissions :

On behalf of the Government of Colombia (Submissions in the Memorial) :

"May it please the Court,

To state in what manner the Judgment of November 20th, 1950, shall be executed by Colombia and Peru, and furthermore, to adjudge and declare that Colombia is not bound, in execution of the said Judgment of November 20th, 1950, to deliver M. Víctor Raúl Haya de la Torre to the Peruvian authorities.

In the event of the Court not delivering judgment on the foregoing Submission, may it please the Court to adjudge and declare, in the exercise of its ordinary competence, that Colombia is not bound to deliver the politically accused M. Víctor Raúl Haya de la Torre to the Peruvian authorities."

On behalf of the Government of Peru (Submissions in the Counter-Memorial) :

"May it please the Court,

I. To state in what manner the Judgment of November 20th, 1950, shall be executed by Colombia ;

II. To dismiss the Submissions of Colombia by which the Court is asked to state solely ["*sans plus*"] that Colombia is not bound to deliver Víctor Raúl Haya de la Torre to the Peruvian authorities ;

III. In the event of the Court not delivering judgment on Submission No. I, to adjudge and declare that the asylum granted to Señor Víctor Raúl Haya de la Torre on January 3rd, 1949, and maintained since that date, having been judged to be contrary to Article 2, paragraph 2, of the Havana Convention of 1928, ought to have ceased immediately after the delivery of the Judgment of November 20th, 1950, and must in any case cease forthwith in order that Peruvian justice may resume its normal course which has been suspended."

In the course of his oral statement on May 16th, 1951, the Agent of the Government of Colombia re-stated the Submissions of the Memorial with the following addition relating to the Submissions of the Counter-Memorial of Peru :

> "To state in what manner the Judgment of November 20th, 1950, shall be executed by Colombia, when stating, in accordance with the first point of our principal claim, 'in what manner the Judgment of November 20th, 1950, shall be executed by Colombia and Peru' ;
>
> On Submission II of the same Counter-Memorial : To reject it ;
>
> And, should occasion arise, to reject Submission III of the said Counter-Memorial."

On the other hand, Counsel for the Government of Peru requested the Court to decide in its favour upon the Submissions set out in its Counter-Memorial.

Finally, the Agent of the Government of Cuba presented her Government's interpretation of the Havana Convention so far as concerns the surrender of the refugee to the Peruvian authorities.

* * *

The Government of Cuba, availing itself of the right which Article 63 of the Statute of the Court confers on States parties to a convention, filed a Declaration of Intervention with the Registry on March 13th, 1951, and attached thereto a Memorandum in which it stated its views in regard to the interpretation of the Havana Convention of 1928 ratified by it and also its general attitude towards asylum. The Court considered that this Memorandum was regarded by the Government of Cuba as constituting the written observations provided for in paragraph 4 of Article 66 of the Rules of Court.

The Government of Peru contended that the intervention of the Government of Cuba was inadmissible, owing to the Declaration of Intervention being out of time, and to the fact that the Declaration and the Memorandum accompanying it did not constitute an intervention in the true meaning of the term, but an attempt by a third State to appeal against the Judgment delivered by the Court on November 20th, 1950.

In regard to that question, the Court observes that every intervention is incidental to the proceedings in a case ; it follows that a declaration filed as an intervention only acquires that character, in law, if it actually relates to the subject-matter of the pending proceedings. The subject-matter of the present case differs from that of the case which was terminated by the Judgment of November 20th, 1950 : it concerns a question—the surrender of Haya de la Torre to the Peruvian authorities—which in the previous

case was completely outside the Submissions of the Parties, and which was in consequence in no way decided by the above-mentioned Judgment.

In these circumstances, the only point which it is necessary to ascertain is whether the object of the intervention of the Government of Cuba is in fact the interpretation of the Havana Convention in regard to the question whether Colombia is under an obligation to surrender the refugee to the Peruvian authorities.

On that point, the Court observes that the Memorandum attached to the Declaration of Intervention of the Government of Cuba is devoted almost entirely to a discussion of the questions which the Judgment of November 20th, 1950, had already decided with the authority of *res judicata*, and that, to that extent, it does not satisfy the conditions of a genuine intervention. However, at the public hearing on May 15th, 1951, the Agent of the Government of Cuba stated that the intervention was based on the fact that the Court was required to interpret a new aspect of the Havana Convention, an aspect which the Court had not been called on to consider in its Judgment of November 20th, 1950.

Reduced in this way, and operating within these limits, the intervention of the Government of Cuba conformed to the conditions of Article 63 of the Statute, and the Court, having deliberated on the matter, decided on May 16th to admit the intervention in pursuance of paragraph 2 of Article 66 of the Rules of Court.

* * *

In its Judgment of November 20th, 1950, the Court defined the legal relations between Colombia and Peru with regard to matters referred to it by them relating to diplomatic asylum in general and particularly to the asylum granted to Víctor Raúl Haya de la Torre by the Ambassador of Colombia in Lima on January 3rd-4th, 1949. On the day of the delivery of this Judgment the Government of Colombia submitted to the Court a Request for Interpretation, which by the Judgment of November 27th, 1950, was declared to be inadmissible.

On the following day, the Minister for Foreign Affairs and Public Worship of Peru, relying on the Judgment of November 20th, addressed a note to the Chargé d'Affaires of Columbia at Lima, stating in particular :

> "The moment has come to carry out the Judgment delivered by the International Court of Justice by terminating the protection which that Embassy is improperly granting to Víctor Raúl Haya de la Torre. It is no longer possible further to prolong an asylum which is being maintained in open contradiction to the Judgment which has been delivered. The Colombian Embassy cannot continue to protect the refugee, thus barring the action of the national courts.

> You must take the necessary steps, Sir, with a view to terminating this protection, which is being improperly granted, by delivering the refugee Víctor Raúl Haya de la Torre, so that he may be placed at the disposal of the examining magistrate who summoned him to appear for judgment, in accordance with what I have recited above."

In a Note dated December 6th, 1950, addressed to the Minister for Foreign Affairs and Public Worship of Peru, the Minister for Foreign Affairs of Colombia refused to comply with this request; he relied in particular on the following considerations:

> "Consequently, the Court formally rejected the complaint made against the Government of Colombia in the counter-claim of the Government of Peru, namely, that it had granted asylum to persons accused of or condemned for common crimes. Should Colombia proceed to the delivery of the refugee, as requested by Your Excellency, [it] would not only disregard the Judgment to which we are now referring, but would also violate Article 1, paragraph 2, of the Havana Convention which provides that: 'Persons accused of or condemned for common crimes taking refuge in a legation shall be surrendered upon request of the local government.'"

These are the circumstances giving rise to the present case which has been brought before the Court by the Government of Colombia by Application of December 13th, 1950.

The Parties have in the present case consented to the jurisdiction of the Court. All the questions submitted to it have been argued by them on the merits, and no objection has been made to a decision on the merits. This conduct of the Parties is sufficient to confer jurisdiction on the Court.

* * *

In the first part of its principal Submission the Government of Colombia requests the Court

> "to state in what manner the Judgment of November 20th, 1950, shall be executed by Colombia and Peru....".

On the other hand, the Government of Peru in its first Submission requests the Court

> "to state in what manner the Judgment of November 20th, 1950, shall be executed by Colombia".

These Submissions are both designed to obtain a decision from the Court as to the manner in which the asylum should be terminated. The portion of the Judgment of November 20th, 1950, to which they refer is the passage where, in pronouncing on the question of the regularity of the asylum, it declares that the grant of

asylum was not made in conformity with Article 2, paragraph 2 ("First"), of the Havana Convention on Asylum of 1928. The Court observes that the Judgment confined itself, in this connection, to defining the legal relations which the Havana Convention had established between the Parties. It did not give any directions to the Parties, and entails for them only the obligation of compliance therewith. The interrogative form in which they have formulated their Submissions shows that they desire that the Court should make a choice amongst the various courses by which the asylum may be terminated. But these courses are conditioned by facts and by possibilities which, to a very large extent, the Parties are alone in a position to appreciate. A choice amongst them could not be based on legal considerations, but only on considerations of practicability or of political expediency; it is not part of the Court's judicial function to make such a choice.

In the second part of its principal Submission, the Government of Colombia requests the Court

> "to adjudge and declare that Colombia is not bound, in execution of the said Judgment of November 20th, 1950, to deliver M. Víctor Raúl Haya de la Torre to the Peruvian authorities".

This part of the principal Submission of Colombia is strictly limited by the words "in execution of the said Judgment of November 20th, 1950". These words serve to confine the request thus formulated, as in the first part of the same Submission, to the execution of the Judgment of November 20th, 1950.

As was stated both in that Judgment and in the Judgment of November 27th, 1950, the Government of Peru had not demanded the surrender of the refugee. This question was not submitted to the Court and consequently was not decided by it. It is not therefore possible to deduce from the Judgment of November 20th any conclusion as to the existence or non-existence of an obligation to surrender the refugee. In these circumstances, the Court is not in a position to state, merely on the basis of the Judgment of November 20th, whether Colombia is or is not bound to surrender the refugee to the Peruvian authorities.

For these reasons, the Court cannot give effect to the above-mentioned Submissions.

The alternative Submission of the Government of Colombia is as follows:

> "In the event of the Court not delivering judgment on the foregoing Submission, may it please the Court to adjudge and declare, in the exercise of its ordinary competence, that Colombia is not bound to deliver the politically accused M. Víctor Raúl Haya de la Torre to the Peruvian authorities."

In its second Submission the Government of Peru requests the Court

"to dismiss the Submissions of Colombia by which the Court is asked to state solely *("sans plus")* that Colombia is not bound to deliver Víctor Raúl Haya de la Torre to the Peruvian authorities".

The Government of Peru states in this Submission that the Court is asked by the Submissions of Colombia "to state solely that Colombia is not bound....". By using this word "solely" *("sans plus")* the Government of Peru wishes to convey that the legal position which the Judgment of November 20th created for it must in any case be preserved ; it refers thus to the statement set forth in its third Submission, which will be examined later.

As mentioned above, the question of the surrender of the refugee was not decided by the Judgment of November 20th. This question is new ; it was raised by Peru in its Note to Colombia of November 28th, 1950, and was submitted to the Court by the Application of Colombia of December 13th, 1950. There is consequently no *res judicata* upon the question of surrender.

According to the Havana Convention, diplomatic asylum is a provisional measure for the temporary protection of political offenders. Even if regularly granted it cannot be prolonged indefinitely, but must be terminated as soon as possible. It can, according to Article 2, paragraph 2, only be granted "for the period of time strictly indispensable for the person who has sought asylum to ensure in some other way his safety".

The Court finds that the Convention does not give a complete answer to the question of the manner in which an asylum shall be terminated.

As to persons accused of or condemned for common crimes who seek refuge, Article 1 prescribes that they shall be surrendered upon request of the local government. For "political offenders" another method of terminating asylum is prescribed, namely, the grant of a safe-conduct for the departure from the country. But, under the terms of the Judgment of November 20th, a safe-conduct can only be claimed under the Havana Convention if the asylum has been regularly granted and maintained and if the territorial State has required that the refugee should be sent out of the country. For cases in which the asylum has not been regularly granted or maintained, no provision is made as to the method of termination. Nor is any provision made in this matter in cases where the territorial State has not requested the departure of the refugee. Thus, though the Convention prescribes that the duration of the asylum shall be limited to the time "strictly indispensable....", it is silent on the question how the asylum should be terminated in a variety of different situations.

As the Court pointed out in its Judgment of November 20th, the Havana Convention, the first article of which requires that persons accused of or condemned for common crimes shall be surrendered to the territorial authorities, does not contain any

similar provision in regard to political offenders. This silence cannot be interpreted as imposing an obligation to surrender the refugee in case the asylum was granted to him contrary to the provisions of Article 2 of the Convention. Such an interpretation would be repugnant to the spirit which animated that Convention in conformity with the Latin-American tradition in regard to asylum, a tradition in accordance with which political refugees should not be surrendered. There is nothing in that tradition to indicate that an exception should be made where asylum has been irregularly granted. If it has been intended to abandon that tradition, an express provision to that effect would have been needed, and the Havana Convention contains no such provision. The silence of the Convention implies that it was intended to leave the adjustment of the consequences of this situation to decisions inspired by considerations of convenience or of simple political expediency. To infer from this silence that there is an obligation to surrender a person to whom asylum has been irregularly granted would be to disregard both the rôle of these extra-legal factors in the development of asylum in Latin America, and the spirit of the Havana Convention itself.

In its Judgment of November 20th the Court pointed out that, in principle, asylum cannot be opposed to the operation of justice. The safety which arises out of asylum cannot be construed as a protection against the regular application of the laws and against the jurisdiction of legally constituted tribunals. Protection thus understood would authorize the diplomatic agent to obstruct the application of the laws of the country, whereas it is his duty to respect them. The Court further said that it could not admit that the States signatories to the Havana Convention intended to substitute for the practice of the Latin-American republics a legal system which would guarantee to their own nationals accused of political offences the privilege of evading national jurisdiction. But it would be an entirely different thing to say that the State granting an irregular asylum is obliged to surrender the refugee to the local authorities. Such an obligation to render positive assistance to these authorities in their prosecution of a political refugee would far exceed the above-mentioned findings of the Court and could not be recognized without an express provision to that effect in the Convention.

Thus, the Havana Convention does not justify the view that the obligation incumbent on a State to terminate an asylum irregularly granted to a political offender, imposes a duty upon that State to surrender the person to whom asylum has been granted.

In its Judgment of November 20th the Court, in examining whether the asylum was regularly granted, found that the Government of Peru had not proved that the acts of which Haya de la Torre was accused, before asylum was granted to him, constituted

common crimes. Moreover, when the Court considered the provisions of Article 2, paragraph 2, relating to political offenders, it held, on the basis of these provisions, that the asylum had not been granted in conformity with the Convention. It follows from these considerations that, so far as the question of surrender is concerned, the refugee must be treated as a person accused of a political offence. The Court has, consequently, arrived at the conclusion that the Government of Colombia is under no obligation to surrender Haya de la Torre to the Peruvian authorities.

The third Submission of the Government of Peru is as follows:

> "In the event of the Court not delivering judgment on Submission No. I, to adjudge and declare that the asylum granted to Señor Víctor Raúl Haya de la Torre on January 3rd, 1949, and maintained since that date, having been judged to be contrary to Article 2, paragraph 2, of the Havana Convention of 1928, it ought to have ceased immediately after the delivery of the Judgment of November 20th, 1950, and must in any case cease forthwith, in order that Peruvian justice may resume its normal course which has been suspended."

The Government of Colombia has requested the Court to reject this Submission.

In its Judgment of November 20th, the Court held that the grant of asylum by the Government of Colombia to Haya de la Torre was not made in conformity with Article 2, paragraph 2 ("First"), of the Convention. This decision entails a legal consequence, namely that of putting an end to an illegal situation: the Government of Colombia which had granted the asylum irregularly is bound to terminate it. As the asylum is still being maintained, the Government of Peru is legally entitled to claim that it should cease.

But the latter Government adds in its Submission a demand that the asylum should cease "in order that Peruvian justice may resume its normal course which has been suspended". This addition appears to involve, indirectly, a claim for the surrender of the refugee. For the reasons given above, this part of the Submission of the Government of Peru cannot be accepted.

The Court has thus arrived at the conclusion that the asylum must cease, but that the Government of Colombia is under no obligation to bring this about by surrendering the refugee to the Peruvian authorities. There is no contradiction between these two findings, since surrender is not the only way of terminating asylum.

Having thus defined in accordance with the Havana Convention the legal relations between the Parties with regard to the matters referred to it, the Court has completed its task. It is unable to give any practical advice as to the various courses which might be followed with a view to terminating the asylum, since, by doing so, it would depart from its judicial function. But it can be assumed that the Parties, now that their mutual legal relations have been made clear, will be able to find a practical and satisfactory solution by seeking guidance from those considerations of courtesy and good-neighbourliness which, in matters of asylum, have always held a prominent place in the relations between the Latin-American republics.

For these reasons,

THE COURT,

on the principal Submission of the Government of Colombia and the first Submission of the Government of Peru,

unanimously,

finds that it cannot give effect to these Submissions and consequently rejects them ;

on the alternative Submission of the Government of Colombia and the second Submission of the Government of Peru,

by thirteen votes to one,

finds that Colombia is under no obligation to surrender Víctor Raúl Haya de la Torre to the Peruvian authorities ;

on the third Submission of the Government of Peru,

unanimously,

finds that the asylum granted to Víctor Raúl Haya de la Torre on January 3rd-4th, 1949, and maintained since that time, ought to have ceased after the delivery of the Judgment of November 20th, 1950, and should terminate.

Done in French and English, the French text being authoritative, at the Peace Palace, The Hague, this thirteenth day of June, one thousand nine hundred and fifty-one, in four copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Republic of Colombia, to the Government of the Republic of Peru and to the Government of the Republic of Cuba, respectively.

*(Signed)* BASDEVANT,
President.

*(Signed)* E. HAMBRO,
Registrar.

M. ALAYZA Y PAZ SOLDÁN, Judge *ad hoc*, declares that if the Court had stated under the second point of the operative clause that Colombia was under no obligation, as the sole means of executing the Judgment, to surrender the refugee to the Government of Peru, he would have been in a position to concur in the opinion of the majority of the Court. But the brevity of the sentence employed, which may be misunderstood, prevents him from concurring in the opinion of the Court as a whole.

*(Initialled)* J. B.
*(Initialled)* E. H.