

# Barrios Altos v. Peru

## ABSTRACT<sup>1</sup>

*This case is about the massacre of fifteen civilians during one single incident by members of the Peruvian army, and the subsequent attempt by the Fujimori regime to pass amnesty laws to shield the perpetrators from prosecution. The Court found the State violated the Inter-American Convention on Human Rights.*

## I. FACTS

### A. Chronology of Events

**November 3, 1991:** At approximately 11:30 p.m., six heavily armed individuals arrive at building No. 840 Jirón Huanta, in the neighborhood known as Barrios Altos, in Lima, Peru.<sup>2</sup> They arrive in two vehicles.<sup>3</sup> Upon their arrival, they turn off their sirens and police lights, and cover their faces with balaclava helmets.<sup>4</sup> The assailants burst through the building, where a group of people are throwing a party to collect funds to restore the building.<sup>5</sup>

The assailants force the victims to lie on the floor.<sup>6</sup> They fire gunshots indiscriminately at the victims for approximately two minutes, killing the following fifteen people: Ms. Placentina Marcela Chumbipuma Aguirre, Mr. Luis Alberto Díaz Astovilca, Mr. Octavio Benigno Huamanyauri Nolazco, Mr. Luis Antonio León Borja, Mr. Filomeno León León, Mr. Máximo León León, Mr. Lucio Quispe Huanaco, Mr. Tito Ricardo Ramírez Alberto, Mr. Teobaldo Ríos Lira, Mr. Manuel Isaías Ríos Pérez, Mr. Javier Manuel Ríos Rojas, Mr. Alejandro Rosales Alejandro, Ms. Nelly María Rubina Arquiñigo, Mr.

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1. Kathryn Benson, Author; Justine Schneeweis, Editor; Hayley Garscia, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. *Barrios Altos v. Peru*, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 75, ¶ 2(a) (Mar. 14, 2001).

3. *Id.*

4. *Id.* ¶ 2(a), (b).

5. *Id.* ¶ 2(a).

6. *Id.* ¶ 2(b).

Odar Mender Sifuentes Nuñez, and Ms. Benedicta Yanque Churo.<sup>7</sup> The assailants seriously injure another four: Mr. Natividad Condorcahuana Chicaña, Mr. Felipe León León, Mr. Alfonso Rodas Alvítez, and Mr. Tomás Livias Ortega, who is now permanently disabled.<sup>8</sup> Just as quickly as they arrived, the assailants flee in the two vehicles, sounding their sirens.<sup>9</sup>

The survivors later testify that the gunshots sounded muffled, suggesting the use of silencers.<sup>10</sup> During the investigation, the police find 111 cartridges and thirty-three bullets of the same caliber at the scene of the crime, which correspond with the use of machine guns.<sup>11</sup>

**Between November 3, 1991 and November 10, 1991:** The judicial investigations and newspaper reports reveal that the perpetrators of the November 3 massacre work for military intelligence as members of the State Army, who acted on behalf of *Grupo Colina* (“Colina Group”), a paramilitary death squad that undertakes counterterrorism campaigns.<sup>12</sup> Different sources of information indicate that the acts were executed in retaliation against alleged members of *Sendero Luminoso* (“Shining Path”).<sup>13</sup>

**Approximately November 10, 1991:** Congressman Javier Diez Canseco gives the press a copy of a document titled “*Plan Ambulante*” (“Door-to-door Plan”), which describes an intelligence operation that was to take place at the scene of the Barrios Altos massacre.<sup>14</sup> The document indicates that the “terrorists” had been meeting in Barrios Altos since January 1989, under the disguise of door-to-door salesmen.<sup>15</sup>

In June 1989, the Shining Path had carried out an attack approximately 250 meters from No. 840 Jirón Huanta in Barrios Altos, in which members of the Shining Path also concealed themselves as door-to-door salesmen.<sup>16</sup>

**November 14, 1991:** State Senators, Mr. Raúl Ferrero Costa, Mr. Javier

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7. *Id.* ¶¶ 1, 2(b).

8. *Id.*

9. *Id.*

10. *Id.* ¶ 2(c).

11. *Id.*

12. *Id.* ¶ 2(d).

13. *Id.*

14. *Id.* ¶ 2(e).

15. *Id.*

16. *Id.*

Diez Canseco Cisneros, Mr. Enrique Bernales Ballesteros, Mr. Javier Alva Orlandini, Mr. Edmundo Murrugarra Florián, and Mr. Gustavo Mohme Llona request the full Senate to investigate the facts of the Barrios Altos crime.<sup>17</sup>

**November 15, 1991:** The Senate agrees to the Senators' demand and appoints Senators Róger Cáceres Velásquez, Víctor Arroyo Cuyubamba, Javier Diez Canseco Cisneros, Francisco Guerra García Cueva, and José Linares Gallo as members of an investigation committee, which officially went into effect on November 27, 1991.<sup>18</sup>

**December 23, 1991:** The investigation committee conducts an inspection of the building at the scene of the crime, interviews four people, and performs other investigatory measures.<sup>19</sup>

**April 5, 1992:** President Alberto Fujimori sends military forces to shut down Congress and the Constitutional Court.<sup>20</sup> The Government of National Reconstruction and Emergency comes to power in the State and dissolves Congress.<sup>21</sup> The investigation committee is thus unable to complete its investigation, and the judiciary does not undertake a legitimate investigation until three years later.<sup>22</sup>

**November 1992:** The Democratic Constituent Congress is elected and does not resume the Barrios Altos investigation nor does it publish the committee's preliminary findings.<sup>23</sup>

**April 1995:** The authorities begin a serious investigation into the Barrios Altos massacre after Ms. Ana Cecilia Magallanes, a prosecutor in the Office of the Forty-first Provincial Criminal Prosecutor of Lima, accuses five Army officials of being responsible for the Barrios Altos crime, including several who had already been convicted in the *La Cantuta v. Peru* case.<sup>24</sup> The men accused are Division General Julio

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17. *Id.* ¶ 2(f).

18. *Id.*

19. *Id.*

20. "I Governed From Hell, Not From the Palace," THE CTR. FOR JUSTICE AND ACCOUNTABILITY, <http://www.cja.org/article.php?id=381> (last visited Oct. 28, 2014).

21. *Barrios Altos v. Peru*, Merits, ¶ 2(f).

22. *Id.* ¶ 2(f)–(g).

23. *Id.* ¶ 2(f).

24. *Id.* ¶ 2(g). See generally *La Cantuta v. Peru*, Merits, Reparations and Costs, Judgment, Inter-Am Ct. H.R. (ser. C) No. 162 (Nov. 29, 2006).

Salazar Monroe, who was the Head of the National Intelligence Service at the time of the massacre; Major Santiago Martín Rivas; and Sergeant Majors Nelson Carbajal García, Juan Sosa Saavedra, and Hugo Coral Goycochea.<sup>25</sup> On several occasions, Ms. Magallanes tries to compel the accused men to appear before the court to make a statement, but they refuse.<sup>26</sup> She then files charges against the military officers before the Sixteenth Criminal Court of Lima.<sup>27</sup>

The military officers, however, reply that the charges should instead be addressed to another authority and indicate that Major Rivas and the three Sergeant Majors are under the jurisdiction of the Supreme Military Justice Council.<sup>28</sup> General Julio Salazar Monroe refuses to answer the summons because, having the rank of a Minister of State, he argues that he enjoys the same privileges as the Ministers.<sup>29</sup>

**April 19, 1995:** Judge Antonia Saquicuray of the Sixteenth Criminal Court of Lima initiates a formal investigation into the Barrios Altos massacre.<sup>30</sup> She tries to elicit statements from the alleged members of the Colina Group in prison, but the Senior Military Command blocks her attempts.<sup>31</sup>

The Supreme Military Justice Council issues a declaration establishing that the accused men and the Commander General of the Army and Head of the Joint Command, Nicolás de Bari Hermoza Ríos, cannot give statements before any other judicial body because the military court system is concurrently processing the same case.<sup>32</sup>

**After April 19, 1995:** The military courts file a petition before the Supreme Court, claiming jurisdiction over Judge Saquicuray's investigation on the ground that it concerns military officers on active service.<sup>33</sup>

**June 14, 1995:** The State adopts Amnesty Law No. 26479, which exonerates members of the army, police force, and civilians who violated human rights or partook in such violations from 1980 to 1995.<sup>34</sup> The

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25. Barrios Altos v. Peru, Merits, ¶ 2(g).

26. *Id.*

27. *Id.*

28. *Id.*

29. *Id.*

30. *Id.* ¶ 2(h).

31. *Id.*

32. *Id.*

33. *Id.* ¶ 2(i).

34. *Id.*

draft of the law is neither publicly announced nor discussed, but it is adopted the same morning it is submitted.<sup>35</sup> As a result, the Supreme Court of Peru is unable to render a decision in Judge Saquicuray's case.<sup>36</sup> President Alberto Fujimori signs the law the same day.<sup>37</sup>

**June 15, 1995:** Amnesty Law No. 26479 goes into effect.<sup>38</sup> It renders all judicial investigations void, thus preventing police from holding the Barrios Altos massacre perpetrators criminally responsible.<sup>39</sup> The law grants amnesty to all civilians and members of the security forces who have been accused, investigated, prosecuted, convicted, or have undergone prison sentences for human rights violations.<sup>40</sup> The law also immediately annuls the few convictions of security force members for human rights violations.<sup>41</sup> Eight men who were imprisoned for the *La Cantuta* case, some of whom were also being prosecuted for the Barrios Altos massacre, are freed from prison.<sup>42</sup>

**June 16, 1995:** In light of the State Constitution, which states that judges have an obligation not to apply laws considered contrary to provisions of the Constitution, Judge Saquicuray decides that Article 1 of Amnesty Law No. 26479 does not apply to criminal cases pending in her court against the five members of the National Intelligence Service (SIN) because such amnesty laws violate constitutional guarantees and the international obligations imposed on the State by the American Convention.<sup>43</sup>

A few hours after Judge Saquicuray issues this decision, the Prosecutor General, Ms. Blanca Nélica Colán, states in a press conference that Judge Saquicuray's decision is an error, that the Barrios Altos case is closed, that the Amnesty Law has the effect of a constitutional law, and that prosecutors and judges who refuse to obey the law can be tried for malfeasance.<sup>44</sup>

**Between June 16, 1995 and June 27, 1995:** The attorneys of those ac-

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35. *Id.*

36. *Id.*

37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.* ¶ 2(j).

41. *Id.*

42. *Id.*

43. *Id.* ¶ 2(k).

44. *Id.*

cused in the Barrios Altos case appeal Judge Saquicuray's decision.<sup>45</sup> The case is transferred to the Eleventh Criminal Chamber of the Lima Superior Court, which is responsible for reversing or affirming the decision.<sup>46</sup>

**June 27, 1995:** Superior Prosecutor Mr. Carlos Arturo Mansilla Gardella defends Judge Saquicuray's decision, declaring Amnesty Law No. 26479 inapplicable to the Barrios Altos case.<sup>47</sup> A public hearing on the applicability of the law is set for July 3, 1995.<sup>48</sup>

**Between June 27, 1995 and July 14, 1995:** Judge Saquicuray's refusal to apply Amnesty Law No. 26479 leads to a congressional investigation.<sup>49</sup> Before a public hearing can be held, however, the State adopts a second amnesty law, Law No. 26492, which is "directed at interfering with legal actions in the Barrios Altos case."<sup>50</sup> This law declares that a judicial court cannot override amnesty and that the application of the amnesty law is mandatory.<sup>51</sup> Moreover, the new amnesty law expands the scope of Amnesty Law No. 26479, granting a general amnesty to all military, police, or civilian officials who might be the subject of indictments for human rights violations committed between 1980 and 1995, regardless of whether they have been charged.<sup>52</sup> This second law effectively prevents judges from determining the legality or applicability of the first Amnesty Law, invalidating Judge Saquicuray's decision and preventing similar decisions in the future.<sup>53</sup>

**July 14, 1995:** The Eleventh Criminal Chamber of the Lima Superior Court of Justice reverses the Barrios Altos decision on appeal and decides that the case should be quashed.<sup>54</sup> The Chamber holds that the Amnesty Law is not contrary to the State Constitution or to international human rights treaties and that judges are not able to decide that laws adopted by Congress cannot be applied because that violates the princi-

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45. *Id.* ¶ 2(l).

46. *Id.*

47. *Id.*

48. *Id.*

49. *Id.* ¶ 2(m).

50. *Id.*

51. *Id.*

52. *Id.*

53. *Id.*

54. *Id.* ¶ 2(n).

ple of separation of powers.<sup>55</sup> It further orders that Judge Saquicuray should be investigated by the judiciary's internal control organ for incorrectly interpreting the law.<sup>56</sup>

### *B. Other Relevant Facts*

Between 1983 and 1992, the State faces an ongoing internal conflict with opposition groups, particularly the Shining Path, a Marxist-inspired guerilla group that aims to overthrow the government.<sup>57</sup> The State implements counterinsurgency tactics to suppress the Shining Path, including kidnapping, torturing, or murdering individuals suspected of affiliation with the opposition groups.<sup>58</sup>

The State's primary agent of these counterinsurgency tactics is the Colina Group, a militaristic death squad saddled with the task of locating Shining Path sympathizers or people in opposition to the State or the government of President Fujimori.<sup>59</sup> The Colina Group carries out forced disappearances through identification, control, and elimination of these suspected sympathizers.<sup>60</sup>

## II. PROCEDURAL HISTORY

### *A. Before the Commission*

**June 30, 1995:** The National Human Rights Coordinator submits a petition to the Inter-American Commission on Human Rights against the State for granting amnesty to agents of the State who are responsible for the Barrios Altos massacre.<sup>61</sup>

**July 10, 1995:** The petitioners request precautionary measures to pre-

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55. *Id.*

56. *Id.*

57. *The Rise and Fall of Shining Path*, Council on Hemispheric Affairs (May 6, 2008), <http://www.coha.org/the-rise-and-fall-of-shining-path/>.

58. *Id.*

59. *Id.*

60. James Brooke, *Human Rights Abuses Raising Little Alarm in Peru*, NEW YORK TIMES (Mar. 25, 1990), <http://www.nytimes.com/1990/03/25/world/human-rights-abuses-raising-little-alarm-in-peru.html>; Brief for The Bernard and Audre Rapoport Center for Human Rights and Justice at the University of Texas at Austin School of Law as Amici Curiae Supporting Defendants at 22, *Barrios Altos v. Peru*, 2001 Inter-Am. Ct. H.R. (ser. C) No. 75, at 22 (Mar. 14, 2001), available at [http://www.utexas.edu/law/clinics/humanrights/work/Fujimori\\_amicus.pdf](http://www.utexas.edu/law/clinics/humanrights/work/Fujimori_amicus.pdf).

61. *Barrios Altos v. Peru*, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 75, ¶ 4 (Mar. 14, 2001).

vent the application of Law No. 26479 to the Barrios Altos case.<sup>62</sup>

**July 14, 1995:** The Commission requests the State to adopt measures to guarantee the personal safety of all the survivors, their next of kin, and the lawyers involved in the Barrios Altos case.<sup>63</sup>

**January 29, 1996:** The *Asociación Pro-Derechos Humanos* (Association for Human Rights in Peru, "APRODEH") submits a petition to the Commission on behalf of the next of kin of the fifteen deceased and four injured people in the Barrios Altos massacre.<sup>64</sup>

**May 23, 1996:** The *Comisión de Derechos Humanos* (Human Rights Commission of Peru, "COMISDEH") of the National Human Rights Coordinator submits the cases of Mr. Filomeno León León, killed, and Mr. Natividad Condorcahuana, injured, in the Barrios Altos massacre.<sup>65</sup>

**September 23, 1996:** The Commission receives a petition from the *Fundación Ecuémica para el Desarrollo y la Paz* (Ecumenical Foundation for Development and Peace, "FEDEPAZ"), member of the National Human Rights Coordinator, submitted by the next of kin of Mr. Javier Manuel Ríos Rojas and Mr. Manuel Isaías Ríos Pérez, both of whom died in the Barrios Altos events.<sup>66</sup>

**February 12, 1997:** The Commission joins the APRODEH petition with the Barrios Altos case so that all petitions in both cases comprise case No. 11528.<sup>67</sup>

**March 4, 1997:** The Commission holds a hearing on the Barrios Altos massacre during its Ninety-fifth session.<sup>68</sup>

**June 11, 1997:** The Barrios Altos petitioners request that the Center for Justice and International Law (CEJIL) and the Legal Defense Institute (IDL) be included as co-petitioners.<sup>69</sup>

**October 9, 1997:** The Commission holds another hearing on the Barrios

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62. *Id.* ¶ 5.

63. *Id.*

64. *Id.* ¶ 7.

65. *Id.*

66. *Id.* ¶ 9.

67. *Id.* ¶ 10.

68. *Id.* ¶ 11.

69. *Id.* ¶ 13.



Altos massacre.<sup>70</sup>

**January 7, 1999:** The Commission opens itself to the parties to reach a friendly settlement.<sup>71</sup> The State asks the Commission to desist and declare the case inadmissible for failure to exhaust domestic remedies.<sup>72</sup>

**March 7, 2000:** During its 106th session, based on Article 50 of the Convention, the Commission adopts Report No. 28/00, which is forwarded to the State on March 8, 2000.<sup>73</sup>

In the Report, the Commission recommends that the State annul any measures aimed to avoid investigating, prosecuting, or punishing those responsible for the Barrios Altos massacre, and that the State should abrogate Amnesty Laws Nos. 26479 and 26492.<sup>74</sup> It also recommends that the State conduct a serious, impartial, and effective investigation into the facts to identify those responsible for the Barrios Altos massacre, continue with the judicial prosecution of Mr. Salazar Monroe, Mr. Martín Rivas, Mr. Carbajal García, Mr. Sosa Saavedra, and Mr. Coral Goycochea, and to grant full reparation to the four surviving victims and deceased victims' next of kin.<sup>75</sup> The Commission grants the State a period of two months to comply with its recommendations, calculated from the date of transmission of the Report.<sup>76</sup>

**May 9, 2000:** The State forwards its answer to the Commission's Report and indicates that the promulgation and application of Amnesty Nos. 26479 and 26492 are exceptional measures adopted against terrorist violence.<sup>77</sup> It points out that the Constitutional Court declared that the unconstitutionality action is unfounded, but emphasizes that the injured parties or their next of kin may seek civil reparations.<sup>78</sup>

### *B. Before the Court*

**June 8, 2000:** The Commission submits the case to the Court after the State failed to adopt its recommendations.<sup>79</sup>

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70. *Id.* ¶ 15.

71. *Id.* ¶ 16.

72. *Id.*

73. *Id.* ¶ 17.

74. *Id.*

75. *Id.*

76. *Id.*

77. *Id.* ¶ 18.

78. *Id.*

79. *Id.* ¶ 20.

### 1. Violations Alleged by Commission<sup>80</sup>

Article 2 (Obligation to Give Domestic Legal Effect to Rights)

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 8 (Right to a Fair Trial)

Article 13 (Right to Freedom of Thought and Expression)

Article 25 (Right to Judicial Protection)

*all in relation to:*

Article 1 (Obligation to Respect Rights) of the American Convention.

### 2. Violations Alleged by Representatives of the Victims<sup>81</sup>

Same Violations Alleged by Commission.

**August 24, 2000:** A representative of the Peruvian Embassy in Costa Rica goes to the Court to return the application transmitted by the Secretariat.<sup>82</sup> The representative hands the Secretariat Note No. 5-9-M/49, which indicates that the State withdraws its recognition of the Court's contentious jurisdiction, effective immediately, which applies to all cases in which the State has not yet answered the application filed with the Court.<sup>83</sup> The State asserts that the Court is therefore no longer competent to hear the Barrios Altos case under the contentious jurisdiction that the American Convention provides.<sup>84</sup>

**October 19, 2000:** The Commission submits a communication concerning the State's return of the notification of the application and its attachments.<sup>85</sup> In this document, the Commission requests the Court to reject the State's assertion withdrawing its recognition of the Court's contentious jurisdiction and to proceed with the Barrios Altos case.<sup>86</sup>

**November 12, 2000:** The Court transmits a note, signed by all of its judges, to the Secretary General of the Organization of American States

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80. *Id.* ¶ 1.

81. *Id.* The Merits Judgment does not indicate who served as the representative(s) of the victims.

82. *Id.* ¶ 25.

83. *Id.*

84. *Id.*

85. *Id.* ¶ 26.

86. *Id.*

(“OAS”), Mr. César Gaviria Trujillo, informing him of the status of some of the cases processed before the Court against the State.<sup>87</sup> Referring to the State’s return of the application and attachments in the Barrios Altos case, the Court indicates that it already rejected the State’s withdrawal of its recognition of the Court’s contentious jurisdiction in the case of *Ivcher Bronstein v. Peru* on September 24, 1999.<sup>88</sup> The Court also indicates that the State’s actions blatantly violate the basic principle of *pacta sunt servanda*,<sup>89</sup> and Article 68(1) (Obligation to Comply With the Court in Cases to Which It Is a Party) of the Convention.<sup>90</sup>

**January 23, 2001:** The Peruvian Embassy in Costa Rica transmits a facsimile copy of Legislative Resolution No. 27401, which was also published in the State’s official gazette, *El Peruano*, and abrogates the State’s previous withdrawal of, and re-establishes, the State’s recognition of the Court’s contentious jurisdiction to hear the Barrios Altos case.<sup>91</sup>

**February 19, 2001:** The State acknowledges its international responsibility and indicates that it plans to initiate a settlement with the Commission and the Barrios Altos petitioners.<sup>92</sup>

**March 14, 2001:** The Court holds a public hearing wherein the State acknowledges its international responsibility for the Barrios Altos events.<sup>93</sup> Consequently, the Court considers the dispute between the State and the Commission to have ceased.<sup>94</sup>

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87. *Id.* ¶ 27.

88. *Id.*

89. *Pacta sunt servanda* is a state’s responsibility to fulfill its conventional international obligations in good faith. Castillo Petruzzi et al. v. Peru, Monitoring Compliance with Judgment, Order of the Court, Inter-Am Ct. H.R., “Considering” ¶ 4 (Nov. 17, 1999).

90. Barrios Altos v. Peru, Merits, ¶ 27.

91. *Id.* ¶ 28.

92. *Id.* ¶ 31.

93. *Id.* ¶¶ 33, 34.

94. *Id.* ¶ 38.

## III. MERITS

A. *Composition of the Court*<sup>95</sup>

Antônio Augusto Cançado Trindade, President  
Máximo Pacheco Gómez, Vice-President  
Hernán Salgado Pesantes, Judge  
Alirio Abreu Burelli, Judge  
Sergio García Ramírez, Judge  
Carlos Vicente de Roux Rengifo, Judge

Manuel E. Ventura Robles, Secretary  
Renzo Pomi, Deputy Secretary

B. *Decision on the Merits*

**March 14, 2001:** The Court issues its Judgment on the Merits.<sup>96</sup>

The Court found unanimously that Peru had violated:

Article 4 (Right to Life), in relation to Article 1(1) of the Convention, to the detriment of the deceased Barrios Altos victims, Ms. Chumbipuma Aguirre, Mr. Díaz Astovilca, Mr. Huamanyauri Nolazco, Mr. León Borja, Mr. Filomeno León León, Mr. Máximo León León, Mr. Quispe Huanaco, Mr. Ramírez Alberto, Mr. Ríos Lira, Mr. Ríos Pérez, Mr. Ríos Rojas, Mr. Rosales Alejandro, Ms. Rubina Arquíñigo, Mr. Sifuentes Nuñez and Ms. Yanque Churo,<sup>97</sup> because:

*The State acquiesced to the facts of and acknowledged responsibility for the Barrios Altos events.*<sup>98</sup>

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95. Judge Oliver Jackman could not attend the Twenty-fifth special session of the Court for reasons beyond his control; consequently, he did not participate in the deliberation or signing of the Merits Judgment. *Id.* n.1.

96. *Barrios Altos v. Peru, Merits.*

97. *Id.* "Decides" ¶ 2(a).

98. *Id.* ¶ 39.

Article 5 (Right to Humane Treatment), in relation to Article 1(1) of the Convention, to the detriment of the surviving Barrios Altos victims, Mr. Condorcahuana Chicaña, Mr. Felipe León León, Mr. Livias Ortega and Mr. Rodas Alvítez,<sup>99</sup> because:

*The State acquiesced to the facts of and acknowledged responsibility for the Barrios Altos events.*<sup>100</sup>

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25 (Right to Judicial Protection), in relation to Articles 1(1) and 2 of the Convention, to the detriment of the surviving Barrios Altos victims and the deceased victims' next of kin,<sup>101</sup> because:

*The Court indicated that all amnesty laws and provisions designed to prevent the identification, investigation, and punishment for human rights abuses violate non-derogable human rights by obstructing victims' access to justice, preventing victims from knowing the truth, and blocking victims' access to adequate reparations.*<sup>102</sup>

*By adopting the amnesty laws, the State prevented the deceased victims' next of kin and surviving victims from being able to be heard by a judge, in violation of Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal).<sup>103</sup> Similarly, the amnesty laws prevented the State from investigating, capturing, prosecuting, and convicting the individuals responsible for the Barrios Altos massacre, thus violating the right to judicial protection for the victims and victims' next of kin in violation of Article 25.<sup>104</sup> By violating these articles through the implementation of its amnesty laws, the State necessarily violated its general obligation of Article 1(1) (Obligation to Respect Rights), as well as its obligation to adopt internal legislation in support of these rights encompassed by Article 2 (Obligation to Give Domestic Legal Effect to Rights).<sup>105</sup> Moreover, the Court emphasized that self-amnesty laws result in the defenselessness of victims of human rights*

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99. *Id.* "Decides" ¶ 2(b).

100. *Id.* ¶ 39.

101. *Id.* "Decides" ¶ 2(c).

102. *Id.* ¶ 41.

103. *Id.* ¶ 42.

104. *Id.*

105. *Id.* ¶ 43.

abuses and promote impunity for perpetrators.<sup>106</sup> Consequently, such laws directly contravene the goals and the very spirit of the American Convention.<sup>107</sup>

For the foregoing reasons, the Court found that the State violated Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25 (Right to Judicial Protection), in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Obligation to Give Domestic Legal Effect to Rights) to the detriment of the victims and their next of kin.<sup>108</sup>

### C. Dissenting and Concurring Opinions

#### 1. Concurring Opinion of Judge Antônio Augusto Cançado Trindade

In a separate opinion, Judge Cançado Trindade held that the Court correctly determined that the State's Amnesty Laws Nos. 26479 and 26492 violated Articles 1(1) (Obligation to Respect Rights) and 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention after the State recognized its international responsibility for the Barrios Altos events.<sup>109</sup> Judge Cançado Trindade discussed the history of the development of human rights as a *jus cogens* principle and ended with a reaffirmation that human rights are the cornerstone of the conscience of humanity.<sup>110</sup>

First, Judge Cançado Trindade asserted that the State's amnesty laws were offensive to the basic human rights to truth and justice.<sup>111</sup> Further, the laws were incompatible with the obligations of parties to the American Convention, and as long as the laws remained in effect, they violated the rights all humans are entitled to under the Convention.<sup>112</sup> In the Inter-American Court of Human Rights' Advisory Opinion of 1986, the Court determined that the word "law," as set forth in Article 30 of the Convention, requires content referring to the general welfare, and the State's amnesty laws, by allowing state officials to cover up human rights abuses, were directly contrary to the general wel-

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106. *Id.*

107. *Id.*

108. *Id.* ¶ 39.

109. Barrios Altos v. Peru, Merits, Concurring Opinion of Judge Antônio Augusto Cançado Trindade, Inter-Am. Ct. H.R. (ser. C) No. 75, ¶¶ 1-5 (Mar. 14, 2001).

110. *Id.* ¶¶ 1-26.

111. *Id.* ¶ 5.

112. *Id.*

fare.<sup>113</sup> Thus, the self-amnesty laws had no legal validity under the principles of international human rights law.<sup>114</sup>

Next, he elaborated on the establishment of human rights as *jus cogens*.<sup>115</sup> Originating at the turn of the twentieth century by Friedrich von Martens, the “Martens clause” aimed to extend warfare protections to civilians and combatants in all situations.<sup>116</sup> The Martens clause would later be incorporated in a number of future documents, including the Geneva Conventions of International Humanitarian Law of 1949, which endowed the clause as a continuing principle of validity in humanitarian norms.<sup>117</sup> In effect, the Martens clause continually sustains the applicability of the laws of humanity and the dictates of public conscience, regardless of changing circumstances and situations in various countries.<sup>118</sup>

Lastly, Judge Cançado Trindade reiterated that the ideas contained in the Martens clause comprise a principle of general international law,<sup>119</sup> and that states were established to protect the common good, not vice versa.<sup>120</sup> Thus, establishing laws of self-amnesty in order to protect the state from allegations of human rights abuses offends the conscience of humanity.<sup>121</sup>

## 2. Concurring Opinion of Judge Sergio García Ramírez

In a separate opinion, Judge García Ramírez agreed with the unanimous decision of the Court and remarked on the State’s acquiescence to the facts of the Barrios Altos events and the conflict between the self-amnesty laws and the State’s general obligations under the American Convention.<sup>122</sup>

First, Judge García Ramírez discussed the State’s acquiescence to the victims’ claims, which occurred because the State accepted responsibility for the Barrios Altos massacre.<sup>123</sup> Although acquiescence can

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113. *Id.* ¶ 7.

114. *Id.* ¶ 11.

115. *Id.* ¶¶ 16-25.

116. *Id.* ¶ 22.

117. *Id.* ¶ 23.

118. *Id.* ¶ 24.

119. *Id.* ¶ 25.

120. *Id.* ¶ 26.

121. *Id.*

122. *Barrios Altos v. Peru*, Merits, Concurring Opinion of Judge Sergio García Ramírez, Inter-Am. Ct. H.R. (ser. C) No. 75, ¶ 1 (Mar. 14, 2001).

123. *Id.* ¶ 2.

lead to the closure of a case, it is not necessarily dispositive.<sup>124</sup> Rather, the Court may find that the stipulated facts are unacceptable because the Court is not bound to the facts as presented by the parties.<sup>125</sup> The Court is also not bound by the parties' legal classification of those facts, and instead can decide to classify the facts under different, specific Convention provisions.<sup>126</sup> The ability of the Court to make an independent determination of the facts and the corresponding legal implications is a natural function of the Court, which cannot be manipulated or altered by the parties.<sup>127</sup>

Next, he discussed his views of the State's self-amnesty laws and stressed the difference between Amnesty Laws Nos. 26479 and 26492 and regular, peaceful amnesty laws.<sup>128</sup> Specifically, amnesty laws cannot be used to hide human rights violations simply because they are "forgive and forget" provisions.<sup>129</sup> Because the self-amnesty laws are at direct odds with the American Convention, to which the State is a party, the laws become void and produce no legal effect.<sup>130</sup>

Finally, Judge García Ramírez remarked that the reparations stage of the case is largely an agreement between the parties, but the Court has some power in revising and approving the reparations agreement, thus acting as a check on the parties.<sup>131</sup>

#### IV. REPARATIONS

The Court ruled unanimously that the State had the following obligations:

##### *A. Specific Performance (Measures of Satisfaction and Non-Repetition Guarantee)*

##### 1. Determine by Mutual Agreement Appropriate Reparations

The Court indicated that the State, the victims, and the Commission must determine by mutual agreement the appropriate reparations to

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124. *Id.* ¶¶ 4-5.

125. *Id.* ¶ 5.

126. *Id.* ¶ 6.

127. *Id.*

128. *Id.* ¶¶ 10-11.

129. *Id.* ¶ 11.

130. *Id.*

131. *Id.* ¶ 16.



be made to the victims, their next of kin, or their legal representatives.<sup>132</sup> The Court set a deadline of three months from the date of the Merits Judgment for the parties to submit the agreement.<sup>133</sup> Because the agreement would be formed mutually, and thus without conflict over the terms, the Court would examine the final agreement for compatibility with the provisions of the American Convention.<sup>134</sup> The parties signed the reparations agreement on August 22, 2001.<sup>135</sup>

## 2. Locate Legal Heirs of Specified Victims

The parties declared that they were unable to establish the beneficiaries of Mr. Ramírez Alberto, Mr. Sifuentes Nuñez, and Ms. Yanque Churo.<sup>136</sup> Because of this, the parties agreed to utilize their resources to locate these legal heirs and keep the reparations agreement open to be signed once the legal heirs are located.<sup>137</sup>

The Court declared it necessary that the State use its resources to locate these legal heirs by publishing announcements in a radio broadcaster, a television broadcaster, and a newspaper, which would announce that the State is searching for the heirs of the aforementioned deceased.<sup>138</sup> The Court declared that the announcements would be published on at least three non-consecutive days.<sup>139</sup>

The State must submit to the Court recordings or copies of these announcements and precise details of the publications, including name of publication and date published.<sup>140</sup>

## 3. Reform Legislation

The reparations agreement indicated that the State should abide by the decisions within the Judgment with regard to the Judgment's declaration that the State's Amnesty Law Nos. 26479 and 26492 are ineffective.<sup>141</sup>

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132. *Barrios Altos v. Peru*, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 87, ¶ 21 (Nov. 30, 2001).

133. *Id.*

134. *Id.* ¶¶ 22-23.

135. *Id.* ¶ 21.

136. *Id.* ¶ 27.

137. *Id.*

138. *Id.* ¶ 31.

139. *Id.*

140. *Id.* ¶ 32.

141. *Id.* ¶ 44(a).

#### 4. Define the Crime of Extra-Judicial Executions

The reparations agreement indicated that the State must initiate a procedure to define crimes of extra-judicial executions.<sup>142</sup>

#### 5. Ratify the International Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity

The State must sign and promote the ratification of the International Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity.<sup>143</sup>

#### 6. Publish the Judgment

The State must publish the Court's Judgment and the reparations agreement in the official gazette, *Diario Oficial El Peruano*, and must disseminate the information through other appropriate media.<sup>144</sup>

#### 7. Publish an Apology to the Victims

The State must issue a public apology to the victims of the massacre alongside the published Judgment and express a willingness not to allow events of this nature to occur again.<sup>145</sup>

#### 8. Erect a Memorial Monument

The State must erect a memorial monument in a location to be agreed upon by the parties.<sup>146</sup>

#### 9. Provide Education

The State agreed to provide the victims' beneficiaries with certain educational benefits, including granting of educational scholarships and providing educational materials, official textbooks for primary and sec-

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142. *Id.* ¶ 44(b).

143. *Id.* ¶ 44(c).

144. *Id.* ¶ 44(d).

145. *Id.* ¶ 44(e).

146. *Id.* ¶ 44(f).

ondary school children, uniforms, and classwork materials.<sup>147</sup>

#### 10. Provide Medical Treatment

The State agreed to provide the victims' beneficiaries with free health care services and mental health services.<sup>148</sup>

#### *B. Compensation*

The Court awarded the following amounts:

##### 1. Pecuniary Damages

The State agreed to pay \$175,000 to each of the victims, or in the case of death, to their beneficiaries, with the exception of the beneficiaries of Mr. Máximo León León, who will be paid \$250,000.<sup>149</sup>

##### 2. Non-Pecuniary Damages

[None]

##### 3. Costs and Expenses

[None]

##### 4. Total Compensation (including Costs and Expenses ordered):

\$3,400,000

#### *C. Deadlines*

The State must locate the legal heirs of the specified victims within thirty days of notification of the Judgment on Reparations.<sup>150</sup>

The State must comply with the order of the Court to declare the unlawfulness of the self-amnesty laws immediately from the date of signing the reparations agreement on August 22, 2001.<sup>151</sup>

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147. *Id.* ¶¶ 43(a)-(e).

148. *Id.* ¶ 42.

149. *Id.* ¶ 33.

150. *Id.* ¶ 31.

151. *Id.* ¶ 44(a); *Barrios Altos v. Peru*, Monitoring Compliance with Judgment, Order of the

The State must comply with the order of the Court to define the crime of extra-judicial executions within thirty days of signing the reparations agreement.<sup>152</sup>

The State must comply with the order of the Court to sign and promote the International Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity within thirty days of signing the reparations agreement.<sup>153</sup>

The State must comply with the order of the Court to publish the Judgment in the official State gazette and disseminate its contents within thirty days of signing of reparations agreement.<sup>154</sup>

The State must comply with the order of the Court to issue a public apology to the victims of the massacre alongside the published Judgment, to be published within thirty days of signing the reparations agreement.<sup>155</sup>

The State must comply with the order of the Court to erect a memorial monument within sixty days of signing the reparations agreement.<sup>156</sup>

The State must comply with the order to provide the victims and their beneficiaries with free health care immediately from the date of signing the reparations agreement.<sup>157</sup>

The State must comply with the order to provide educational benefits to the victims and their beneficiaries immediately from the date of signing the reparations agreement.<sup>158</sup>

The State must make the respective monetary compensation payments to the surviving victims and the deceased victims' beneficiaries during the first quarter of fiscal year 2002.<sup>159</sup>

#### *D. Dissenting and Concurring Opinions*

##### 1. Concurring Opinion of Judge Sergio García Ramírez

Judge García Ramírez discussed the reparations agreement be-

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Court, Inter-Am. Ct. H.R. "Considering" ¶ 4 (Aug. 4, 2008).

152. *Barrios Altos v. Peru, Reparations and Costs*, ¶ 44(b).

153. *Id.* ¶ 44(c).

154. *Id.* ¶ 44(d).

155. *Id.* ¶ 44(e).

156. *Id.* ¶ 44(f).

157. *Id.* ¶ 42.

158. *Id.* ¶ 43.

159. *Id.* ¶ 38.

tween the State and the victims or their next of kin.<sup>160</sup> First, he noted that the agreement obviated the need for the Court's contentious jurisdiction, which the Court would have exercised as a way to condemn the State by ordering it to make certain reparations.<sup>161</sup> Judge García Ramírez stated further that the Court accepted the parties' reparations settlement despite the parties submitting the settlement after the Court's deadline because the Court should not discourage parties from reaching satisfactory settlements for the sake of adhering to procedural formalities.<sup>162</sup>

Additionally, Judge García Ramírez noted that reparations settlement agreements must be fair, reasonable, and appropriate in light of the human rights that it purports to preserve.<sup>163</sup> They must be made within the scope of existing domestic and international laws,<sup>164</sup> and do not create, extend, or extinguish a state's existing duties.<sup>165</sup>

Regarding specific agreements within reparations settlements, Judge García Ramírez stated that cash and in-kind compensation could be tax exempt if doing so would render the accurate value of compensation to which victims and their next of kin are entitled.<sup>166</sup> He also noted that the clause within the present agreement, which states that the parties can interpret certain parts of the agreement themselves, is consistent within the scope of the Court's interpretation authority under Article 67 of the American Convention.<sup>167</sup>

#### V. INTERPRETATION AND REVISION OF JUDGMENT

**June 20, 2001:** The Commission requested that the Court interpret its March 14, 2001 Judgment on the Merits, seeking clarification of the Judgment as to its meaning and scope.<sup>168</sup> The Commission sought clarification as to whether the effects of self-amnesty laws are incompatible only within this case, or within all cases in which amnesty laws are violated.<sup>169</sup>

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160. *Barrios Altos v. Peru, Reparations and Costs, Concurring Opinion of Judge Sergio García Ramírez, Inter-Am. Ct. H.R. (ser. C) No. 75 ¶ 3 (Mar. 14, 2001).*

161. *Id.* ¶ 4.

162. *See id.* ¶ 5.

163. *Id.* ¶ 7.

164. *See id.* ¶¶ 10-12.

165. *Id.* ¶ 13.

166. *Id.* ¶ 15.

167. *Id.* ¶ 18.

168. *Barrios Altos v. Peru, Interpretation of the Judgment of the Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 83, ¶ 8 (Sept. 3, 2001).*

169. *Id.*

*A. Composition of the Court*<sup>170</sup>

Antônio Augusto Cançado Trindade, President  
 Hernán Salgado Pesantes, Judge  
 Alirio Abreu Burelli, Judge  
 Sergio García Ramírez, Judge  
 Carlos Vicente de Roux Rengifo, Judge

Manuel E. Ventura Robles, Secretary  
 Pablo Saavedra Alessandri, Deputy Secretary

*B. Merits*

The Court found unanimously that the Commission's request seeking an interpretation on the Judgment on the Merits was admissible.<sup>171</sup> The Court additionally found that laws that are manifestly incompatible with a state's obligations under the American Convention are a *per se* violation of the Convention.<sup>172</sup> Thus, because the State's self-amnesty laws violate the Convention, the decision in the Barrios Altos case has generic effects on all cases that violate amnesty laws.<sup>173</sup>

VI. COMPLIANCE AND FOLLOW-UP

**November 22, 2002:** The State must provide the Court with a detailed report regarding its reparations obligations by April 7, 2003, and the victims and their next of kin, along with the Commission, must present their observations of that report within two months of receiving it.<sup>174</sup>

**November 28, 2003:** The State fully complied with its obligation to compensate the surviving victims, Mr. Condorcahuana Chicaña, Mr. Felipe León León, Mr. Livias Ortega, and Mr. Rodas Alvétez.<sup>175</sup> The State

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170. By reason of *force majeure*, Judge Máximo Pacheco Gómez was unable to participate in the deliberations and signing of this decision. *Id.* n.\*. Because he did not participate in the Merits Judgment, Judge Oliver Jackman did not participate in the deliberations or signing of this decision. *Id.*

171. *Id.* ¶ 13.

172. *Id.* ¶ 18.

173. *Id.* ¶ 18, "Decision" ¶ 2.

174. Barrios Altos v. Peru, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Resolves" ¶ 1 (Nov. 22, 2002).

175. Barrios Altos v. Peru, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Considering" ¶ 15(a) (Nov. 28, 2003).

fully complied with its obligations to pay compensation to the beneficiaries of Ms. Chumbipuma Aguirre, Ms. Díaz Astovilca, Mr. Huamanyauri Nolazco, Mr. León Borja, Mr. Filomeno León León, Mr. Quispe Huanaco, Mr. Ríos Lira, Mr. Ríos Pérez, Mr. Ríos Rojas, Ms. Rosales Alejandro, Ms. Rubina Arquíñigo, and Mr. Sifuentes Minez.<sup>176</sup> The State fully complied with its obligation to locate the next of kin of victims Ms. Sifuentes Minez, Ms. Yanque Churo, and Mr. Ramírez Alberto.<sup>177</sup>

The State partially complied with its obligation to compensate the beneficiaries of Mr. Máximo León León, as it made payments to Ms. León Lunazco, Mr. León Lunazco, and Ms. Lunazco Andrade, the Court requested information regarding the State's payments to Mr. Martín León Lunazco.<sup>178</sup>

The Court requested information regarding the State's compliance with the obligation to investigate the identities of those responsible for the massacre, or its obligation to disseminate the content of the Court's Judgment on the Merits.<sup>179</sup>

The Court requested the State to provide information regarding compliance with its obligation to make compensation payments to the beneficiaries of Ms. Yanque Churo and Mr. Ramírez Alberto.<sup>180</sup>

The Court requested the State to provide information regarding compliance with its obligation to deposit compensation payments to minor beneficiaries in trust funds or its obligation to pay compensatory interest for periods in which these payments were not deposited into trust funds.<sup>181</sup>

The Court requested the State to provide information regarding compliance with its obligation to provide educational and health services to the victims and their beneficiaries.<sup>182</sup>

The Court requested the State to provide information regarding compliance with the obligation implement the Court's order to declare unlawful Amnesty Laws Nos. 26479 and 26492.<sup>183</sup>

The Court requested the State to provide information regarding compliance with its obligation to define the crime of extrajudicial exe-

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176. *Id.* "Considering" ¶ 15(b).

177. *Id.* "Considering" ¶ 15(c).

178. *Id.* "Considering" ¶ 16(c), n.11.

179. *Id.* "Considering" ¶ 16(a).

180. *Id.* "Considering" ¶ 16(b).

181. *Id.* "Considering" ¶¶ 16(d)-(e).

182. *Id.* "Considering" ¶ 16(f).

183. *Id.* "Considering" ¶ 16(g).

cutions.<sup>184</sup>

The Court requested the State to provide information regarding compliance with its obligation to accede to and ratify the International Convention on the Non-applicability of Statutory Limitations to War Crimes and Crimes Against Humanity.<sup>185</sup>

The Court requested the State to provide information regarding compliance with its obligation to publish the Judgment of the Court in the official gazette and its obligation to publish an apology to the victims alongside the reparations agreement.<sup>186</sup>

Lastly, the Court requested the State to provide information regarding its obligation to erect a memorial.<sup>187</sup> The Court will continue to monitor these above areas for compliance.<sup>188</sup>

The Court ordered that the State comply with and submit a report on the pending obligations.<sup>189</sup>

**November 17, 2004:** The State fully complied with its obligation to sign, ratify, and promote the International Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity.<sup>190</sup>

The Court kept open the proceedings for monitoring compliance with regard to its obligation to investigate the identities of the individuals responsible for the Barrios Altos massacre and to publicly disseminate the findings of that investigation.<sup>191</sup> However, the representatives indicated that two criminal trials were in progress: one at trial, and the other in the Special Criminal Law Chamber of the Peruvian Supreme Court. Former President Fujimori was a defendant in the second case.<sup>192</sup>

The Court noted that compliance is pending regarding the State's obligation to compensate the beneficiaries of Ms. Yanque Churo and Mr. Ramírez Alberto.<sup>193</sup> The State indicated that the payments were pending, but the Court found this information confusing because the State allegedly informed the beneficiaries that it could not "comply with

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184. *Id.* "Considering" ¶ 16(h).

185. *Id.* "Considering" ¶ 16(i).

186. *Id.* "Considering" ¶¶ 16(j)-(k).

187. *Id.* "Considering" ¶ 16(l).

188. *Id.* "Declares" ¶ 5.

189. *Id.* "Considering" ¶ 18.

190. Barrios Altos v. Peru, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Considering That" ¶ 8 (Nov. 17, 2004).

191. *Id.* "Considering That" ¶ 9(a).

192. *Id.*

193. *Id.* "Considering That" ¶ 9(b).



the . . . payment for fear of someone filing suit thereafter.”<sup>194</sup>

The Court noted that compliance is pending regarding the State’s obligation to compensate Mr. Martín León León, son of Mr. Máximo León León.<sup>195</sup>

The Court noted that compliance is pending regarding the State’s obligation to deposit into trust funds the compensation payments to the following minor beneficiaries: Mr. León Flores, Ms. Cristina Ríos Rojas, Ms. Ingrid Elizabeth Ríos Rojas, and Mr. Rosales Capillo.<sup>196</sup> The State indicated that the decision necessary for compliance was “still pending.”<sup>197</sup>

The Court noted that compliance is pending regarding the State’s obligation to pay the health services of the victims and their beneficiaries.<sup>198</sup> The State indicated that it would pay applicable medical costs, but it did not provide any details as to compliance.<sup>199</sup>

The Court noted that compliance is pending regarding the State’s obligation to provide educational benefits.<sup>200</sup> Although the State reported on measures it took to comply with this order, it did not name specific individuals who benefited from those measures.<sup>201</sup> The State also did not provide information on measures taken to comply in the years 2003 and 2004.<sup>202</sup>

The Court noted that compliance is pending regarding the State’s obligation to define the crime of extrajudicial executions.<sup>203</sup>

The Court noted that compliance is pending regarding the State’s obligation to publish the Judgment.<sup>204</sup>

The Court noted that compliance is pending regarding the State’s obligation to publish an apology to the victims.<sup>205</sup>

The Court noted that compliance is pending regarding the State’s obligation to erect a memorial monument.<sup>206</sup> The State reported that it collaborated with the Mayor of Lima as to the monument, and that it collaborated with an artist as to the design of the monument, but the

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194. *Id.*

195. *Id.* “Considering That” ¶ 9(c).

196. *Id.* “Considering That” ¶ 9(d).

197. *Id.*

198. *Id.* “Considering That” ¶ 9(e).

199. *Id.*

200. *Id.* “Considering That” ¶ 9(f).

201. *Id.*

202. *Id.*

203. *Id.* “Considering That” ¶ 9(g).

204. *Id.* “Considering That” ¶ 9(h).

205. *Id.* “Considering That” ¶ 9(i).

206. *Id.* “Considering That” ¶ 9(j).

Court indicated that the monument should have been completed within sixty days of the signing of the reparations agreement.<sup>207</sup>

The Court kept open the above pending areas open for monitoring and compliance.<sup>208</sup>

**September 22, 2005:** The Court found that the State fully complied with its obligation to publish an apology to the victims and their next of kin, declare that it will not commit the same human rights violations again, and declare the unlawfulness of the amnesty laws.<sup>209</sup> The State also fully complied with its obligation to compensate the beneficiaries of Ms. Yanque Churo and Mr. Ramírez Alberto.<sup>210</sup>

The State partially complied with its obligation to publish the Court's judgment in a national newspaper and other media outlets and to compensate the beneficiaries of Mr. Ríos Pérez and Mr. Rosales Alejandro.<sup>211</sup> The Court will continue to monitor the State's compliance with its remaining obligations.<sup>212</sup>

**August 4, 2008:** The Court determined that the State complied with its obligation to deposit into trust funds compensation to the minor beneficiaries, Mr. León Flores and Ms. Ingrid Elizabeth Ríos Rojas.<sup>213</sup> The State also complied with its obligation to publish the Court's Judgment.<sup>214</sup>

The Court required the State to submit updated information regarding its obligations to compensate Mr. Martín León Lunazco, beneficiary of Mr. Máximo León León,<sup>215</sup> to pay the accrued interest on the compensatory payments of Ms. Cristina Ríos Rojas, Ms. Rosales Capillo, and Ms. Alberto Falero,<sup>216</sup> to investigate the identities of the individuals responsible for the Barrios Altos events,<sup>217</sup> to provide health services to

207. *Id.*

208. *Id.* "Declares" ¶ 2.

209. Barrios Altos v. Peru, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Declares" ¶¶ 1(a)-(b) (Sept. 22, 2005).

210. *Id.* "Declares" ¶ 1(c).

211. *Id.* "Declares" ¶¶ 2(a)-(b).

212. *Id.* "Declares" ¶¶ 3(a)-(i). The Monitoring Compliance denotes sections (a) through (e) following paragraph 3 of the "Declares" section, but duplicates section (e). Thus, the second section (e) should actually read (i).

213. Barrios Altos v. Peru, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Considering" ¶ 6 (Aug. 4, 2008).

214. *Id.*

215. *Id.* "Considering" ¶ 59(a).

216. *Id.* "Considering" ¶¶ 59(b)-(c).

217. *Id.* "Considering" ¶ 59(d).

the victims and their beneficiaries,<sup>218</sup> to provide educational services to the victims and their beneficiaries,<sup>219</sup> to define the crime of extrajudicial killings,<sup>220</sup> and to erect a memorial monument.<sup>221</sup>

The Court stated that it would consider the State's compliance with the Judgment on the Merits and the reparations agreement once the State provided it with updated information.<sup>222</sup>

**December 7, 2009:** The State still failed to provide the Court with updated information as to its compliance with its remaining obligations.<sup>223</sup> The Court ordered the State, the Commission, and the victims' representatives to convene at the Court's headquarters in San Jose, Costa Rica on February 1, 2010, to inform the Court of the State's compliance with these obligations.<sup>224</sup>

**September 7, 2012:** The Court determined that the State had not fully complied with its obligation to investigate the facts of the case in order to identify, prosecute, and punish those responsible.<sup>225</sup>

The Court decided to keep open the monitoring compliance proceedings with regard to the following unfulfilled obligations: (1) to investigate the facts of the case and to identify, prosecute, and punish those responsible; (2) to pay compensation to Mr. Martín León Lunazco, son of Mr. Máximo León León; (3) to pay the accrued interest on the compensatory payments of Ms. Cristina Ríos Rojas, Ms. Rosales Capillo, and Ms. Alberto Falero; (4) to provide health services to the victims and their beneficiaries; (5) to provide educational services to the victims and their beneficiaries; (6) to define the crime of extrajudicial killings; and (7) to erect a memorial monument.<sup>226</sup>

The Court ordered the State to present a report to the Court indicating the measures it has adopted to comply with the reparations ordered by the Court no later than January 20, 2013.<sup>227</sup>

218. *Id.* "Considering" ¶ 59(e).

219. *Id.* "Considering" ¶ 59(f).

220. *Id.* "Considering" ¶ 59(g).

221. *Id.* "Considering" ¶ 59(h).

222. *Id.* "Considering" ¶ 60.

223. *Barrios Altos v. Peru, Monitoring Compliance with Judgment, Order of the President of the Court, Inter-Am. Ct. H.R. "Considering" ¶¶ 6-19 (Dec. 7, 2009).*

224. *Id.* "Resolves" ¶ 1.

225. *Barrios Altos v. Peru, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., "Declara Que" ¶ 1 (Sept. 7, 2012).*

226. *Id.* "Declara Que" ¶¶ 2(a)-(h).

227. *Id.* "Y Resuelve" ¶ 2.

## VII. LIST OF DOCUMENTS

*A. Inter-American Court*

## 1. Preliminary Objections

[None]

## 2. Decisions on Merits, Reparations and Costs

[Barrios Altos v. Peru, Merits, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 75 \(Mar. 14, 2001\).](#)

[Barrios Altos v. Peru, Merits, Concurring Opinion of Judge Sergio García Ramírez, Inter-Am. Ct. H.R. \(ser. C\) No. 75 \(Mar. 14, 2001\).](#)

[Barrios Altos v. Peru, Merits, Concurring Opinion of Judge Antônio Augusto Cançado Trindade, Inter-Am. Ct. H.R. \(ser. C\) No. 75 \(Mar. 14, 2001\).](#)

[Barrios Altos v. Peru, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 87 \(Nov. 30, 2001\).](#)

[Barrios Altos v. Peru, Reparations and Costs, Concurring Opinion of Judge Sergio García Ramírez, Inter-Am. Ct. H.R. \(ser. C\) No. 75 \(Nov. 30, 2001\).](#)

## 3. Provisional Measures

[None]

## 4. Compliance Monitoring

[Barrios Altos v. Peru, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Sept. 7, 2012\) \(Available only in Spanish\).](#)

[Barrios Altos v. Peru, Monitoring Compliance with Judgment, Order of the President of the Court, Inter-Am. Ct. H.R. \(Dec. 7, 2009\) \(Available only in Spanish\).](#)

[Barrios Altos v. Peru, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Aug. 4, 2008\).](#)

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[Barrios Altos v. Peru, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Nov. 28, 2003\).](#)

[Barrios Altos v. Peru, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Nov. 22, 2002\) \(Available only in Spanish\).](#)

## 5. Review and Interpretation of Judgment

[Barrios Altos v. Peru, Interpretation of Judgment of the Merits, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 83 \(Sept. 3, 2001\).](#)

### *B. Inter-American Commission*

#### 1. Petition to the Commission

[Not Available]

#### 2. Report on Admissibility

Barrios Altos v. Peru, Admissibility Report, Report No. 28.00 (Mar. 7, 2000).

#### 3. Provisional Measures

[None]

#### 4. Report on Merits

[Not Available]

## 5. Application to the Court

[Not Available]

## VIII. BIBLIOGRAPHY

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*The Rise and Fall of Shining Path*, Council on Hemispheric Affairs (May 6, 2008), <http://www.coha.org/the-rise-and-fall-of-shining-path/>.

J. Brooke, *Human Rights Abuses Raising Little Alarm in Peru*, N.Y. TIMES (Mar. 25, 1990), <http://www.nytimes.com/1990/03/25/world/human-rights-abuses-raising-little-alarm-in-peru.html>.