

Blanco Romero et al. v. Venezuela

ABSTRACT¹

In December 1999, torrential rainfall caused massive floods and landslides in the Avila hill area of the State of Vargas in Venezuela. Security forces dispatched to maintain order and prevent looting engaged instead in arbitrary arrests and forced disappearances. This case is about the arrest and disappearance of three individuals in the days following the 1999 disaster. Eventually the State admitted responsibility, and the Court found violations of several articles of the American Convention.

I. FACTS

A. Chronology of Events

December 15 and 17, 1999: Vargas State in Venezuela experiences heavy rains, rockslides, and mudslides on the Avila hill.² The floodwaters sweep away entire towns and neighborhoods, killing thousands and displacing many more.³ The exact death toll is unknown, as the mudslides buried bodies and carried them out to sea.⁴ Hundreds of individuals from the affected regions go missing.⁵

December 16, 1999: The National Constituent Assembly (*Asamblea Nacional Contituyente*) declares a state of emergency and authorizes emergency measures and relief needed to minimize the disaster.⁶ In the days after, the State deploys the Marine Corps, the National Guard, the Army, and Intelligence and Preventative Service Sector Bureau (*Direc-*

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

2. Blanco Romero et al. v. Venezuela, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 138, ¶ 51.1 (Nov. 28, 2005).

3. E. Rappold, *Venezuelans Still Feel “the Monster” of 1999 Flood Disaster*, INTERNATIONAL SERVICES IN ENGLISH (Dec. 23, 2004); *Venezuelans Cope Amid More Flooding*, DALLAS MORNING NEWS (Nov. 18, 2000).

4. J. Kotler, *Search For Victims Stepped Up*, ALBANY TIMES UNION (Dec. 22, 1999).

5. E. Rappold, *Venezuelans Still Feel “the Monster” of 1999 Flood Disaster*, International Services in English (Dec. 23, 2004); *Venezuelans Cope Amid More Flooding*, Dallas Morning News (Nov. 18, 2000).

6. Blanco Romero et al. v. Venezuela, Merits, ¶ 51.1.

ción General Sectorial de los Servicios de Inteligencia y Prevención, “DISIP”) agents to the Avila hill area.⁷ While restoring order and pursuing looters, the State perpetrates a number of human rights violations including forced disappearances.⁸

1. Events pertaining to Mr. Oscar José Blanco Romero

December 21, 1999: At approximately 2:00 p.m., soldiers of the Infantry Battalion “Colonel Antonio Nicolás Briceño” barges into Mr. Blanco Romero’s home in the Valle del Pino neighborhood of Caraballeda Village and forces him outside while his wife, mother-in-law, two children, niece and nephew look on.⁹ The soldiers arrest and beat Mr. Blanco Romero and deliver him to DISIP.¹⁰

December 23, 1999: Mr. Blanco Romero’s family searches for him in government agencies, DISIP offices, military operations centers, and the local airport but to no avail.¹¹ Mr. Blanco Romero’s wife, Mrs. Alejandra Josefina Iriarte de Blanco, files a complaint with the Office of the Senior Prosecutor for Vargas State (*Fiscalía Superior del Estado Vargas*) and the Judicial Police Technical Division (*Cuerpo Técnico de Policía Judicial*).¹² She also files an application for a writ of habeas corpus, but the trial court dismisses the petition.¹³ The Court of Appeals affirms this decision,¹⁴ and the Constitutional Chamber of the Supreme Court of Justice (*Sala Constitucional del Tribunal Supremo de Justicia*, “Supreme Court of Justice”) dismisses the petition for review.¹⁵

January 29, 2000: Major General Lucas Enrique Rincón Romero acknowledges in a letter to the Fifth Control Court of the Criminal Judicial Circuit for Vargas State (*Tribunal Quinto de Control del Circuito Judicial Penal del Estado Vargas*) that Mr. Blanco Romero was arrested on December 21, 1999, and was delivered to DISIP agents.¹⁶

7. *Id.* ¶ 51.2.

8. *Id.*; *Venezuela, Country Reports on Human Rights Practices*, U.S. Department of State (March 31, 2003), available at <http://www.state.gov/j/drl/rls/hrrpt/2002/18348.htm>.

9. Blanco Romero et al. v. Venezuela, Merits, Reparations and Costs, ¶ 51.3.

10. *Id.* ¶ 51.4.

11. *Id.* ¶ 51.5.

12. *Id.* ¶ 51.7.

13. *Id.* ¶ 51.8.

14. *Id.* ¶ 51.9.

15. *Id.* ¶ 51.10.

16. *Id.* ¶ 51.6.

February 18, 2000: DISIP General Director Captain Eliezer Reinaldo Otaiza Castillo states that Mr. Blanco Romero is not registered with the agency.¹⁷

September 14, 2001: Prosecutors Oswaldo José Domínguez Florido, Irma Pazos de Fuenmayor, and Raquel del Rocío Gasperi Arellano file a complaint with the Control Court of the First Instance of the Criminal Judicial Circuit for Vargas State (*Juez de Primero Instancia en Funciones de Control de la Circunscripción Judicial Penal del Estado Vargas*) on behalf of Mr. Blanco Romero and another disappeared victim, Mr. Marco Antonio Monasterio Pérez.¹⁸ The Fifth Court of First Instance dismisses the action.¹⁹ The prosecutors appeal this decision, but the court of appeals dismisses the petition for review.²⁰ The prosecutors seek an *amparo*, a remedy for the protection of constitutional rights, but the Supreme Court of Justice dismisses it.²¹

2. Events pertaining to Mr. Roberto Javier Hernández Paz

December 23, 1999: At approximately 7:30 p.m., a DISIP vehicle drives to the home of Mr. Hernández Paz's uncle, Mr. Carlos Paz, in the Tarigua area of Caraballeda Village.²² Two DISIP officers enter the house without a search warrant while three more officers wait in the garden.²³ The officers arrest Mr. Hernández Paz, force him from the building, and shoot him in the leg.²⁴ The officers force Mr. Hernández Paz into the car and drive away.²⁵

December 30, 1999: Mr. Hernández Paz's sister, Ms. Aleidy Maritza Hernández Paz, goes to the DISIP office and the National Guard in search of her brother's whereabouts.²⁶ Neither location has any information.²⁷ Later, Ms. Hernández Paz and her mother, Ms. Teodora Paz

17. *Id.*

18. *Id.* ¶ 51.11.

19. *Id.* ¶ 51.12.

20. *Id.* ¶ 51.13.

21. *Id.* ¶ 51.14.

22. *Id.* ¶ 51.16.

23. *Id.* ¶ 51.16.

24. *Id.* ¶¶ 51.16, 41(a)(1).

25. *Id.* ¶ 51.16.

26. *Id.* ¶ 51.17.

27. *Id.*

de Hernández, search the Institute of Forensic Medicine (*Instituto de Medicina Forense*), but this search is also unsuccessful.²⁸

January 21, 2000: The Venezuelan Program of Education-Action on Human Rights (*Programa Venezolano de Educación-Acción en Derechos Humanos*, “PROVEA”), the Justice and Peace Support Network (*Red de Apoyo por la Justicia y la Paz*), the Committee of Next of Kin of the Victims of the Events of February-March 1989 (*Comité de Familiares de Víctimas de los Sucesos de Febrero-Marzo de 1989*, “COFAVIC”), and the Human Rights Episcopal Vicarship of the Caracas Archdiocese (“the Episcopal Vicarship”) petition for a writ of habeas corpus with the Second Control Court of the Criminal Judicial Circuit for Vargas State.²⁹ The Sector General Director of DISIP tells the court that Mr. Hernández Paz has not been arrested.³⁰ The court rules that there is nothing for it to decide as to the habeas petition because Mr. Hernández Paz is not detained anywhere.³¹

January 28, 2000: The organizations file an appeal with the court of appeals.³² The court affirms the denial of the habeas petition.³³

May 17, 2004: The Attorney General’s Office in Caracas closes the criminal inquiry into Mr. Hernández Paz’s disappearance because there is no information on his whereabouts.³⁴

3. Events pertaining to Mr. José Francisco Rivas Fernández

December 21, 1999: Mr. Rivas Fernández’s family is staying at a shelter located in an office for the Democratic Action party in Caraballeda, established for individuals displaced from the flood.³⁵ The shelter has imposed a 7:30 p.m. curfew, and around that time, Mr. Rivas Fernández sits outside the shelter.³⁶ Soldiers from the Infantry Battalion “Colonel Antonio Nicolás Briceño” fire shots in the air, arrest Mr. Rivas Fernán-

28. *Id.*

29. *Id.* ¶ 51.18.

30. *Id.* ¶ 51.19.

31. *Id.* ¶ 51.20.

32. *Id.* ¶ 51.21.

33. *Id.*

34. *Id.* ¶ 51.23.

35. *Id.* ¶ 51.24.

36. *Id.*

dez, and beat him.³⁷ One sergeant instructs the infantry to kill Mr. Rivas Fernández on the grounds that he is a “criminal.”³⁸ Although Mr. Rivas Fernández’s parents attempt to help him, the infantry throw Mr. Rivas Fernández to the floor, handcuff him, and take him to a military area called “Quebrada Seca.”³⁹

December 22, 1999: Mr. Rivas Fernández’s parents search for their son around the shelter.⁴⁰ They ask an officer if he knows where they can find their son, and the officer responds that he is in the custody of DISIP officers.⁴¹ Mr. Rivas Fernández’s parents are unable to acquire more information.⁴²

January 28, 2000: PROVEA, the Justice and Peace Support Network, COFAVIC, and the Episcopal Vicarship file a habeas petition with the Sixth Control Court of the Criminal Judicial Circuit.⁴³ The court rules that there is nothing for it to decide because both the Minister of Defense and DISIP report that the State is not detaining Mr. Rivas Fernández.⁴⁴ The organizations appeal this decision, but the court of appeals affirms the decision of the criminal court.⁴⁵

May 14, 2004: The Attorney General’s Office in Caracas closes the investigation into Mr. Rivas Fernández’s disappearance on the grounds that it has not acquired any more information.⁴⁶ The Attorney General’s Office notifies Mr. Rivas Fernández’s mother, Ms. Nélica Josefina Fernández Pelicie, of its decision.⁴⁷

B. Other Relevant Facts

[None]

37. *Id.* ¶¶ 51.24–51.25.

38. *Id.* ¶ 51.25.

39. *Id.*

40. *Id.* ¶ 51.26.

41. *Id.*

42. *Id.*

43. *Id.* ¶ 51.27.

44. *Id.* ¶ 51.28.

45. *Id.*

46. *Id.* ¶ 51.29.

47. *Id.* ¶¶ 51.29, 51.32.

II. PROCEDURAL HISTORY

A. *Before the Commission*

March 3, 2000: COFAVIC and the Center for Justice and International Law (*Centro por la Justicia y el Derecho Internacional*) file a petition with the Commission on behalf of Mr. Blanco Romero.⁴⁸ PROVEA files a petition with the Commission on behalf of Mr. Hernández Paz.⁴⁹

July 10, 2000: The Episcopal Vicarship files a petition with the Commission on behalf of Mr. Rivas Fernández.⁵⁰

October 10, 2001: The Commission approves the petitions and declares the cases admissible through Admissibility Report Nos. 90/01, 91/01, 92/01.⁵¹ The Commission later decides to join the three cases together and hear the issue in one report on the merits.⁵²

December 29, 2003: The Commission approves Merits Report No. 112/03, indicating that the State violated the human rights of Messrs. Blanco Romero, Hernández Paz, and Rivas Fernández and recommending the State to investigate, prosecute, and punish those responsible, locate and return the remains of the victims, and implement measures to guarantee non-repetition.⁵³

June 20, 2004: After receiving an extension, the State's time to respond to the recommendation report lapses.⁵⁴ Two days later, the State forwards documents describing investigations into the disappearances of Messrs. Blanco Romero, Hernández Paz, and Rivas Fernández.⁵⁵

B. *Before the Court*

June 30, 2004: The Commission submits the case to the Court after the

48. *Id.* ¶ 9.

49. *Id.*

50. *Id.* ¶ 10.

51. *Id.* ¶ 11.

52. *Id.* ¶ 12.

53. *Id.* ¶ 13.

54. *Id.* ¶ 16.

55. *Id.*

State failed to adopt its recommendations.⁵⁶

1. Violations Alleged by Commission⁵⁷

Article 4(1) (Prohibition of Arbitrary Deprivation of Life)

Article 5(1) (Right to Physical, Mental and Moral Integrity)

Article 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment)

Article 7 (Right to Personal Liberty)

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal)

Article 25 (Right to Judicial Protection)

all in relation to:

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

Article 1 (Obligation to Prevent and Punish Torture)

Article 2 (Definition of Torture)

Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment)

Article 7 (Prevention of Torture) of the Inter-American Convention to Prevent and Punish Torture.

Article 1 (Obligation to Adopt Measures) of the Inter-American Convention on Forced Disappearance of Persons.

2. Violations Alleged by Representatives of the Victims⁵⁸

Same Violations Alleged by Commission, plus:

Article 8 (Right to a Fair Trial)

Article 13 (Freedom of Thought and Expression)

all in relation to:

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

Article 1(a) (Prohibition of Practicing, Tolerating or Permitting Forced

56. *Id.* ¶ 18.

57. *Id.* ¶ 2.

58. *Id.* ¶ 22. COFAVIC, CEJIL, and the Episcopal Vicarship serve as representatives of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández. *Id.* ¶ 20.

Disappearances)

Article 1(b) (Duty to Punish Forced Disappearances)

Article 10 (No State Emergency Defense)

Article 11 (Right to Officially Recognized Detention Location and to Be Promptly Brought Before Competent Judicial Authority) of the Inter-American Convention on Forced Disappearance of Persons.

Article 3 (Persons Who May Be Found Guilty of Torture)

Article 5 (No Defense for Extenuating Circumstances)

Article 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture.

June 27–28, 2005: The Court holds the public hearing on the final oral arguments and witness testimony.⁵⁹ The Court reads a brief submitted by the State, which acquiesces to the representatives' claims, acknowledges its responsibility for the events that occurred in December 1999, and offers a friendly settlement.⁶⁰ The Court admits the State's acknowledgement of international responsibility and declares no further facts are in dispute.⁶¹

III. MERITS

A. *Composition of the Court*

Sergio García Ramírez, President

Alirio Abreu Burelli, Vice President

Oliver Jackman, Judge

Antônio Augusto Cançado Trindade, Judge

Cecilia Medina Quiroga, Judge

Manuel E. Ventura Robles, Judge

Diego García-Sayán, Judge

Pablo Saavedra Alessandri, Secretary

Emilia Segares Rodríguez, Deputy Secretary

B. *Decision on the Merits*

November 28, 2005: The Court issues its Judgment on the Merits, Rep-

59. *Id.* ¶ 26.

60. *Id.* ¶ 27.

61. *Id.* ¶ 32.

arations and Costs.⁶²

The Court found unanimously that Venezuela had violated:

Article 4(1) (Prohibition of Deprivation of Arbitrary Life), in relation to Articles 1(1) and 2 of the American Convention, to the detriment of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández,⁶³ because:

The State acknowledged its responsibility for the events of December 1999 and the months afterward, and the State acquiesced to the claims in the representatives' briefs to the Court.⁶⁴ Because the State admitted responsibility for the events and subsequent claims, it is therefore responsible for the illegal detention and forced disappearances of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández, thus violating the victims' right to life under Article 4.⁶⁵

Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), in relation to Articles 1(1) and 2 of the American Convention, to the detriment of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández,⁶⁶ because:

The State acknowledged its responsibility for the events of December 1999 and the months afterward, and the State acquiesced to the claims in the representatives' briefs to the Court.⁶⁷ Because the State admitted responsibility for the events and subsequent claims, it is therefore responsible for the illegal detention and forced disappearances of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández, thus depriving the victims of their right to humane treatment in violation of Article 5.⁶⁸

Articles 7(1) (Right to Personal Liberty and Security), 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law), 7(3) (Prohibition of Arbitrary Arrest or

62. Blanco Romero et al. v. Venezuela, Merits, Reparations and Costs.

63. *Id.* ¶ 58, “Declares” ¶ 2.

64. *Id.* ¶ 58.

65. *Id.*

66. *Id.* ¶ 58, “Declares” ¶ 2.

67. *Id.* ¶ 58.

68. *Id.*

Imprisonment), 7(4) (Right to Be Informed of Reasons of Arrest and Charges), 7(5) (Right to Be Promptly Brought Before a Judge and Right to a Trial Within a Reasonable Time), and 7(6) (Right to Have Recourse Before a Competent Court), in relation to Articles 1(1) and 2 of the American Convention, to the detriment of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández,⁶⁹ because:

The State acknowledged its responsibility for the events of December 1999 and the months afterward, and the State acquiesced to the claims in the representatives' briefs to the Court.⁷⁰ Because the State admitted responsibility for the events and subsequent claims, it is therefore responsible for the illegal detention and forced disappearances of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández.⁷¹ The State's detention of the victims directly violated their rights under Articles 7(1) (Right to Personal Liberty and Security), 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law), 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), 7(4) (Right to Be Informed of Reasons of Arrest and Charges), 7(5) (Right to Be Promptly Brought Before a Judge and Right to a Trial Within a Reasonable Time), and 7(6) (Right to Have Recourse Before a Competent Court).⁷²

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), in relation to Articles 1(1) and 2 of the American Convention, to the detriment of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández,⁷³ because:

The State acknowledged its responsibility for the events of December 1999 and the months afterward, and the State acquiesced to the claims in the representatives' briefs to the Court.⁷⁴ Because the State admitted responsibility for the events and subsequent claims, it is therefore responsible for the illegal detention and forced disappearances of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández, thus depriving the victims of their right to a fair trial in violation of Article 8.⁷⁵

69. *Id.* ¶ 58, "Declares" ¶ 2.

70. *Id.* ¶ 58.

71. *Id.*

72. *Id.*

73. *Id.* ¶ 58, "Declares" ¶ 2.

74. *Id.* ¶ 58.

75. *Id.*

Article 25 (Right to Judicial Protection), in relation to Articles 1(1) and 2 of the American Convention, to the detriment of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández,⁷⁶ because:

The State acknowledged its responsibility for the events of December 1999 and the months afterward, and the State acquiesced to the claims in the representatives' briefs to the Court.⁷⁷ Because the State admitted responsibility for the events and subsequent claims, it is therefore responsible for the illegal detention and forced disappearances of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández, thus depriving the victims of their right to judicial protection in violation of Article 25.⁷⁸

Article 1 (Obligation to Prevent and Punish Torture) of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández,⁷⁹ because:

The State acknowledged its responsibility for the events of December 1999 and the months afterward, and the State acquiesced to the claims in the representatives' briefs to the Court.⁸⁰ Because the State admitted responsibility for the events and subsequent claims, it is therefore responsible for the illegal detention and forced disappearances of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández, thus failing to abide by its obligation to prevent and punish torture in violation of Article 1 of the Inter-American Convention to Prevent and Punish Torture.⁸¹

Article 5 (No Defense for Extenuating Circumstances) of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández,⁸² because:

The State acknowledged its responsibility for the events of December

76. *Id.* ¶ 58, “Declares” ¶ 2.

77. *Id.* ¶ 58.

78. *Id.*

79. *Id.* ¶ 58, “Declares” ¶ 2.

80. *Id.* ¶ 58.

81. *Id.*

82. *Id.* ¶ 58, “Declares” ¶ 2.

1999 and the months afterward, and the State acquiesced to the claims in the representatives' briefs to the Court.⁸³ Because the State admitted responsibility for the events and subsequent claims, it is therefore responsible for the illegal detention and forced disappearances of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández, thus failing to abide by its promise not to defend its actions on the grounds of extenuating circumstances in violation of Article 5 of the Inter-American Convention to Prevent and Punish Torture.⁸⁴

Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment) of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández,⁸⁵ because:

The State acknowledged its responsibility for the events of December 1999 and the months afterward, and the State acquiesced to the claims in the representatives' briefs to the Court.⁸⁶ Because the State admitted responsibility for the events and subsequent claims, it is therefore responsible for the illegal detention and forced disappearances of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández, thus failing to abide by its obligation to take measures to punish torture and cruel, inhuman, and degrading treatment in violation of Article 6 of the Inter-American Convention to Prevent and Punish Torture.⁸⁷

Article 7 (Prevention of Torture) of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández,⁸⁸ because:

The State acknowledged its responsibility for the events of December 1999 and the months afterward, and the State acquiesced to the claims in the representatives' briefs to the Court.⁸⁹ Because the State admitted responsibility for the events and subsequent claims, it is therefore responsible for the illegal detention and forced disappearances of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández, thus

83. *Id.* ¶ 58.

84. *Id.*

85. *Id.* ¶ 58, "Declares" ¶ 2.

86. *Id.* ¶ 58.

87. *Id.*

88. *Id.* ¶ 58, "Declares" ¶ 2.

89. *Id.* ¶ 58.

*failing to abide by its obligation to prevent torture in violation of Article 7 of the Inter-American Convention to Prevent and Punish Torture.*⁹⁰

Article 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández,⁹¹ because:

*The State acknowledged its responsibility for the events of December 1999 and the months afterward, and the State acquiesced to the claims in the representatives' briefs to the Court.*⁹² *Because the State admitted responsibility for the events and subsequent claims, it is therefore responsible for the illegal detention and forced disappearances of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández, thus failing to abide by its obligation to investigate and prosecute those individuals responsible in violation of Article 8 of the Inter-American Convention to Prevent and Punish Torture.*⁹³

Articles 1(a) (Prohibition of Practicing, Tolerating or Permitting Forced Disappearances) and 1(b) (Duty to Punish Forced Disappearances) of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández,⁹⁴ because:

*The State acknowledged its responsibility for the events of December 1999 and the months afterward, and the State acquiesced to the claims in the representatives' briefs to the Court.*⁹⁵ *Because the State admitted responsibility for the events and subsequent claims, it is therefore responsible for the illegal detention and forced disappearances of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández, thus failing to abide by its obligation to prohibit forced disappearances in violation of Article 1 of the Inter-American Convention on Forced Disappearance of Persons.*⁹⁶

Article 10 (No State Emergency Defense) of the Inter-American

90. *Id.*

91. *Id.* ¶ 58, “Declares” ¶ 2.

92. *Id.* ¶ 58.

93. *Id.*

94. *Id.* ¶ 58, “Declares” ¶ 2.

95. *Id.* ¶ 58.

96. *Id.*

Convention on Forced Disappearance of Persons, to the detriment of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández,⁹⁷ because:

The State acknowledged its responsibility for the events of December 1999 and the months afterward, and the State acquiesced to the claims in the representatives' briefs to the Court.⁹⁸ Because the State admitted responsibility for the events and subsequent claims, it is therefore responsible for the illegal detention and forced disappearances of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández, thus failing to abide by its obligation not to assert a defense to illegal detentions and forced disappearances on the grounds of state emergency in violation of Article 10 of the Inter-American Convention on Forced Disappearance of Persons.⁹⁹

Article 11 (Right to Officially Recognized Detention Location and to Be Promptly Brought Before Competent Judicial Authority) of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández,¹⁰⁰ because:

The State acknowledged its responsibility for the events of December 1999 and the months afterward, and the State acquiesced to the claims in the representatives' briefs to the Court.¹⁰¹ Because the State admitted responsibility for the events and subsequent claims, it is therefore responsible for the illegal detention and forced disappearances of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández, thus failing to abide by its obligation to disclose all detention center locations and to bring the victims before competent judicial authority in violation of Article 11 of the Inter-American Convention on Forced Disappearance of Persons.¹⁰²

97. *Id.* ¶ 58, "Declares" ¶ 2.

98. *Id.* ¶ 58.

99. *Id.*

100. *Id.* ¶ 58, "Declares" ¶ 2.

101. *Id.* ¶ 58.

102. *Id.*

Article 5(1) (Right to Physical, Mental, and Moral Integrity) in relation to Article 1(1) of the American Convention, to the detriment of the victims' next of kin,¹⁰³ because:

A direct consequence of a disappearance of a family member is the violation of the next of kin's moral and psychological integrity.¹⁰⁴ The disappearance alone causes immense suffering by family members, and this is only aggravated when the State refuses to disclose the victim's location or refuses to investigate the disappearance.¹⁰⁵ Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández were extremely close with their next of kin, and some of the next of kin witnessed their respective family member's disappearance.¹⁰⁶ Both of these circumstances indicate that the next of kin suffered serious moral and psychological harms.¹⁰⁷ The harm suffered is only exacerbated by the fact that the victims' next of kin were unable to obtain information on the whereabouts of their loved ones.¹⁰⁸ These harms suffered, paired with the State's acknowledgement of its responsibility, show that the State violated the victims' next of kin's right to humane treatment in enshrined in Article 5.¹⁰⁹

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) in relation to Article 1(1) of the American Convention, to the detriment of the victims' next of kin,¹¹⁰ because:

Because the State acknowledged its responsibility for the events of December 1999 and the months afterward, it violated the victims' next of

103. *Id.* ¶¶ 59–61, “Declares” ¶ 3. The victims' next of kin are Mrs. Alejandra Josefina Iriarte de Blanco, Mrs. Gisela Romero, Ms. Aleoscar Russeth Blanco Iriarte, Mr. Oscar Alejandro José Blanco Iriarte, Ms. Orailis del Valle Blanco, Mr. Edwar José Blanco, Mrs. Teodora Paz de Hernández, Mr. Roberto Aniceto Hernández, Mrs. Nélica Marina Hernández Paz, Mrs. Aida Benirgia Hernández Paz, Mrs. Mirna Esperanza Hernández Paz, Mrs. Aleidy Maritza Hernández Paz, Mrs. Brizania Hernández Paz, Mrs. Reina Alejandra Antune Paz, Mr. Ramón Alberto Paz, Mr. Carlos Paz, Mrs. Nélica Josefina Fernández Pelicie, Mr. Francisco Jeremías Rivas, Mrs. Eneida Josefina Rivas Fernández, Mrs. Yelitza Isabel Rivas Fernández, Mr. Luis Ernesto Rivas Fernández, Mr. Rubén Alexis Rivas Fernández, Mr. Miguel Enrique Galindo Fernández, and Mr. José Daniel Rivas Martínez. *Id.* ¶ 61.

104. *Id.* ¶ 59.

105. *Id.*

106. *Id.* ¶ 60.

107. *Id.*

108. *Id.*

109. *Id.* ¶¶ 60–61.

110. *Id.* ¶ 61, “Declares” ¶ 3.

*kin's right to a fair trial under Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal).*¹¹¹

Article 8(2) (Right to Be Presumed Innocent), in relation to Article 1(1) of the American Convention, to the detriment of Mrs. Alejandra Josefina Iriarte de Blanco,¹¹² because:

At the preliminary hearing before the Fifth Criminal Trial Court for Vargas State, the State prevented Ms. Iriarte de Blanco from stating the grounds for her petition.¹¹³ The State also prevented Ms. Iriarte de Blanco's lawyer from pressing criminal charges, asserting a defense, and examining individuals who may have information as to Mr. Blanco Romero's disappearance.¹¹⁴ As a result, the State violated Article 8(2) (Right to Be Presumed Innocent) to the detriment of Ms. Iriarte de Blanco.¹¹⁵

Article 25 (Right to Judicial Protection), in relation to Article 1(1) of the American Convention, to the detriment of the victims' next of kin,¹¹⁶ because:

Because the State acknowledged its responsibility for the events of December 1999 and the months afterward, including the State Courts' rulings that the victims were not detained anywhere and the denials of the next of kin's applications for habeas corpus,¹¹⁷ it violated the victims' next of kin's right to judicial protection under Article 25.¹¹⁸

Article 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture, to the detriment of the victims' next of kin,¹¹⁹ because:

Because the State acknowledged its responsibility for the events of December 1999 and the months afterward, the State failed to abide by its obligation to investigate and prosecute those responsible for the illegal

111. *Id.* ¶ 61.

112. *Id.* ¶ 61, "Declares" ¶ 4.

113. *Id.* ¶ 61.

114. *Id.*

115. *Id.*

116. *Id.* ¶ 61, "Declares" ¶ 3.

117. *Id.* ¶¶ 51.8–51.10, 51.20, 51.28–51.29.

118. *Id.* ¶ 61.

119. *Id.* ¶ 61, "Declares" ¶ 3.

*detentions and forced disappearances.*¹²⁰

C. Dissenting and Concurring Opinions

1. Concurring Opinion of Judge Sergio García Ramírez

In a separate opinion, Judge García Ramírez agreed with the Court's Judgment and wrote that states should implement the contents of Article 2 (Definition of Forced Disappearance) of the Inter-American Convention on Forced Disappearance of Persons into domestic criminal law.¹²¹ In particular, the State in this case has a duty to adapt its domestic law to the Inter-American Convention on Forced Disappearance of Persons.¹²²

2. Concurring Opinion of Judge Antônio Augusto Cançado Trindade

In a separate opinion, Judge Cançado Trindade agreed with the Court's Judgment.¹²³ He stated that any amnesty laws or statutes of limitations in cases against the State are inadmissible because they collectively infringe on all human rights.¹²⁴

Next, Judge Cançado Trindade expressed the importance of establishing adequate reparations for human rights abuse cases.¹²⁵ In particular, reparations can be both compensatory for the victims and punitive for the State so as to discourage future violations and guarantee justice.¹²⁶ Reparations aimed at compensating victims for their suffering are especially significant.¹²⁷ Punitive damages may be appropriate in situations of particularly egregious human rights violations.¹²⁸ Educational programs as a form of reparation may be effective in preventing future violations while raising awareness of the State's actions.¹²⁹

120. *Id.* ¶ 61.

121. Blanco Romero et al. v. Venezuela, Merits, Reparations and Costs, Concurring Opinion of Judge Sergio García Ramírez, Inter-Am. Ct. H.R. (ser. C) No. 138 (Nov. 28, 2005).

122. *Id.*

123. Blanco Romero et al. v. Venezuela, Merits, Reparations and Costs, Separate Opinion of Judge Antônio Augusto Cançado Trindade, Inter-Am. Ct. H.R. (ser. C) No. 138 ¶ 1 (Nov. 28, 2005).

124. *Id.* ¶¶ 5–6.

125. *Id.* ¶ 8.

126. *Id.* ¶ 9.

127. *Id.* ¶ 11.

128. *Id.* ¶ 14.

129. *Id.* ¶ 17.

IV. REPARATIONS

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

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

1. Investigate, Prosecute, and Punish Those Responsible

The State must take all steps necessary to identify and prosecute the perpetrators of the human rights violations of Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández.¹³⁰ The victims' next of kin or their representatives must have full access to the investigation and criminal proceedings.¹³¹ The State must publicly disclose any outcome of the prosecution.¹³² Finally, the State must not hide behind any amnesty laws in avoiding this obligation to investigate.¹³³

2. Locate the Victim or Exhume, Identify, and Return the Victim's Remains

The State must take all necessary steps to locate the victims' whereabouts as soon as possible.¹³⁴ In the event that the State discovers the victims are deceased, the State must take all necessary steps to return the remains to the victims' next of kin and to a location for burial, as requested by the next of kin.¹³⁵

3. Publish the Judgment

The State must publish the results of the Court's Judgment on the Merits.¹³⁶ The State must publish the Judgment at least once in the official State newspaper, the Official Gazette (*Diario Oficial*).¹³⁷ Additionally, the State must publish in another national daily newspaper the fol-

130. Blanco Romero et al. v. Venezuela, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 138, ¶ 97 (Nov. 28, 2005).

131. *Id.*

132. *Id.*

133. *Id.* ¶ 98.

134. *Id.* ¶ 99.

135. *Id.*

136. *Id.* ¶ 101.

137. *Id.*

lowing sections of the Judgment: the Proven Facts without footnotes, paragraphs fifty-four through sixty-five of the Merits, and the Operative Paragraphs.¹³⁸

4. Ensure that the Writ of Habeas Corpus is Available for Disappeared Persons

The State must take all necessary measures to ensure that families of victims of forced disappearances can acquire a writ of habeas corpus from the courts.¹³⁹ The State must undertake this obligation so as to conform to Articles 7(6) (Right to Have Recourse Before a Competent Court), 25 (Right to Judicial Protection), and 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention.¹⁴⁰

5. Reform Legislation

The State must make sure that its criminal code is in accordance with international standards for protecting individuals from forced disappearances.¹⁴¹ In particular, the State must make sure that its criminal laws conform to the American Convention and the Inter-American Convention on Forced Disappearance so that perpetrators acting under the authority or support from the State will be punished for their crimes.¹⁴² Finally, the State must make sure that protections from forced disappearances will apply to all deprivations of liberty and not simply illegal deprivations.¹⁴³

6. Train State Officials in Human Rights

The State must implement a training program for DISIP agents to educate them on the principles of protecting human rights, especially prohibiting forced disappearances, torture, and the disproportionate use of force, so that human rights violations such as those in this case will not occur in the future.¹⁴⁴

138. *Id.*

139. *Id.* ¶ 104.

140. *Id.*

141. *Id.* ¶ 105.

142. *Id.*

143. *Id.*

144. *Id.* ¶ 106.

7. Make It Feasible for Ms. Aleoscar Russeth Blanco Iriarte to Leave the Country

The State must issue all appropriate documents that enable Aleoscar, the minor daughter of Mr. Blanco Romero, to leave the country because, in her attempts to procure such documents, she is forced to re-live her father's abduction and consequently suffers emotional harms.¹⁴⁵

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court awarded \$45,000 to Mr. Blanco Romero, \$47,000 to Mr. Hernández Paz, and \$65,000 to Mr. Rivas Fernández, all to compensate these victims for their loss of earnings.¹⁴⁶

The State must pay each amount to the victims' next of kin, with 50% distributed in equal shares to the victims' children, and for the purpose of this allocation Mr. Blanco Romero's live-in niece and nephew, Ms. Orailis del Valle Blanco and Mr. Edwar José Blanco, shall be considered equal with his children.¹⁴⁷ The State shall pay the remaining 50% to the victims' spouse or the victims' common law spouse at the date of the disappearance.¹⁴⁸ If a victim has neither children nor a spouse, the State shall distribute 50% to the victim's parents and 50% to the victim's siblings in equal shares.¹⁴⁹ If the victim does not have next of kin in one of the named categories, the remaining next of kin's shares shall increase proportionately.¹⁵⁰ The State shall deposit compensation for any minor beneficiary into a bank of the minor's representative's choosing.¹⁵¹

In addition, the Court awarded \$1,000 to Mrs. Iriarte de Blanco to compensate her for expenses paid in attempting to locate Mr. Blanco Romero and for damage to her home at the time of the forced disappearance.¹⁵² The Court awarded \$1,000 to Mrs. Romero to compensate

145. *Id.* ¶ 107.

146. *Id.* ¶ 80.

147. *Id.* ¶ 72(a).

148. *Id.* ¶ 72(b).

149. *Id.* ¶ 72(c).

150. *Id.* ¶ 72(d).

151. *Id.* ¶ 121.

152. *Id.* ¶¶ 81, 82(a).

her for expenses paid in attempting to locate Mr. Blanco Romero.¹⁵³ The Court awarded \$500 each to Mrs. Hernández Paz and Ms. Paz de Hernández to compensate them for expenses paid in attempting to locate Mr. Hernández Paz.¹⁵⁴ The Court awarded \$500 each to Mr. Rivas and Mrs. Fernández Pelicie to compensate them for expenses paid in attempting to locate Mr. Rivas Fernández and to compensate Ms. Fernández Pelicie for the psychiatric medication she needed as a result of the forced disappearance.¹⁵⁵

2. Non-Pecuniary Damages

The Court awarded \$70,000 each to Mr. Blanco Romero, Mr. Hernández Paz, and Mr. Rivas Fernández for harm incurred from fear and suffering, payable to the victims' next of kin in the same manner as pecuniary damages for loss of earnings.¹⁵⁶

The Court additionally awarded \$25,000 each to the victims' parents, Mrs. Romero, Mrs. Paz de Hernández, Mr. Aniceto Hernández, Mrs. Fernández Pelicie, and Mr. Rivas, all to compensate for pain and suffering.¹⁵⁷ The Court awarded \$25,000 to Mrs. Iriarte de Blanco to compensate for pain and suffering.¹⁵⁸ The Court awarded \$25,000 to Mr. Blanco Romero's children, Aleoscar and Oscar, his niece Orailis, and his nephew Edwar, all to compensate for pain and suffering.¹⁵⁹ The Court awarded \$10,000¹⁶⁰ to Mr. Hernández Paz's siblings, Mrs. Aida Hernández Paz, Mrs. Nélica Hernández Paz, Mrs. Mirna Hernández Paz, Mrs. Aleidy Hernández Paz, Mrs. Brizania Hernández Paz, Mrs. Antune Paz, and Mr. Ramón Paz, all to compensate for pain and suffering, and to Mr. Hernández Paz's uncle, Mr. Carlos Paz.¹⁶¹ The Court awarded \$10,000 to Mr. Rivas Fernández's siblings, Mrs. Eneida Rivas Fernández, Mrs. Yelitza Rivas Fernández, Mr. Luis Rivas Fernández, Mr. Rubén Rivas Fernández, Mr. Miguel Galindo Fernández, and Mr.

153. *Id.* ¶¶ 81, 82(b).

154. *Id.* ¶¶ 81, 82(c).

155. *Id.* ¶¶ 81, 82(d).

156. *Id.* ¶¶ 72(a)-(d), 121.

157. *Id.* ¶ 89(a).

158. *Id.* ¶ 89(b).

159. *Id.* ¶ 89(c).

160. The Court indicates in this subsection that the State shall pay "\$10,000 (Twenty Five Thousand United States Dollars)" to the victims. The correct number is \$10,000 because the Court awards the same amount to a different victim's siblings in the following subsection. *Id.* ¶ 89(d).

161. *Id.* ¶ 89(d).

José Rivas Martínez, all to compensate for pain and suffering.¹⁶² The State shall deposit compensation for any minor beneficiary into a bank of the minor's representative's choosing.¹⁶³

3. Costs and Expenses

The Court awarded \$40,000, allocated proportionally, to Mrs. Iriarte de Blanco, Mrs. Paz de Hernández, and Mrs. Fernández Pelicie, all to compensate these next of kin for expenses incurred in domestic proceedings and proceedings before the Court.¹⁶⁴ These next of kin shall pay their representatives accordingly based on their assistance.¹⁶⁵

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

\$606,000

C. Deadlines

The State must compensate the victims and pay the costs and expenses within one year from the date it receives the Judgment.¹⁶⁶ The State must publish the Judgment within six months from the date it receives the Judgment.¹⁶⁷ The State may perform the remaining reparations within a reasonable date for compliance.¹⁶⁸ Finally, the State must send the Court a report on compliance within one year from the date of it receives the Judgment.¹⁶⁹

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

May 18, 2009: Because there has been a delay in compliance of more than three years and because the Court has not received full and com-

162. *Id.* ¶ 89(e).

163. *Id.* ¶ 121.

164. *Id.* ¶ 115.

165. *Id.*

166. *Id.* ¶ 116.

167. *Id.*

168. *Id.*

169. *Id.* ¶ 124.

plete information from the State regarding compliance with the Judgment, the Court ordered a private hearing on July 4, 2009, to receive actual and complete information from the State regarding compliance and to hear comments from the Commission and representatives.¹⁷⁰

July 7, 2009: The Court determined that it will no longer monitor compliance regarding the State's obligation to enable Aleoscar Blanco Iriarte to leave the country because she reached eighteen years of age on July 18, 2005.¹⁷¹

The Court stated that after three years, there is almost total non-compliance with the obligations ordered in the Judgment and determined that the following obligations are still pending compliance by the State: (1) to investigate, prosecute, and punish those responsible for the violations; (2) to locate the victims and if deceased to return the victims' remains; (3) to publish the pertinent parts of the Judgment; (4) to reform legislation so that writs of habeas corpus can be processed in forced disappearance cases; (5) to reform criminal laws to bring them in line with international standards on the protection of individuals in forced disappearance cases; (6) to train State officials in human rights; and (7) to compensate the victims for pecuniary and non-pecuniary damages and to pay costs and expenses.¹⁷² Finally, the Court ordered the State to submit a schedule of time periods for effective compliance with the Judgment.¹⁷³

November 22, 2011: The Court determined that the State has not complied with the following obligations: (1) to investigate and prosecute the perpetrators of the disappearances and human rights abuses of the three victims; (2) to locate the victims, and if deceased, to return the victims' remains to their next of kin; (3) to publish the pertinent parts of the Judgment; (4) to reform legislation so that writs of habeas corpus can be processed in forced disappearance cases; (5) to reform criminal laws to bring them in line with international standards on the protection of individuals in forced disappearance cases; (6) to include in its program to train State officials in human rights the prohibition of forced disappearance, torture, and disproportionate use of force; and (7) to compensate

170. Blanco Romero et al. v. Venezuela, Monitoring Compliance with Judgment, Order of the President of the Court, Inter-Am. Ct. H.R. "Considerando" ¶ 10, "Resuelve" ¶ 1 (May 18, 2009).

171. Blanco Romero et al. v. Venezuela, Monitoring of Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Declares" ¶ 1 (July 7, 2009).

172. *Id.* "Considering" ¶ 11, "Declares" ¶¶ 2(a)-(i).

173. *Id.* "And Decides" ¶ 2.

the victims for pecuniary and non-pecuniary damages and to pay costs and expenses.¹⁷⁴

The State partially complied with its obligation to create human rights education programs for members of the Armed Forces because it implemented a program for the National Armed Forces, however, it did not include education on forced disappearance, torture, and the disproportionate use of force.¹⁷⁵

The State did not comply with its obligation to update the Court on the steps taken to comply with the Judgment.¹⁷⁶

Judge Diego García-Sayán appended a separate opinion to the Court's order on monitoring compliance with the Judgment, agreeing with the order and stating that monitoring compliance is a fundamental mechanism to ensure compliance with the Court's judgments.¹⁷⁷ The reparations order is one mechanism to guarantee the victims that justice is being done.¹⁷⁸ Reparations also act as a tangible way to prevent future abuses, and the monitoring compliance orders act as a way to measure the effectiveness of reparations.¹⁷⁹ Judge García-Sayán noted, however, that states must still try their best to comply with the reparations and not offer excuses for non-compliance.¹⁸⁰

Judge García-Sayán next noted that the Court has an obligation to report its cases to the OAS General Assembly on a yearly basis.¹⁸¹ In order to fulfill this obligation, extensive monitoring compliance is necessary to present the OAS General Assembly with a readable text.¹⁸² In other words, the monitoring compliance orders are crucial to the annual report.¹⁸³

Judge Eduardo Vio Grossi also appended a separate opinion to the monitoring compliance with the Judgment, in which he agreed with the Court's order and stated that the Court has an obligation to submit to the Organization of American States ("OAS") General Assembly a report of

174. Blanco Romero et al. v. Venezuela, Monitoring of Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Declares" ¶¶ 3(a)-(i) (Nov. 22, 2011).

175. *Id.* "Declares" ¶¶ 2, 3(f).

176. *Id.* "Declares" ¶ 1.

177. Blanco Romero et al. v. Venezuela, Monitoring Compliance with Judgment, Order of the Court, Concurring Opinion of Judge Diego García-Sayán, Inter-Am. Ct. H.R. ¶ 1 (Nov. 22, 2011).

178. *Id.* ¶ 4.

179. *Id.* ¶ 5.

180. *Id.* ¶ 6.

181. *Id.* ¶ 7.

182. *Id.*

183. *Id.*

the cases it heard during the preceding year.¹⁸⁴ This report must also indicate which States have not complied with the Court's judgments.¹⁸⁵ However, the Court has not complied with this obligation.¹⁸⁶

Judge Vio Grossi also emphasized that Court Judgments are final and non-appealable, although parties may timely request an interpretation of the Judgment.¹⁸⁷ In addition to the Court's power to issue the final Judgment, it may also interpret that Judgment, monitor compliance with the Judgment, and correct any mistakes made.¹⁸⁸ The purpose of issuing monitoring compliance judgments is to ensure accuracy for the overall report to the OAS General Assembly.¹⁸⁹ This report to the OAS General Assembly acts as a separation of powers of sorts so that a clear line is drawn between the Court and the organization.¹⁹⁰

In addition, Judge Vio Grossi stated that the role of the Court is to interpret the American Convention on Human Rights rather than amend or alter it.¹⁹¹ Instead, that power is reserved for the parties to the Convention in the organization.¹⁹² If the Court feels that the current system is not adequate or does not achieve the organization's objectives, it can propose amendments to the OAS General Assembly.¹⁹³ Accordingly, it is not appropriate for the Court to use its monitoring compliance orders as a way to reopen the respective case or to grant states extensions for compliance.¹⁹⁴ These uses only hide non-compliance from the OAS General Assembly.¹⁹⁵ Finally, reopening proceedings in a monitoring compliance order negates the principle that the Court's judgments are final and non-appealable.¹⁹⁶

Moreover, Judge Vio Grossi asserted that the Court has established through precedent a practice of not reporting non-compliance to the OAS General Assembly in order to let the respective state sort out the compliance issue.¹⁹⁷ Judge Vio Grossi stated that states have the ability

184. Blanco Romero et al. v. Venezuela, Monitoring Compliance with Judgment, Order of the Court, Concurring Opinion of Judge Eduardo Vio Grossi, Inter-Am. Ct. H.R. at 1 (Nov. 22, 2011).

185. *Id.* at 1.

186. *Id.* at 2.

187. *Id.* at 2.

188. *Id.* at 2–3.

189. *Id.* at 3–4.

190. *Id.* at 4.

191. *Id.* at 4–5.

192. *Id.* at 4.

193. *Id.* at 5.

194. *Id.*

195. *Id.*

196. *Id.*

197. *Id.* at 6.

to ensure compliance and should use their resources to resolve the issues rather than take them to the Court.¹⁹⁸

Finally, Judge Vio Grossi stated that he does not believe monitoring compliance is ineffective or inadmissible.¹⁹⁹ Instead, he stated that the monitoring compliance mechanism should not be used as an alternative to reporting compliance to the OAS General Assembly.²⁰⁰

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations and Costs

[Blanco Romero et al. v. Venezuela, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R., \(ser. C\) No. 138 \(Nov. 28, 2005\).](#)

[Blanco Romero et al. v. Venezuela, Merits, Reparations and Costs, Concurring Opinion of Judge Sergio García Ramírez, Inter-Am. Ct. H.R., \(ser. C\) No. 138 \(Nov. 28, 2005\).](#)

[Blanco Romero et al. v. Venezuela, Merits, Reparations and Costs, Separate Opinion of Judge Antônio Augusto Cançado Trindade, Inter-Am. Ct. H.R., \(ser. C\) No. 138 \(Nov. 28, 2005\).](#)

3. Provisional Measures

[None]

4. Compliance Monitoring

[Blanco Romero et al. v. Venezuela, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Nov. 22, 2011\).](#)

[Blanco Romero et al. v. Venezuela, Monitoring Compliance with](#)

198. *Id.*

199. *Id.* at 8.

200. *Id.*

[Judgment, Concurring Opinion of Judge Eduardo Vio Grossi, Inter-Am. Ct. H.R. \(Nov. 22, 2011\).](#)

[Blanco Romero et al. v. Venezuela, Monitoring Compliance with Judgment, Concurring Opinion of Judge Diego García-Sayán, Inter-Am. Ct. H.R. \(Nov. 22, 2011\).](#)

[Blanco Romero et al. v. Venezuela, Monitoring of Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(July 7, 2009\).](#)

[Blanco Romero et al. v. Venezuela, Monitoring Compliance with Judgment, Order of the President of the Court, Inter-Am. Ct. H.R. \(May 18, 2009\) \(Available only in Spanish\).](#)

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

[Not Available]

2. Report on Admissibility

[Blanco Romero et al. v. Venezuela, Admissibility Report, Report No. 90/01, Inter-Am. Comm'n H.R., Case No. 12.256 \(Oct. 10, 2001\).](#)

3. Provisional Measures

[None]

4. Report on Merits

[Not Available]

5. Application to the Court

[Not Available]

VIII. BIBLIOGRAPHY

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