

Canales Huapaya et al. v. Peru

ABSTRACT¹

As the case of the Dismissed Congressional Employees (Aguado-Alfaro et al.) v. Peru, this case is about the dismissal from employment of three staffers of Congress during the Fujimori regime. The Court found Peru in violation of the Convention for failing to uphold the victims' right to be heard by an impartial and competent judicial body. However, unlike the case of Acevedo Buendía et al. ("Discharged and Retired Employees of the Comptroller") v. Peru, the Court did not address the right to work, which is protected under the Protocol of San Salvador, but could be discussed via Article 26 of the Convention.

I. FACTS

A. Chronology of Events

April 6, 1992: In Decree-Law No. 25418, President Fujimori institutes the "National Emergency and Reconstruction Government" that temporarily dissolves the Congress and authorizes intervention in the Judicial Branch, Public Ministry, and Office of the Comptroller.² To execute the decree, members of the armed forces are ordered to occupy government facilities, and order the house arrest of any State officials who oppose it.³

April to October 1992: The National Emergency and Reconstruction Government passes Decree-Laws Nos. 25438, 25477, 25640, and 25759, which establish the "*Comisión Administradora del Patrimonio del Congreso de la República*" ("Commission to Administer the Property of the Congress of the Republic"; "Administrative Commission").⁴ The Administrative Commission, tasked with

1. Jennifer Harkins, Author; Edgar Navarrete, Editor; Erin Gonzalez, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Canelas Huapaya v. Perú, Admissibility Report, Report No. 150/10, Inter-Am. Comm'n H.R., Case No. 12.214, ¶ 7 (Nov. 1, 2010).

3. *Id.*

4. *Id.* ¶ 8.

government staff reduction, offers staff: (1) economic incentives for resignation or voluntary retirement; (2) relocation to other government departments; or, for workers who do not choose one of the first two options, (3) an opportunity to take a merits examination to be selected for the few remaining positions.⁵

At the time the Administrative Commission is instituted, Mr. José Castro Bellena, Ms. María Gracia Barriga Oré, and Mr. Carlos Alberto Canales Huapaya (“alleged victims”) are career government employees of the Congress of the Republic.⁶ The alleged victims do not take the economic incentives or relocation, but instead participate in the evaluation process.⁷

July 21, 1992: Decree-Law No 25640 authorizes the reduction of government staff and establishes that an *amparo*⁸ action cannot challenge the law’s application.⁹

October 13, 1992: The head of the Administrative Commission adopts Resolution No 1239-A-92-CACL, which establishes a new personnel framework for the Congress of the Republic, sets the rules for merit examinations, and the procedures for staff selection.¹⁰ This resolution also prohibits any claims challenging the results of the merit exams.¹¹

October 18, 1992: The first merits exams, scheduled for this date, are annulled in the wake of media reports revealing exam answers were sold in advance.¹² The merits exam is rescheduled for October 24 and 25, 1992.¹³

November 6, 1992: Reserve Army Colonel Carlos Novoa Tello is appointed Chair of the Administrative Commission.¹⁴ Article 87 of the

5. *Id.*

6. *Id.* ¶ 12.

7. *Id.* ¶ 12.

8. An *amparo* action is a judicial procedure designed to “protect the fundamental rights of the governed against the public power” and allows individuals to challenge the constitutionality of laws. In Peru, the purpose of the *amparo* judgment is to replace the “right to its state before the violation.” Gloria Orrego Hoyos, *UPDATE: The Amparo Context in Latin American Jurisdiction*, GLOBALEX (Sep/Oct 2017), <http://www.nyulawglobal.org/globalex/Amparo1.html>.

9. Canales Huapaya v. Peru, Admissibility Report, ¶ 9.

10. *Id.*

11. *Id.*

12. *Id.* ¶ 12.

13. *Id.*

14. *Id.* ¶ 13.

1979 Constitution, in force at the time, specifies that administrative rulings do not enter into force until the day after their publication.¹⁵

December 31, 1992: The head of the Administrative Commission orders the dismissal of 1,117 government employees working in Congress.¹⁶ The alleged victims, after participating in the evaluation process, are dismissed from their positions by resolution 1303-B-92-CACL.¹⁷ Though the resolution is published on this date, it is applied retroactively through November 6, 1992.¹⁸

1. Events pertaining to José Castro Ballena and María Gracia Oré

July 2, 1993: Mr. Castro Ballena and Ms. Barriga Oré jointly file an *amparo* action seeking annulment of resolution 1303-B-92-CACL, which terminated their government employment.¹⁹

September 30, 1993: The 23rd Civil Court of Lima declares the *amparo* action of the alleged victims to be well-founded.²⁰

November 30, 1994: The Fifth Civil Chamber of the Superior Court of Justice of Lima declares the *amparo* action of the alleged victims to be well-founded.²¹

August 1, 1995: Ms. Barriga Oré is hired as a permanent government employee.²²

August 5, 1997: The State files a motion for annulment of the *amparo* action of Mr. Castro Ballena and Ms. Barriga Oré before the Constitutional and Social Law Chamber of the Supreme Court of Justice.²³ The court holds that Colonel Tello was not duly notified of the *amparo* action by the 23rd Civil Court of Lima, and remands the case back to that court to fix the error in notice.²⁴ The Supreme Court of Justice rules that the *amparo* action is inadmissible, holding that

15. Canales Huapaya v. Peru, Admissibility Report, ¶ 13.

16. *Id.*

17. *Id.*

18. *Id.*

19. *Id.* ¶ 17.

20. *Id.*

21. Canales Huapaya v. Peru, Admissibility Report, ¶ 17.

22. *Id.* ¶ 19.

23. *Id.* ¶ 18.

24. *Id.*

Colonel Tello carried out the Decree-Laws without detrimentally affecting any constitutional rights of the alleged victims.²⁵

September 25, 1998: The Constitutional Court issues its final judgment on the inadmissibility of the *amparo* action of Mr. Castro Ballena and Ms. Barriga Oré.²⁶

January 22, 1999: Mr. Castro Ballena and Ms. Barriga Oré are given notice of the final judgment of the Constitutional Court.²⁷

2000-2002: Mr. Castro Ballena is hired for a 12-month position in a government office.²⁸

2. Events pertaining to Mr. Carlos Alberto Canales Huapaya

February 25, 1993: Mr. Canales Huapaya files an *amparo* action calling for the annulment of resolution 1303-B-92-CACL, which terminated his government employment.²⁹

April 30, 1993: The 30th Civil Court of Lima disqualifies itself from hearing the case, holding that the claim is not an *amparo* action, but a public interest action.³⁰ On appeal, the Fourth Civil Chamber overrules the disqualification ruling, and remands the case to the 30th Civil Court of Lima.³¹

January 25, 1995: The 30th Civil Court of Lima declares the *amparo* action inadmissible.³²

August 7, 1995: On appeal, the Fourth Civil Chamber of the Superior Court of Justice of Lima declares the *amparo* action well-founded and amends the lower court's decision.³³

June 28, 1996: The government appeals the Superior Court's decision to the Constitutional and Social Chamber of the Supreme Court of

25. *Id.*

26. *Id.*

27. Canales Huapaya v. Peru, Admissibility Report, ¶ 18.

28. *Id.* ¶ 19.

29. *Id.* ¶ 21.

30. *Id.*

31. *Id.*

32. *Id.*

33. Canales Huapaya v. Peru, Admissibility Report, ¶ 21.

Justice, which overturns the decision, holding that the *amparo* action is not well-founded.³⁴

August 6, 1998: The Constitutional Court ratifies the decision to overturn the Superior Court's ruling.³⁵

March 26, 1999: Mr. Canales Huapaya is given notice of this final decision of the Constitutional Court.³⁶

B. Other Relevant Facts

[None]

I. PROCEDURAL HISTORY

A. Before the Commission

1. Events pertaining to José Castro Ballena and María Gracia Barriga Oré

April 5, 1999: Mr. Castro Ballena and Ms. Barriga Oré file a petition with the Inter-American Commission of Human Rights.³⁷

November 1, 2010: The Commission concludes that Mr. Castro Ballena and Ms. Barriga Oré pursued and exhausted their domestic remedies and thus complied with Article 46(1)(a) of the American Convention.³⁸ The Commission also finds that Ms. Castro Ballena and Ms. Barriga Oré submitted their complaint within six months after notice of the final domestic judgment.³⁹

2. Events pertaining to Carlos Alberto Canales Huapaya

September 20, 1999: Mr. Canales Huapaya submits his petition to the Commission.⁴⁰

34. *Id.* ¶ 22.

35. *Id.*

36. *Id.*

37. *Id.* ¶ 1.

38. *Id.* ¶ 39.

39. Canales Huapaya v. Peru, Admissibility Report, ¶ 41.

40. *Id.* ¶ 42.

November 1, 2010: The Commission concludes that Mr. Canales Huapaya pursued and exhausted his domestic remedies and thus complied with Article 46(1)(a) of the American Convention.⁴¹ The Commission also finds that Mr. Canales Huapaya submitted his complaint within six months after notice of the final domestic judgment.⁴²

The Commission finds both petitions are admissible and decides to join the two petitions.⁴³ The Commission declares inadmissible the alleged violation of the right articulated in Article 24 of the Convention, under Article 47(b).⁴⁴

November 13, 2012: The Commission issues its Report on the Merits No 126/12, concluding the State was responsible for violating the rights of the alleged victims, enshrined in Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court) of the American Convention.⁴⁵ The Commission recommends that the State make adequate reparations of material and nonpecuniary damages for human rights violations declared in the report.⁴⁶

B. Before the Court

December 5, 2013: The Commission submits the case to the Court after the State fails to adopt the Commission's recommendations.⁴⁷

March 14, 2014: Mr. Canales Huapaya and Ms. Barriga Oré request representation by the Inter-American Association of Public Defenders ("AIDEF").⁴⁸ Mr. Castro Ballena is represented by the Peruvian Association for Educational Promotion ("APE PERU").⁴⁹

July 9, 2014: The State submits three preliminary objections to the Court and opposes the alleged violations.⁵⁰

41. *Id.* ¶ 39.

42. *Id.* ¶ 42.

43. *Id.* ¶ 3.

44. Canales Huapaya v. Peru, Preliminary Objections, Merits, Reparations and Costs, (Ser. C), No. 296, 4 n.2 (June 24, 2015). (Available only in Spanish).

45. *Id.* ¶ 2(c).

46. *Id.*

47. *Id.* ¶ 1.

48. *Id.* ¶ 7.

49. *Id.* ¶ 5.

50. Canales Huapaya v. Peru, Preliminary Objections, Merits, Reparations and Costs, ¶ 8.

The State objects to Mr. Canales including his son, Carlos César Canales Trujillo, as a beneficiary of reparations, due to the fact that his son suffered from his father's loss of employment and the resulting litigation to challenge his father's dismissal.⁵¹

The Court states it is not possible to add new victims after the Commission's report.⁵² The Court explains that though exceptional circumstances allow it under Article 35(2) of the Rules of Procedure of the Court, the addition of Mr. Canales Huapaya's son does not justify the exception.⁵³ Thus, the Court will only consider the victims identified in the Commission's Merits Report and the Court will abstain from making any ruling with regard to Mr. Canales Huapaya's son.⁵⁴

October 17, 2014: The President of the Court holds a public hearing to receive the oral arguments and concluding observations of the parties, including possible merits, reparations and costs.⁵⁵

June 22, 2015: The Court begins deliberation of the case.⁵⁶

1. Violations Alleged by Commission⁵⁷

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

Article 25(1) (Right of Recourse Before a Competent Court)

all in relation to:

Article 1(1) (Obligation of Non-Discrimination)

Article 2 (Obligation to Give Domestic Legal Effects to Rights) of the American Convention.

2. Violations Alleged by Representatives of the Victims⁵⁸

Same Violations Alleged by Commission.

51. *Id.* ¶ 28.

52. *Id.* ¶ 30.

53. *Id.*

54. *Id.* ¶ 32.

55. *Id.* ¶ 10.

56. Canales Huapaya v. Peru, Preliminary Objections, Merits, Reparations and Costs, ¶ 13.

57. *Id.* ¶ 2(c).

58. *Id.* ¶ 4.

II. MERITS

A. *Composition of the Court*⁵⁹

Humberto Antonio Sierra Porto, President
Roberto F. Caldas, Vice President
Manuel E. Ventura Robles, Judge
Alberto Pérez Pérez, Judge
Eduardo Vio Grossi Judge
Eduardo Ferrer Mac-Gregor Poisot Judge

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

B. *Decision on the Merits*

June 24, 2015: The Court issues its Judgment on Preliminary Objections, Merits, Reparations and Costs.⁶⁰

The Court found unanimously that the State had violated:

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and Article 25(1) (Right of Recourse Before a Competent Court), in relation to Article 1(1) (Obligation of Non-Discrimination) and Article (2) (Obligation to Give Domestic Legal Effect to Rights) of the Convention, because:

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) of the Convention provides that every individual has the right to be heard by an impartial and competent judicial body, with the opportunity to present their arguments and provide supporting evidence.⁶¹ It implies that the State guarantees that the decision produced through the State's judicial process has the capacity to produce the result for which it was conceived.⁶²

59. Judge Diego García-Sayán, a Peruvian national, did not participate in the deliberation of this judgment, in accordance with Article 19.1 of the Rules of Procedure of the Inter-American Court.

60. See *Canales Huapaya v. Peru*, Preliminary Objections, Merits, Reparations and Costs.

61. *Id.* ¶ 97.

62. *Id.*

*Article 25(1) (Right of Recourse Before a Competent Court) of the Convention requires States to guarantee all persons under their jurisdiction an “effective judicial remedy against acts that violate their fundamental rights.”*⁶³ *To be effective, there must be resources that can produce results or answers to the violations of rights.*⁶⁴ *Resources that are illusory are not effective.*⁶⁵ *It is not sufficient that the Constitution or law provides a remedy; the State should have an established process for determining the admissibility of domestic remedies.*⁶⁶

*The Court concluded the victims faced obstacles analogous to those encountered by the victims in the Case of Dismissed Congressional Workers.*⁶⁷ *There, the Court found that the climate of legal uncertainty created by President Fujimori’s decrees limited challenges to the evaluation procedure and made it unclear to the victims what judicial or administrative actions they should or could take to claim the rights they considered violated.*⁶⁸

*Here, the victims were in a similar situation.*⁶⁹ *They faced an unclear regulatory scheme that prevented them from challenging their dismissal from their congressional jobs.*⁷⁰ *The victims raised their claims before the relevant administrative and judicial authorities in spite of the State’s actions preventing them from raising actions that would challenge the results of the merits examination.*⁷¹

The Court found unanimously that the State had not violated:

Article 24 (Right to Equal Protection) for lack of evidence of an actual occurrence of unequal treatment.⁷²

63. *Id.* ¶ 98.

64. *Id.*

65. *Id.*

66. Canales Huapaya v. Peru, Preliminary Objections, Merits, Reparations and Costs, ¶ 99.

67. *Id.* at ¶ 106. In the Case of Dismissed Workers (Aguado Alfaro et al.) v. Peru, the court held Peru was responsible for violating the rights to a fair trial and judicial protection of a group of 257 employees who were part of a group of 1,117 employees dismissed from the National Congress of Peru on December 31, 1992. Case of the Dismissed Congressional Employees (Aguado-Alfaro et al.) v. Peru, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (Ser. C), No. 158 ¶¶ 2, 163 (November 24, 2006).

68. Canales Huapaya v. Peru, Preliminary Objections, Merits, Reparations and Costs, ¶ 105 (129).

69. *Id.* ¶ 104.

70. *Id.*

71. *Id.* ¶ 106.

72. *Id.* ¶ 128.

Mr. Castro Ballena alleged he was subjected to arbitrary unequal treatment compared to other dismissed employees who filed administrative contentious actions, especially Mr. Raúl Cabrera Mullos and Mrs. Rosario Quintero Coritoma.⁷³ After considering the facts, judicial proceedings and allegations of these cases, the Court held that the circumstances surrounding those employees⁷⁴ were not comparable with the victims of the present case.⁷⁵

The Court found there was no need to rule on the alleged violation of the Right to Property.⁷⁶

The Court found that the case refers to the denial of effective judicial remedies owed to the petitioners, not whether there was property damage as a result of the State's arbitrary conduct.⁷⁷

C. Dissenting and Concurring Opinions

1. Concurring Opinion of Judge Roberto F. Caldas and Eduardo Ferrer Mac-Gregor Poisot

In a separate opinion, Judges Caldas and Mac-Gregor Poisot stated that the Court should have declared the State responsible for violating Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights) because the State violated the individuals' right to work.⁷⁸ The Judges suggested that the Court should have considered another case as precedent: the *Acevedo Buendía Case and others* ("Discharged and Retired from the Comptroller's Office") v. Peru, where the Court found that the victims could allege a violation of Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights).⁷⁹ Here, Judges Caldas and Mac-Gregor Poisot believed

73. *Id.* ¶ 127.

74. Mr. Cabrera Mullos's claim was justified because "the publication of the resolution in question" (which provided for his dismissal) was not carried out within the period specified in the decree law. Mrs. Quintero's claim was founded as it was based on a mistake. Canales Huapaya v. Peru, Preliminary Objections, Merits, Reparations and Costs, ¶ 127.

75. *Id.* ¶ 128.

76. *Id.* ¶ 114.

77. *Id.* ¶ 110, 114.

78. Canales Huapaya v. Peru, Preliminary Objections, Background, Reparations and Costs, Concurrent Opinion of Judges Roberto F. Caldas and Eduardo Ferrer Mac-Gregor Poisot, Inter-Am. Ct. H.R. (ser. C) No. 296 ¶ 48 (June 24, 2015). (Available only in Spanish).

79. *Id.* ¶ 2. In Case of *Acevedo Buendía et al.* ("Discharged and Retired Employees of the Comptroller") v. Peru, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (Ser. C), No. 198 ¶¶ 97, 106 (July 1, 2009), 273 discharged or retired employees of

that even though the Commission and the intervenors did not allege a violation of Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights), the violation of the right to work could be analyzed under the principle of *iura novit curia*, which allows a violation of the Convention, not originally submitted by the parties, to be alleged when it emerges from the analysis of the facts under dispute.⁸⁰

The right to work creates an obligation for the State to guarantee individuals who have freely chosen or accepted work to not be deprived of that work unfairly.⁸¹ Judges Caldas and Mac-Gregor Poisot suggested that the Court could rule on the right to work because of the “interdependence and indivisibility” between civil and political rights and economic, social and cultural rights.⁸² Judges Caldas and Mac-Gregor Poisot discussed the Protocol of San Salvador as an “interpretive reference” on the scope of the right to work and as a guide to the proper application of Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights).⁸³ Thus, the judges held that a “disproportionate restriction was created in the victims’ right to work,” which impacted their enjoyment of their wages and benefits.⁸⁴ As a result, the Judges concluded the Court had jurisdiction to hear the right to work violation under Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights) of the Convention⁸⁵ and that the Court should have held the State responsible for violation of Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights) to the victims’ detriment.⁸⁶

2. Concurring Opinion of Judge Alberto Pérez Pérez

In a separate opinion, Judge Pérez Pérez stated that the Court did not have the jurisdiction to hear the case and thus should not have heard a violation on the right to work because it is not a right included in the

Peru’s Comptroller’s Office claimed that the State violated their rights when it did not comply with previous judgments ordering it to reimburse amounts owed and unpaid to the victims. The Court held that it was proper for the victims to allege a violation of Article 26, but the Court did not find a violation of Article 26.

80. *Id.* ¶ 3.

81. *Id.* ¶ 46.

82. *Id.* ¶ 12.

83. *Id.* ¶ 30.

84. *Canales Huapaya v. Perú*, Preliminary Objections, Background, Reparations and Costs, Concurrent Opinion of Judges Roberto F. Caldas and Eduardo Ferrer Mac-Gregor Poisot, ¶ 47.

85. *Id.* ¶ 31.

86. *Id.* ¶ 48.

Convention.⁸⁷ Judge Pérez Pérez conceded that the right to work is recognized by the Protocol of San Salvador, however, it is not one of the two rights under Article 19 of the Protocol, which would allow it to be recognized in the “system of protection” established by the Convention.⁸⁸

Judge Pérez Pérez criticized the characterization of states’ observations on Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights) in the *Acevedo Buendía Case*.⁸⁹ There, the Court’s judgment contained “fragments of observations made by four states” which was only a fraction of the 23 observations made.⁹⁰ Judge Pérez Pérez concluded that “at no time” were the inclusion of economic and social rights to be made in the Convention, “which remained limited to civil and political rights.”⁹¹ Judge Pérez Pérez further stated that Article 26 (Duty to Progressively Develop Economic, Social, and Cultural Rights) of the Convention does not “recognize or enshrine” economic, social or cultural rights, but establishes “something very different”: the State’s commitment to achieve progressive fulfillment of economic, social and cultural rights, to the extent of available resources.⁹²

III. REPARATIONS

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

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

1. Judgment as a Form of Reparation

The Court indicated that the Judgment constitutes per se a form of reparation.⁹³

87. *Canales Huapaya v. Peru*, Preliminary Objections, Background, Reparations and Costs, Concurrent Opinion of Judge Alberto Pérez Pérez, Inter-Am. Ct. H.R. (ser. C) No. 296 ¶ 1, 22 (June 24, 2015). (Available only in Spanish).

88. *Id.*

89. *Id.* ¶ 18.

90. *Id.* ¶ 19.

91. *Id.* ¶ 21.

92. *Id.* ¶ 9.

93. *Canales Huapaya v. Peru*, Preliminary Objections, Merits, Reparations and Costs, “Y Dispone” ¶ 5.

2. Publication of the Judgment

The State must publish once, within six months of notification of the Judgment, an official summary of the Judgment both in the Official Gazette and in a newspaper of wide national circulation.⁹⁴ The State must also publish, within the same period, the Judgment in its entirety on an official website of the State for the period of one year.⁹⁵

3. Compliance Report

The State must submit a report to this Court, within one year of notification of this Judgment, that details the measures the State has taken to comply with this Judgment.⁹⁶

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court awarded \$350,000 (USD) each to Mr. Canales Huapaya and Mr. Castro Ballena, and \$90,000 (USD) to Ms. Barriga Oré for compensatory compensation, including material damage, non-pecuniary damages, the sum of pension contributions and applicable interest.⁹⁷

2. Non-Pecuniary Damages

The Court awarded the non-pecuniary damages with the pecuniary damages.⁹⁸ The non-pecuniary damages include the amount of pension contributions that were not paid by the State to the victims because of their arbitrary termination.⁹⁹

3. Costs and Expenses

The Court awarded \$5,000 (USD) each to Mr. Canales Huapaya, Mr. Castro Ballena, and Ms. Barriga Oré for litigation expenses at the

94. *Id.* ¶ 6.

95. *Id.*

96. *Id.* ¶ 8.

97. *Id.* “Decides” ¶ 7, 194.

98. *Id.* ¶ 194.

99. Canales Huapaya v. Peru, Preliminary Objections, Merits, Reparations and Costs, ¶ 190.

national and international level, which must be paid by the State within a period of six months from the notification of the Judgment.¹⁰⁰

The Court awarded \$15,655.09 (USD) to the Legal Assistance Fund for Victims as reimbursement for expenses.¹⁰¹ The amount must be reimbursed to the Inter-American Court within ninety days from the notification of the Judgment.¹⁰²

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

\$820,655.09 (USD)

C. Deadlines

The State must pay the costs and expenses within one year of the notification of the Judgment.¹⁰³

IV. INTERPRETATION AND REVISION OF JUDGMENT

December 10, 2015: The representative of Mario Canales Huapaya submitted a request for the interpretation of the Judgment with regard to the determination of the non-violation of the right to equality of the victim Carlos Alberto Canales Huapaya.¹⁰⁴ In addition, the representative presented “assessments” regarding the payment of the reparations.¹⁰⁵

December 16, 2015: The State submitted a request for interpretation of the Judgment with regard to paragraph 190 of the Judgment that held the victims in this case were to receive compensation for pension contributions, as a consequence of “arbitrary termination.”¹⁰⁶ The State argued that this contradicted paragraph 114 of the Judgment that “it was not the object of the case to determine the arbitrary nature of the dismissal of the victims.”¹⁰⁷

100. *Id.* 201.

101. *Id.* 205.

102. *Id.* ¶ 205.

103. *Id.* ¶ 206.

104. *Canales Huapaya v. Peru*, Interpretation of Judgment, Inter-Am. Ct. H.R. (Ser. C) No. 321 ¶ 2 (Nov. 21, 2016). (Available only in Spanish). Mr. Mario Canales Huapaya is the attorney for Mr. Canales Huapaya, victim of the case, who revoked the legal advice of the Inter-American Defenders, who had represented him during the proceedings before the Court.

105. *Id.*

106. *Id.* ¶ 3.

107. *Id.*

*A. Composition of the Court*¹⁰⁸

Roberto F. Caldas, President;
Eduardo Ferrer Mac-Gregor Poisot, Vice President;
Manuel E. Ventura Robles, Judge;
Alberto Pérez Pérez, Judge;
Eduardo Vio Grossi, Judge, and
Humberto Antonio Sierra Porto, Judge

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

B. Merits

The Court found unanimously that the request by the representative Mario Canales Huapaya was inadmissible because a request for the interpretation of the Judgment “cannot be used as a means of challenging the decision.”¹⁰⁹ The Court stated that it had issued a clear ruling holding there was an absence of evidence to establish “a violation of the right to equality before the law” to the detriment of Mr. Canales Huapaya.¹¹⁰ Thus, it was not appropriate for the Judgment to be interpreted for this issue.¹¹¹ In addition, the Court would not comment on the “assessments” submitted by the representative with regard to the reparations payments as a “request for interpretation was not made in this regard.”¹¹²

The Court found unanimously the request for interpretation of the Judgment by the State to be inadmissible because paragraph 190 of the Judgment does not “constitute a contradictory or ambiguous pronouncement that must be clarified or interpreted” by the Court.¹¹³ The Court held that when it referred to the “arbitrariness of the dismissals” in the Judgment, the purpose was to “calculate the amount in equity” for compensation in the case.¹¹⁴

C. Dissenting and Concurring Opinions

[None]

108. *Id.* ¶ 28.

109. *Id.* ¶ 15.

110. Canales Huapaya, v. Peru, Interpretation of Judgment, ¶ 17.

111. *Id.*

112. *Id.* ¶ 18.

113. *Id.* ¶ 27.

114. *Id.* ¶ 26.

V. COMPLIANCE AND FOLLOW-UP

[None]

VI. LIST OF DOCUMENTS

A. Inter-American Court

1. Preliminary Objections

[Canales Huapaya v. Peru, Preliminary Objections, Merits, Reparations and Costs, \(Ser. C\), No. 296 \(June 24, 2015\). \(Available only in Spanish\).](#)

2. Decisions on Merits, Reparations and Costs

Canales Huapaya v. Peru, Preliminary Objections, Merits, Reparations and Costs, (Ser. C), No. 296 (June 24, 2015). (Available only in Spanish).

[Canales Huapaya v. Peru, Preliminary Objections, Background, Reparations and Costs, Concurrent Opinion of Judges Roberto F. Caldas and Eduardo Ferrer Mac-Gregor Poisot, Inter-Am. Ct. H.R. \(ser. C\) No. 296 \(June 24, 2015\). \(Available only in Spanish\).](#)

[Canales Huapaya v. Peru, Preliminary Objections, Background, Reparations and Costs, Concurrent Opinion of Judge Alberto Pérez Pérez, Inter-Am. Ct. H.R. \(ser. C\) No. \(June 24, 2015\). \(Available only in Spanish\).](#)

3. Provisional Measures

[Canales Huapaya v. Peru, Provisional Measures, Order of the President of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Sep. 17, 2014\). \(Available only in Spanish\).](#)

[Canales Huapaya v. Peru, Provisional Measures, Victims' Legal Assistance Fund, Order of the President, Inter-Am. Ct. H.R. \(ser. E\) \(Aug. 29, 2014\). \(Available only in Spanish\).](#)

4. Compliance Monitoring

[None]

5. Review and Interpretation of Judgment

[Canales Huapaya v. Peru, Interpretation of Judgment, Inter-Am. Ct. H.R. \(Ser. C\) No. 321 \(Nov. 21, 2016\). \(Available only in Spanish\).](#)

B. Inter-American Commission

1. Petition to the Commission

[None]

2. Report on Admissibility

[Canales Huapaya v. Peru, Admissibility Report, Report No. 150/10, Inter-Am. Comm'n H.R., Case No. 12.214, \(Nov. 1, 2010\).](#)

3. Provisional Measures

[None]

4. Report on Merits

[None]

5. Application to the Court

[None]

VII. BIBLIOGRAPHY

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