

# Cantoral Huamaní and García Santa Cruz v. Peru

## ABSTRACT<sup>1</sup>

*This case is about the murder, and cruel, inhumane, and degrading treatment of two members of a miners' trade union by the Commando Rodrigo Franco, a paramilitary group linked to the Peruvian Government which was particularly notorious for human rights abuses.*

## I. FACTS

### A. Chronology of Events

**1984:** Peruvian mine and metal workers create the National Federation of Mining, Iron and Steel Workers of Peru (*La Federación Nacional de Trabajadores Mineros, Metalúrgicos y Siderúrgicos del Perú*, “FNTMMSP”) to unite roughly 200 unions and 65,000 mine workers.<sup>2</sup>

**1984:** Consuelo Trinidad García Santa Cruz, age thirty-three, works as a literacy teacher and lives in Comas with her parents and sister.<sup>3</sup> She co-founded and works with the Filomena Tomaira-Pacsi Services for Mining Women Women’s Center to provide training, support, and guidance to the wives of miners living in mining camps.<sup>4</sup> Ms. García Santa Cruz meets Mr. Cantoral Huamaní while advocating for mine workers’ wives.<sup>5</sup>

**1987:** Saúl Isaac Cantoral Huamaní lives in Nazca with his wife and three children.<sup>6</sup> He works as a welder, and serves as the Secretary

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1. Alyssa Rutherford, Author; Heather Hassan, Editor; Elise Cossart-Daly, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Cantoral Huamaní and García Santa Cruz v. Peru, Preliminary Objection, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R., (Ser. C) No. 167, ¶ 54 (July 10, 2007).

3. *Id.* ¶ 52.

4. *Id.*

5. *Id.*

6. *Id.* ¶ 51.

General of the FNTMMSP.<sup>7</sup> The FNTMMSP creates a list of demands (*Pliego Nacional Minero*) at its First National Unified Congress.<sup>8</sup>

**May 18, 1987:** The FNTMMSP submits the list of demands to the State and mine owners.<sup>9</sup>

**July 17, 1988:** Mine owners refuse to meet FNTMMSP demands.<sup>10</sup> In response, Mr. Cantoral Huamaní leads a strike.<sup>11</sup>

**August 9, 1988 - August 13, 1988:** Armed men kidnap Mr. Cantoral Huamaní, inject him with a narcotic substance, and interrogate him.<sup>12</sup> On August 13, Mr. Cantoral Huamaní makes a statement to the newspaper, *El Nuevo Diario*, that his kidnappers were members of the Rodrigo Franco Commando, a paramilitary group associated with the Peruvian government.<sup>13</sup>

**August 17, 1988:** The FNTMMSP strike ends when the State adopts a decree recognizing that workers have the right to collectively negotiate by sector of activity and a resolution that appoints a Commission to negotiate the miners' list of demands.<sup>14</sup>

**October 17, 1988 - December 17, 1988:** The mine owners appeal the decree and resolution; Mr. Cantoral Huamaní leads a second mining strike.<sup>15</sup> During this strike, he informs the Shougang Hierro Peru Mineworkers Union that the Rodrigo Franco Commando threatened him.<sup>16</sup>

**December 15, 1988:** Members of *Sendero Luminoso*, Peru's Communist party, make death threats against Mr. Cantoral Huamaní.<sup>17</sup> They stop threatening Mr. Cantoral Huamaní upon learning of his report to the Federation.<sup>18</sup>

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7. *Id.*

8. *Id.* ¶ 58.

9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.* ¶ 60.

13. *Id.*

14. *Id.* ¶ 58.

15. *Id.*

16. *Id.* ¶ 61.

17. *Id.* ¶ 62.

18. *Id.*

**January 1989:** Mr. Cantoral Huamaní threatens a third strike of the FNTMMSP.<sup>19</sup> The State responds by publishing the Miners' Retirement Act, which recognizes mine and metal workers' right to retire and obtain pensions.<sup>20</sup>

**January 28, 1989:** Mr. Cantoral Huamaní publicly announces that the Rodrigo Franco Commando threatened him in both Lima and Marcona.<sup>21</sup>

**February 6, 1989:** Two people attempt to kill Mr. Cantoral Huamaní in Lima.<sup>22</sup> He claims these two people identified themselves as members of the Rodrigo Franco Commando.<sup>23</sup>

**February 13, 1989:** Mr. Cantoral Huamaní arrives in Lima the night before he is scheduled to meet with Prime Minister Villanueva del Campo.<sup>24</sup> With threats of another miners' strike unless the Miner's Federation and government reach an agreement, the Prime Minister and Mr. Cantoral Huamaní plan to discuss the Miners' Federation's demands.<sup>25</sup> In the evening, Ms. Consuelo García Santa Cruz accompanies Mr. Cantoral Huamaní to the home of the individual who is supposed to help him apply for a visa for an upcoming trip to Zimbabwe for an International Miners' Convention.<sup>26</sup> Mr. Cantoral Huamaní and Ms. García Cruz leave that house at approximately 8:10 p.m.<sup>27</sup>

At 11:30 p.m., the National Police Patrol Service finds two bodies in the parking lot of Wiracoca Park.<sup>28</sup> The two bodies are identified as Mr. Cantoral Huamaní and Ms. García Santa Cruz. Mr. Cantoral Huamaní's body has six bullet wounds.<sup>29</sup> The police report indicates that the cause of death for Ms. García Santa Cruz's body was trauma to

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19. *Id.* ¶ 59.

20. *Id.*

21. *Id.* ¶ 63.

22. *Id.* ¶ 64.

23. *Id.*

24. *Saúl Cantoral Huamaní and Consuelo García Santa Cruz v. Perú*, Peritaje Psicológico [Psychological Evaluation], Case No. 10.435, 1 (Jan. 11, 2007).

25. *Id.* at 1-2.

26. *Id.* at 3.

27. *Id.*

28. *Cantoral Huamaní and García Santa Cruz v. Peru*, Preliminary Objection, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R., ¶ 67 (July 10, 2007).

29. *Id.*

the head, probably caused by a moving vehicle.<sup>30</sup> The report also indicates that her body has no bullet wounds.<sup>31</sup>

A cardboard sign lies near the bodies with a drawing of a hammer and sickle, accompanied by the words, “perro soplón, vendido, viva la huelga minera, viva el PCP” (“informer, traitor, long live the mining strike, long live the PCP”).<sup>32</sup>

**1989 - 1990:** At the behest of the family of Mr. Cantoral Huamaní, the State opens an investigation of the murders.<sup>33</sup> The investigation fails to identify the perpetrators of the crime, concluding that “terrorist criminals” committed the murders.<sup>34</sup>

**1994:** The Special Prosecutor of the Ombudsman’s Office to the Thirty-Sixth Provincial Criminal Prosecutor’s Office of Lima requests information about the investigation.<sup>35</sup> The Special Prosecutor discovers that the State never conducted an investigation.<sup>36</sup>

**January 2, 1995:** After an investigation, the police submit a report concluding that Sendero Luminoso was responsible for the murders, although the report concedes that it is possibility “that it was perpetrated by another type of group.”<sup>37</sup>

**May 8, 1995:** After receiving the police report, the Forty-Third Provincial Criminal Prosecutor of Lima closes the case.<sup>38</sup>

**June 4, 2001:** The President of the Republic of Peru creates the Commission of Truth and Reconciliation (*Comisión de la Verdad y Reconciliación*, “CVR”) to address and investigate the terrorist violence and human rights violations that occurred between May 1980 and November 2000.<sup>39</sup> Its objectives include proposing reparations for the victims and their families, and recommending initiatives to promote

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30. *Id.* ¶ 69.

31. *Id.*

32. *Id.*

33. *Id.* ¶ 70.

34. *Id.* ¶ 73.

35. *Id.*

36. *Id.* ¶ 72.

37. *Id.* ¶ 74.

38. *Id.*

39. *Saúl Isaac Cantoral Huamaní and Consuelo Trinidad García Santa Cruz*, Pro-Human Rights Association Report, Case No. 10.435, 3.

peace among Peruvians.<sup>40</sup> The Supreme Decree explicitly states that the CVR does not have jurisdictional authority to initiate criminal proceedings against the perpetrators of any violations.<sup>41</sup>

**2001 - 2005:** The State reopens the case at the request of Mr. Cantoral Huamaní's family, but delays in undertaking an effective investigation because of jurisdictional issues among state prosecutors.<sup>42</sup>

**July 2003:** The Herrera Commission, a commission of the Congress of the Republic of Peru, publishes an uncontested report regarding the Rodrigo Franco Commando.<sup>43</sup> The report indicates that the Rodrigo Franco Commando murdered Mr. Cantoral Huamaní and Ms. García Santa Cruz.<sup>44</sup>

**August 27, 2003:** In its final report, the CVR states it may be "plausibly assumed" that the Rodrigo Franco Commando was responsible for the murders of Mr. Cantoral Huamaní and Ms. García Santa Cruz.<sup>45</sup> It recommends that the Attorney General's Office file criminal charges against four persons for the aggravated homicide of Mr. Cantoral Huamaní and Ms. García Santa Cruz.<sup>46</sup>

**December 30, 2003:** The Prosecutor General's office forwards the CVR report to the Provincial Prosecutor Specialized in Forced Disappearances, Extrajudicial Executions and Exhumation of Clandestine Graves.<sup>47</sup>

**2006:** State agents misplace the autopsies of Mr. Cantoral Huamaní and Ms. García Santa Cruz.<sup>48</sup> The Forensic Medicine Institute of the Attorney General's Office exhumes the bodies and performs new autopsies.<sup>49</sup> The autopsy reveals that Mr. Cantoral Huamaní suffered four bullet wounds in the skull and one bullet wound in his left

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40. Cantoral Huamaní and García Santa Cruz v. Peru, Preliminary Objection, Merits, Reparations, and Costs, Judgment, ¶ 89.

41. *Id.* ¶ 90.

42. *Id.* ¶ 76.

43. *Id.* ¶ 93.

44. *Id.*

45. *Id.* ¶ 78.

46. *Id.* ¶ 90.

47. *Id.* ¶ 91(c).

48. *Id.* ¶ 70.

49. *See id.* ¶ 70.

lumbar.<sup>50</sup> Additionally, the autopsy shows a forcible blow by a device at low speed and a fracture in Mr. Cantoral Huamaní's sternum."<sup>51</sup> The report does not determine whether one of the bullets or another source of trauma caused this fracture.<sup>52</sup> The new autopsy of Ms. García Santa Cruz shows two bullet wounds in her skull and a fractured jaw.<sup>53</sup>

**July 10, 2007:** More than eighteen years have passed since the victims' deaths.<sup>54</sup> The State has not identified or prosecuted those responsible for the deaths of Mr. Cantoral Huamaní and Ms. García Santa Cruz.<sup>55</sup>

### *B. Other Relevant Facts*

From 1980 to 2000, Peru experiences a violent period of government unrest.<sup>56</sup> This conflict starts on May 17, 1980, when Peru's Communist Party, *Sendero Luminoso*, ignites a popular war against the Peruvian state.<sup>57</sup> Though modest in its beginnings, this rebel movement spreads throughout the nation, and on December 30, 1982, the Peruvian President, Belaunde Terry, determines that military intervention is necessary to dispel the rebels.<sup>58</sup> President Terry declares a state of emergency in particular zones where the rebels wield significant influence, thereby giving the Armed Forces (*Fuerzas Armadas del Perú*; "FFAA") military and political control in these areas.<sup>59</sup> The FFAA and state agents abuse this power, however, and commit human rights violations, including extrajudicial executions, against Peruvian citizens.<sup>60</sup>

During this time, the Commando Rodrigo Franco, a paramilitary group linked to the Peruvian government, is particularly notorious for human rights abuses.<sup>61</sup> In its final report, the CVR indicates that a small number of police agents, members of the Police Special Operations Directorate Group ("GRUDE"), and the Counter-Terrorist Directorate

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50. *Id.*

51. *Id.*

52. *Id.*

53. *Id.*

54. *Id.* ¶ 126.

55. *Id.*

56. *Saúl Isaac Cantoral Huamaní and Consuelo Trinidad García Santa Cruz*, Pro-Human Rights Association Report, Case No. 10.435, 2.

57. *See id.* ¶ 2.

58. *Id.* ¶ 4.

59. *Id.*

60. *Id.* at 3.

61. *Id.*

(*Dirección Contra el Terrorismo*, “DIRCOTE”), acting under the command of the Minister of the Interior, supported this Commando.<sup>62</sup>

The Final Report of the CVR also finds that during this time, State agents murder nineteen members of the FNTMMSP.<sup>63</sup>

## II. PROCEDURAL HISTORY

### A. *Before the Commission*

**May 9, 1989:** Ester Hinostrosa of the Filomena Tomaira Pacsi Association<sup>64</sup> files petition No. 10.435 on behalf of the victims.<sup>65</sup>

**October 15, 2005:** The Commission approves the Report on Admissibility and Merits No. 76/05 concerning the kidnapping, torture, and extrajudicial execution of Saúl Isaac Cantoral Huamaní and Consuelo Trinidad García Santa Cruz on February 13, 1989, in Lima, Peru and the State’s failure to investigate the facts and initiate judicial proceedings against the perpetrators.<sup>66</sup> Based on these facts, the Commission finds the State violated Article 4 (Right to Life), Article 5 (Right to Humane Treatment), Article 7 (Right to Personal Liberty), Article 8 (Right to a Fair Trial), Article 25 (Right to Judicial Protection), and Article 16 (Freedom of Association) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof.<sup>67</sup>

### B. *Before the Court*

**February 13, 2006:** The Commission submits the case to the Court after the State failed to adopt its recommendations.<sup>68</sup> In its application to the Court, the Commission stresses the importance that the Court hear this

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62. *Cantoral Huamaní and García Santa Cruz v. Peru*, Preliminary Objection, Merits, Reparations, and Costs, ¶ 77.

63. *Id.* ¶ 54.

64. The Filomena Tomaira Pacsi Association is an NGO founded in Peru in 1985. It initially focused on promoting the rights of miner women and expanded to advocate for women’s equality and community development. See *The Filomena Tomaira Pacsi Association*, RED UNIENDO MANOS PERÚ, <http://www.manosperu.org/leer.php/94> (last visited Jan. 25, 2014).

65. *Cantoral Huamaní and García Santa Cruz v. Peru*, Preliminary Objection, Merits, Reparations, and Costs, ¶¶ 1, 54.

66. *Id.* ¶ 1.

67. *Id.* ¶ 3.

68. *Id.* ¶ 1.

case because, “more than seventeen years have elapsed and the next of kin of the victims have been unable to discover the truth about the violations of the rights of the victims, and those responsible have not been punished.”<sup>69</sup> Furthermore, the Commission urges the Court to accept the case because it was an “opportunity for the Court to rule on the activities of the ‘Rodrigo Franco Commando,’ which was composed of State agents and which was responsible for grave human rights violations during the period 1985-1990.”<sup>70</sup> The victims were a trade union leader and a miner and the case addresses the State’s repressive activities against trade union leaders to discourage social protest and the effect that these repressive activities had on the freedom of association.<sup>71</sup>

### 1. Violations Alleged by Commission<sup>72</sup>

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 7 (Right to Personal Liberty)

Article 8 (Right to a Fair Trial)

Article 16 (Freedom of Association)

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 6 (Obligation to Take Effective Measures)

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

### 2. Violations Alleged by Representatives of the Victims<sup>73</sup>

Same Violations Alleged by Commission, plus:

To the detriment of the next of kin of Saúl Isaac Cantoral Huamaní and Consuelo Trinidad García Santa Cruz:

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69. *Id.* ¶ 2.

70. *Id.*

71. *Id.*

72. *Id.* ¶ 3.

73. *Id.* ¶ 2. Gloria Margarita Cano Legua and Carolina Maida Loayza Tamaro served as representatives of APRODEH.



Article 5 (Right to Humane Treatment)  
 Article 25 (Right to Judicial Protection)  
*all in relation to*  
 Article 1(1) (Obligation to Respect Rights) of the American  
 Convention.

**May 17, 2006:** The representatives of the alleged victims and their next of kin, the Pro-Human Rights Association (*Asociación Pro Derechos Humanos*, “APRODEH”) presents its requests and arguments brief in which it asks the Court to declare that the State “was responsible for the violation of Article 7 (Right to Personal Liberty), Article 5 (Right to Humane Treatment), Article 4 (Right to Life), Article 8 (Right to a Fair Trial), Article 25 (Judicial Protection) and Article 16 (Freedom of Association) of the American Convention on Human Rights to the detriment of Mr. Cantoral Huamaní and Ms. García Santa Cruz” and that the State violated Articles 5 (Right to Humane Treatment) and 25 (Right to Judicial Protection) of the Convention in relation to Article 1(1) to the detriment of the next of kin of the victims.<sup>74</sup> APRODEH also requests specific measures of reparation and reimbursement of the costs and expenses incurred in processing the case at the national level and in the international proceedings.<sup>75</sup>

**July 21, 2006:** The State submits its answer to the application.<sup>76</sup> Although it partially acknowledges responsibility concerning the violations of Article 8 (Right to a Fair Trial) and Article 25 (Right to Judicial Protection) of the American Convention, it indicates that it does not acknowledge international responsibility for violating the rights established in Article 4 (Right to Life), Article 5 (Right to Humane Treatment), Article 7 (Right to Personal Liberty), and Article 16 (Freedom of Association) because the Attorney General’s Office is currently conducting an investigation.<sup>77</sup>

Additionally, the State raises preliminary objections to the Court’s competence to apply the Inter-American Convention to Prevent and Punish Torture, arguing that the Court lacks jurisdiction *ratione materiae* and *ratione temporis*.<sup>78</sup>

The State contends that the Court lacks jurisdiction *ratione*

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74. *Id.* ¶ 4.

75. *Id.*

76. *Id.* ¶ 5.

77. *Id.*

78. *Id.* ¶¶ 5, 9.

*materiae* because neither Article 25 (Right to Judicial Protection) nor Article 27(1) (Conditions Under Which Rights Can Be Suspended) of the American Convention authorize the Court to apply the Inter-American Convention to Prevent and Punish Torture.<sup>79</sup>

The Court responds by emphasizing its precedent.<sup>80</sup> In its case law, the Court found that the relevant part of Article 8 (Obligation to Investigate) of the Convention against Torture, on competence to apply it, indicates that “after all the domestic legal procedures of the respective State and the corresponding appeals have been exhausted, the case may be submitted to the international fora whose competence has been recognized by that State.”<sup>81</sup> Therefore, the Court holds itself competent “to interpret and apply the Convention against Torture and to declare the responsibility of a State that has consented to be bound by this Convention and has accepted, also, the jurisdiction of the Inter-American Court of Human Rights.”<sup>82</sup> Because Peru is a party to the Convention against Torture and accepts the Court’s jurisdiction, the Court dismisses the State’s preliminary objections on the grounds of *ratione materiae*.<sup>83</sup>

The State further objects to the Court’s competence to apply the Inter-American Convention to Prevent and Punish Torture due to a lack of jurisdiction *ratione temporis*.<sup>84</sup> The Convention against Torture did not enter into force for Peru until April 28, 1991, after the alleged violations took place.<sup>85</sup> Therefore, the State argues that the Convention does not apply to this case.<sup>86</sup>

Although the Court acknowledges that it does not enjoy jurisdiction under the Convention to Prevent and Punish Torture for acts occurring before the Convention entered into force for Peru on April 28, 1991, the Court will still evaluate the State’s acts that occurred after April 28,

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79. *Id.* ¶ 10.

80. *Id.* ¶ 11 (The Court has applied the Convention against Torture in twelve cases).

81. *Id.* at n. 6. In its Judgment in the Case of *Villagrán Morales et. al*, the Court indicated that “a general clause on competence, that did not refer expressly and exclusively to the Inter-American Court, paved the way to the Convention against Torture being acceded to or ratified by the greatest number of States. What was considered important was to attribute competence to apply the Convention against Torture to an international body, whether this was an existing commission, committee or court, or one created in the future.” “Street Children” *Villagrán-Morales, et al. v. Guatemala, Merits, Judgment, (ser. C.) No. 63, ¶¶ 247-48 (Nov. 19, 1999)*.

82. *Cantoral Huamaní and García Santa Cruz v. Peru, Preliminary Objection, Merits, Reparations, and Costs, ¶ 12.*

83. *Id.*

84. *Id.* ¶ 13.

85. *Id.*

86. *Id.*

1991, under the Convention, namely the State's failure to comply with the obligations under Articles 1 (Obligation to Prevent and Punish Torture), 6 (Obligation to Take Effective Measures), and 8 (Obligation to Investigate) of the Inter-American Convention to Prevent and Punish Torture.<sup>87</sup>

**August 2006:** The State submits an expert forensic report created by the Specialized Forensic Team of the Forensic Medicine Institute of the Attorney General's office to the Court.<sup>88</sup> This report determines that the victims' deaths can be attributed to "some type of organization linked to the State."<sup>89</sup>

**January 22, 2007:** Professor Jo-Marie Burt submits an amicus curiae brief to the Court.<sup>90</sup>

**February 2007:** The Commission, the representatives, and the State submit their final arguments on the preliminary objection and possible merits, reparations, and costs.<sup>91</sup>

**February 19, 2007:** The Flora Tristan Peruvian Women's Center, Aurora Vicar Association, and the Research and Training Institute for Women and the Family submit an amicus curiae brief to the Court.<sup>92</sup>

### III. MERITS

#### A. *Composition of the Court*<sup>93</sup>

Sergio García Ramírez, President  
Cecilia Medina Quiroga, Vice-President  
Manuel E. Ventura Robles, Judge  
Leonardo A. Franco, Judge  
Margarette May Macaulay, Judge  
Rhadys Abreu Blondet, Judge

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87. *Id.* ¶¶ 14-18.

88. *Id.* ¶ 97.

89. *Id.*

90. *Id.* ¶ 8.

91. *Id.*

92. *Id.*

93. Judge Diego García Sayán, a Peruvian national, excused himself from hearing the case. *Id.* at n.1.

Pablo Saavedra Alessandri, Secretary  
Emilia Segares Rodríguez, Deputy Secretary

*B. Decision on the Merits*

**July 10, 2007:** The Court issues its Judgment on the preliminary objections, merits, reparations, and costs.<sup>94</sup>

The Court found unanimously that Peru had violated:

Article 4 (Right to Life) and Article 7 (Right to Personal Liberty), in relation to Article 1(1) of the Convention, to the detriment of Mr. Cantoral Huamaní and Ms. García Santa Cruz,<sup>95</sup> because:

*State agents were responsible for the kidnappings and murders of Mr. Cantoral Huamaní and Ms. García Santa Cruz.*<sup>96</sup>

*The State is responsible for the acts and omissions of its agents, even if they act beyond the bounds of their actual authority.*<sup>97</sup> *Every person has the right to life and the right to personal liberty and security.*<sup>98</sup> *The State has a positive obligation to investigate violations of such rights and institute appropriate judicial and disciplinary proceedings against those who deprive others of these rights.*<sup>99</sup> *Such investigations and proceedings should be conducted in a timely manner.*<sup>100</sup>

*The Court found that the State did not comply with its obligations under Article 4 (Right to Life) and Article 7 (Right to Personal Liberty).*<sup>101</sup> *First, based on the reports submitted by the CVR, the Herrera Commission, and the Specialized Forensic Team of the Attorney General's Office, it is reasonable to conclude that state agents kidnapped and murdered Mr. Cantoral Huamaní and Ms. García Santa Cruz.*<sup>102</sup> *Second, at the time of the judgment (eighteen years after the murders of Mr. Cantoral Huamaní and Ms. García Santa Cruz), the*

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94. *Id.* ¶ 8.

95. *Id.* ¶¶ 79-106.

96. *Id.* ¶¶ 98-99.

97. *Id.* ¶ 79.

98. *See id.* ¶¶ 98, 103.

99. *Id.* ¶¶ 101-02.

100. *Id.* ¶ 130.

101. *Id.* ¶ 106.

102. *Id.* ¶ 98.

*State has failed to undertake an effective investigation of these crimes.*<sup>103</sup> *In failing to initiate a fruitful investigation, the State has not guaranteed the rights to life and liberty that it is obligated to protect.*<sup>104</sup> *As a result, the Court determined that the State violated Article 4 (Right to Life) and Article 7 (Right to Personal Liberty).*

Article 5 (Right to Humane Treatment), in relation to Article 1(1) of the Convention, to the detriment of Mr. Cantoral Huamaní and Ms. García Santa Cruz,<sup>105</sup> and their next of kin,<sup>106</sup> because:

*State agents caused profound fear in Mr. Cantoral Huamaní and Ms. García Santa Cruz before the murders and caused suffering among the victims' next of kin after the murders due to the heinous nature of the crimes and the State agents' disrespectful and defamatory treatment of the victims' reputations and families.*<sup>107</sup>

*In certain circumstances, the next of kin of the victims of certain human rights violations can, in turn, be victims as well.*<sup>108</sup> *The State has an obligation to protect and guarantee this right to humane treatment by investigating human rights violations and initiating appropriate judicial and disciplinary proceedings.*<sup>109</sup> *This protects the human dignity and mental and moral integrity of both the victims and their next of kin.*<sup>110</sup>

*The Court found that State agents did not treat Mr. Cantoral Huamaní and Ms. García Santa Cruz in a humane manner prior to their deaths.*<sup>111</sup> *Although it is not possible to definitively confirm that the victims were subject to physical torture prior to their murders, it is reasonable to assume that they suffered extreme fear when State agents took them against their will.*<sup>112</sup> *It is probable that the victims reasonably feared for their lives during this period.*<sup>113</sup> *Moreover, the State failed to properly investigate the victims' cases for eighteen years.*<sup>114</sup>

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103. *Id.*

104. *Id.* ¶ 103.

105. *Id.* ¶ 106.

106. *Id.* ¶ 120.

107. *Id.* ¶¶ 99, 118.

108. *Id.* ¶ 110.

109. *Id.* ¶¶ 101-02.

110. *Id.* ¶ 112.

111. *Id.* ¶ 106.

112. *Id.* ¶ 99.

113. *Id.*

114. *Id.* ¶ 72.

*The Court also found that State agents subjected the next of kin of Mr. Cantoral Huamaní and Ms. García Santa Cruz to suffering and fear after the murders of the victims.<sup>115</sup> Knowledge of the pain and torture suffered by the victims caused distress to the families and the absence of an effective investigation impeded the family from achieving any true sense of relief in the years following the crimes.<sup>116</sup> The mishandling of the case, including the exhumation of the bodies of Mr. Cantoral Huamaní and Ms. García Santa Cruz seventeen years after their deaths, prolonged the families' anguish.<sup>117</sup> In addition, the State's defamatory statements about Mr. Cantoral Huamaní and Ms. García Santa Cruz after their deaths intensified their families' suffering.<sup>118</sup> In addition to the sign found next to Mr. Cantoral Huamaní and Ms. García Santa Cruz's bodies, State agents circulated rumors that Mr. Cantoral Huamaní and Ms. García Santa Cruz were terrorists.<sup>119</sup> The murders also made the next of kin fear for their own safety because they thought they would suffer a similar fate by virtue of their relation to the victims.<sup>120</sup> Finally, the losses of Mr. Cantoral Huamaní and Ms. García Santa Cruz violated the personal integrity of their next of kin by damaging the relationships within each victim's family units.<sup>121</sup> Therefore, the Court finds that the State violated Article 5 (Right to Humane Treatment) with regard to both Mr. Cantoral Huamaní and Ms. García Santa Cruz and their families.<sup>122</sup>*

Article 16 (Right to Freedom of Association), in relation to Article 1(1) of the Convention, to the detriment of Mr. Cantoral Huamaní and Ms. García Santa Cruz,<sup>123</sup> because:

*The State targeted Mr. Cantoral Huamaní because of his participation in trade union activities and Ms. García Santa Cruz because of her participation in the mining wives' committees.<sup>124</sup>*

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115. *See id.* ¶ 120.

116. *Id.* ¶¶ 196, 198.

117. *Id.* ¶ 116.

118. *Id.* ¶ 114.

119. *Id.*

120. *Id.* ¶ 115.

121. *Id.* ¶ 118.

122. *Id.* ¶¶ 106, 120.

123. *Id.* ¶ 149.

124. *Id.* ¶ 147.

*Every person has the right to freely associate with others.*<sup>125</sup> *State agents may not threaten another's ability to exercise this right, and may not engage in activities that serve to intimidate others from associating with others.*<sup>126</sup> *All persons have the right to associate with others without fear.*<sup>127</sup>

*The Court found that State agents kidnapped and murdered Mr. Cantoral Huamaní and Ms. García Santa Cruz because they engaged in trade union activities.*<sup>128</sup> *While serving as a prominent leader in the mining trade union during the strikes, Mr. Cantoral Huamaní received several threats against his life.*<sup>129</sup> *The mining wives' committees organized by Ms. García Santa Cruz aided mining women and families who went on strike.*<sup>130</sup> *The Court also found that the executions of Mr. Cantoral Huamaní and Ms. García Santa Cruz subsequently discouraged the associations of trade unions because other trade union workers feared that they would suffer a similar fate.*<sup>131</sup> *Thus, the murders limited the ability of others to associate freely without fear.*<sup>132</sup> *Consequently, the Court found that the State violated Article 16 (Right to Freedom of Association).*<sup>133</sup>

Articles 8 (Right to a Fair Trial) and 25 (Right Judicial Protection), in relation to Articles 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), and 1(1) (Obligation to Respect Rights) of the Convention, to the detriment of Mr. Cantoral Huamaní and Ms. García Santa Cruz, and their next of kin<sup>134</sup> because:

*The State failed to initiate an effective investigation into the executions of Mr. Cantoral Huamaní and Ms. García Santa Cruz.*<sup>135</sup> *The State has an obligation to provide judicial recourse to the victims of human rights violations in accordance with due process of the law.*<sup>136</sup> *When a human rights violation occurs, the State must immediately initiate a genuine,*

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125. *Id.* ¶ 144.

126. *Id.*

127. *Id.* ¶ 146.

128. *Id.* ¶ 147.

129. *Id.* ¶ 142.

130. *Id.* ¶ 143.

131. *Id.* ¶ 148.

132. *Id.*

133. *Id.* ¶ 149.

134. *Id.* ¶ 140.

135. *Id.* ¶¶ 134-35.

136. *Id.* ¶¶ 132-33.

*impartial, and effective investigation, using all available legal means.*<sup>137</sup> *State investigations must not be a “mere formality predestined to be ineffective,” but should be designed to arrive at “the determination of the truth, and the investigation, pursuit, capture, prosecution, and if applicable, punishment of those responsible for the facts.”*<sup>138</sup> *This obligation extends to the non-judicial, investigative bodies and is not limited when acts can be attributed to State agents performing official duties.*<sup>139</sup> *The State’s guarantee of these rights prevents future human rights violations by punishing those that violate the rights of others.*<sup>140</sup>

*The Court found that, at the time of judgment, eighteen years after the crimes, no operative inquiry or prosecution occurred in the investigation of the murders of Mr. Cantoral Huamaní and Ms. García Santa Cruz.*<sup>141</sup> *The State has not identified the perpetrators or filed criminal charges.*<sup>142</sup> *The investigation that occurred was a “mere formality,” that never moved past its initial stages and investigative bodies merely made general assumptions about the events.*<sup>143</sup> *Key evidence related to the crimes disappeared, including the autopsies of the victims’ bodies.*<sup>144</sup> *The second autopsies performed seventeen years after the victims’ deaths revealed information contrary to the official facts on file.*<sup>145</sup> *The victims’ families’ repeated requests to reopen the case were never successful because State agents delayed investigations due to jurisdictional issues.*<sup>146</sup> *Finally, the State declined to respond to the CVR’s recommendations to file criminal charges in relation to the deaths of Mr. Cantoral Huamaní and Ms. García Santa Cruz.*<sup>147</sup> *Therefore, the Court found that the State violated Article 8 (Right to a Fair Trial) and Article 25 (Right to Judicial Protection).*<sup>148</sup>

### C. Dissenting and Concurring Opinions

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137. *Id.* ¶ 130.

138. *Id.* ¶ 131.

139. *Id.* ¶ 133.

140. *Id.* ¶ 122.

141. *Id.* ¶ 134.

142. *Id.*

143. *Id.* ¶¶ 131, 134.

144. *Id.* ¶ 127.

145. *Id.*

146. *Id.* ¶¶ 128-29.

147. *Id.* ¶ 134.

148. *Id.* ¶ 140.



1. Separate Opinion of Judge Manuel E. Ventura Robles<sup>149</sup>

In a separate opinion, Judge Ventura Robles clarified his position on the application of Article 8 (Right to a Fair Trial) and Article 25 (Right to Judicial Protection) in relation to Article 1(1) of the American Convention.<sup>150</sup> Article 1 (Obligation to Respect Rights) is a general obligation to protect the rights included in Chapter II (Civil and Political Rights) of the American Convention, whereas the rights protected in Article 8 (Right to a Fair Trial) and Article 25 (Right to Judicial Protection) are rights of a specific, ontological nature.<sup>151</sup> Although Judge Ventura Robles believed that the Court may find violations of Articles 8 and 25 independently or in relation to Article 1(1), he argued that finding violations of Articles 8 and 25 in relation to a different article than Article 1(1) would affirm that the American Convention does not protect the right to justice.<sup>152</sup> Furthermore, such a holding would alter the nature of Articles 8 and 25, transforming them from rights of a specific nature into general obligations permeating the entire Convention.<sup>153</sup>

## IV. REPARATIONS

The Court ruled that the State had the following obligations:

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

## 1. Investigate the Violations

The State shall immediately investigate the facts of this case and shall identify, prosecute, and sanction those responsible for the crimes.<sup>154</sup> The results shall be published by the State.<sup>155</sup>

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149. *Cantoral Huamaní and García Santa Cruz v. Peru*, Preliminary Objection, Merits, Reparations, and Costs, Separate Opinion of Judge Manuel E. Ventura Robles, Inter-Am. Ct. of H.R. (Ser. C) No. 167 (July 10, 2007).

150. *Id.* at 1.

151. *Id.*

152. *Id.* at 2.

153. *Id.*

154. *Cantoral Huamaní and García Santa Cruz v. Peru*, Preliminary Objection, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R., (Ser. C) No. 167, ¶¶ 188-91 (July 10, 2007).

155. *Id.*

## 2. Publish the Judgment

The State must publish particular chapters of the judgment in its operative paragraphs in the Official Gazette and in another national newspaper with widespread coverage.<sup>156</sup>

## 3. Publically Acknowledge International Responsibility

The State must conduct a public act acknowledging its international responsibility in relation to the violations found by the Court in order to make reparation to the victims and to provide satisfaction to their next of kin.<sup>157</sup> This act must be publicized in the media, and must take place in a public ceremony in the presence of authorities representing the State and the next of kin.<sup>158</sup> It must make reference to the activities of the victims and to the human rights violations found by the Court.<sup>159</sup>

## 4. Establish a Scholarship

The State must provide a scholarship in a public Peruvian institution for the children of Mr. Cantoral Huamaní that covers all of the costs of their education, from the time the beneficiaries request this scholarship, until the conclusion of their advanced technical or university studies.<sup>160</sup> The State must also provide a scholarship for professional training or updating for Mr. Cantoral Huamaní's brother, Ulises Cantoral Huamaní, and wife, Pelagia Mélida Contreras-Montoya de Cantoral.<sup>161</sup>

## 5. Provide Medical and Psychological Care

The State must provide free and immediate medical and psychological treatment for the victims' next of kin, as prescribed by the expert witnesses that testified before the Court.<sup>162</sup> This treatment should take place in the State's specialized health care institutions to ensure that the next of kin receive the most appropriate and effective

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156. *Id.* ¶ 192.

157. *Id.* ¶ 193.

158. *Id.*

159. *Id.*

160. *Id.* ¶ 194.

161. *Id.*

162. *Id.* ¶ 200.

treatment.<sup>163</sup> The treatment must be carried out for the appropriate time needed, as demonstrated by individual evaluations.<sup>164</sup>

With regard to Vanessa and Brenda Cantoral Huamaní, daughters of Mr. Cantoral Huamaní, the State must cover the continuing costs of the psychotherapeutic treatment that they have been receiving in the non-governmental Lima Center for Psychosocial Care.<sup>165</sup> If they wish, they may instead receive the same psychological treatment as their family members.<sup>166</sup>

### *B. Compensation*

The Court awarded the following amounts:

#### 1. Pecuniary Damages

The Court ordered the State to pay \$22,500 to Mr. Cantoral Huamaní to compensate for his loss of income.<sup>167</sup> This calculation was derived from an evaluation of different elements that included his age, life expectancy, monthly wages and other monetary benefits as a welder of Hierro Peru, and the retirement age in the mining sector.<sup>168</sup>

The Court ordered the State to pay \$18,000 to Ms. García Santa Cruz to compensate for her loss of income.<sup>169</sup> This calculation was derived from an evaluation of different elements, including her age, life expectancy, and monthly wages and other monetary benefits as an employee of the “Filomena Tomaira Pacsi” Association.<sup>170</sup>

The Court awarded \$1,000 to the next of kin of each victim to compensate them for the funeral costs of Mr. Cantoral Huamaní and Ms. García Santa Cruz.<sup>171</sup>

#### 2. Non-Pecuniary Damages

The Court ordered the State to pay \$50,000 each to Mr. Cantoral Huamaní and Ms. García Santa Cruz to compensate them for their

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163. *Id.*

164. *Id.*

165. *Id.* ¶ 202.

166. *Id.*

167. *Id.* ¶ 171.

168. *Id.* ¶ 167.

169. *Id.* ¶ 171.

170. *Id.* ¶ 167.

171. *Id.* ¶ 174.

feelings of suffering, anguish, terror, powerlessness, and insecurity, caused by their illegal and arbitrary detention, the violations of their personal integrity, and their extrajudicial executions.<sup>172</sup>

The Court ordered the State to pay \$30,000 to Pelagia Mérida Contreras Montoya, wife of Mr. Cantoral Huamaní, to compensate her for the impact that the victim's death incurred on her.<sup>173</sup> The death caused changes in the interpersonal, financial, and work-related aspects of her life and to her physical and mental health.<sup>174</sup> This award was also in compensation for her time spent monitoring the internal investigations into the death of her husband and testifying before the Truth and Reconciliation Committee.<sup>175</sup>

The Court ordered the State to pay \$20,000 to the mother, Elisa Huamaní Infanzón; father, Patrocinio Cantoral Contreras; and children, Marco Antonio Cantoral Lozano, Vanessa Cantoral Contreras, Brenda Cantoral Contreras, and Rony Cantoral Contreras, of Mr. Cantoral Huamaní for the impact that the victim's death incurred on each of them.<sup>176</sup> The Court also ordered the State to pay \$20,000 to Amelia Beatriz Santa Cruz- Portocarrero, and Alfonso García Rada, the mother and father of Ms. García Santa Cruz, to compensate them for the impact of the victim's death.<sup>177</sup> The victims' deaths caused changes in the interpersonal, financial, and work-related aspects of their lives, and in relation to their physical and mental health.<sup>178</sup>

The Court ordered the State to pay \$5,000 to the victims' siblings with close ties to the victims, to compensate for the impact that the victims' deaths incurred on each of them.<sup>179</sup> In the case of Mr. Cantoral Huamaní, these siblings included Juan Cantoral Huamaní and Angelica Cantoral Huamaní.<sup>180</sup> With respect to Ms. García Santa Cruz, these siblings included Rosa Amelia García Santa Cruz, Manuel Fernando

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172. *Id.* ¶ 177. The Court determined that compensation should be distributed as follows among the next of kin of Mr. Cantoral Huamaní and Ms. García Santa Cruz: fifty percent of the compensation shall be shared equally between the son and daughters of the victims; fifty percent of the compensation shall be awarded to the victim's spouse at the time of the victim's death. *Id.* ¶ 161. If the victim had no children or spouse, fifty percent of the compensation shall be awarded to the parents and shall be divided equally between them. If one parent is deceased, that parent's portion will be added to the portion of the surviving parent. The remaining fifty percent shall be shared equally among the victim's siblings. *Id.*

173. *Id.* ¶¶ 180-181, 183, 185.

174. *Id.* ¶ 179.

175. *Id.* ¶ 181.

176. *Id.* ¶ 180.

177. *Id.* ¶ 180.

178. *Id.* ¶¶ 179, 185.

179. *Id.* ¶ 180.

180. *Id.* ¶ 160.

García Santa Cruz, María Elena García Santa Cruz, Walter Ernesto García Santa Cruz, Mercedes Grimaneza García Santa Cruz, and Jesus Enrique García Santa Cruz.<sup>181</sup> The deaths caused changes in the affective, financial, and work-related aspects of their lives, and in relation to their physical and mental health.<sup>182</sup>

The Court ordered the State to pay \$10,000 to Mr. Ulises Cantoral Huamaní, brother of Mr. Cantoral Huamaní, to compensate him for the impact that the victims' deaths incurred on him.<sup>183</sup> The death caused changes in the affective, financial, and work-related aspects of his life, and in relation to his physical and mental health.<sup>184</sup> In addition, this award was for compensation for the time he spent monitoring the internal investigations into the death of his brother, and his testimony in front of the Truth and Reconciliation Commission.<sup>185</sup> His leading role in monitoring the investigations had the effect of distancing him from his immediate family.<sup>186</sup>

The Court ordered the State to pay \$10,000 to Ms. Gertrudis Victoria Cantoral Huamaní, sister of Mr. Cantoral Huamaní, to compensate her for the impact of the victims' deaths on her physical and mental health.<sup>187</sup> This award is also compensation for the attack made on her life, while she was pregnant, by strangers who broke into her home because her brother, Ulises Cantoral Huamaní, conducted investigations into the murders.<sup>188</sup>

The Court ordered the State to pay \$10,000 to Mr. Eloy Cantoral Huamaní, brother of Mr. Cantoral Huamaní, to compensate him for the impact of the victims' deaths on his physical and mental health.<sup>189</sup> This award was also compensation for his attempted kidnapping when he entered Peru because of the death of his mother, and for the break-in to his home during which his brother's case file was stolen.<sup>190</sup>

### 3. Restitution

The State shall return the \$7,500 recovered from Mr. Cantoral

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181. *Id.*

182. *Id.* ¶ 179.

183. *Id.* ¶ 185.

184. *Id.* ¶ 179.

185. *Id.* ¶ 180.

186. *Id.* ¶ 181.

187. *Id.* ¶¶ 179, 185.

188. *Id.* ¶ 182.

189. *Id.* ¶ 185.

190. *Id.* ¶ 182.

Huamaní's hotel room.<sup>191</sup> Authorities seized and judicially deposited the money after Mr. Cantoral Huamaní's death, but never returned the money, as it was lost or stolen while in judicial custody.<sup>192</sup> The State shall deliver the money to Pelagia Mélida Contreras-Montoya de Cantoral.<sup>193</sup>

#### 4. Costs and Expenses

The Court ordered the State to pay \$10,000 to Pelagia Mélida Contreras de Cantoral, who will deliver the corresponding amount to the representatives, for the costs relating to legal representation during the domestic and international proceedings of the case.<sup>194</sup>

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

\$420,000

#### *C. Deadlines*

The State must publish the pertinent parts of the Judgment and perform a public act to acknowledge responsibility within six months of notification of the Judgment.<sup>195</sup> The State must compensate and reimburse the victims within one year of notification of the Judgment.<sup>196</sup>

### V. INTERPRETATION AND REVISION OF JUDGMENT

The State submitted a request that the Court interpret several aspects of its Judgment, which included whether the State could appeal the Judgment if its state judiciary reached a conclusion contrary to that found by the Court; a clarification of the Court's order that the State pay \$7,500 in restitution to Pelagia Mélida Contreras-Montoya de Cantoral rather than the FNTMMS; and a clarification of the judgment as relating to the facts and legal status of Elisa Huamaní Infanzón.<sup>197</sup>

The Court deemed the State's request regarding a possible appeal

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191. *Id.* ¶ 187.

192. *Id.*

193. *Id.*

194. *Id.* ¶¶ 204-05.

195. *Id.* ¶¶ 192-93.

196. *Id.* ¶¶ 174, 186, 205.

197. Cantoral Huamaní and García Santa Cruz v. Peru, Interpretation of the Judgment on Preliminary Objections, Merits, Reparations, and Costs, ¶ 1.

inadmissible because it was not an interpretation of the Judgment, but a request, and did not conform to the procedure of the Court.<sup>198</sup>

In addressing its order that the State pay restitution to Pelagia Mélida Contreras-Montoya de Cantoral, the Court clarified that it ordered restitution to Pelagia Mélida Contreras Montoya de Cantoral, and not the FNTMMS, because the money was in her husband's possession at the time of the murder.<sup>199</sup> Unlike the FNTMMS, Ms. Contreras Montoya de Cantoral was a party to the suit.<sup>200</sup> Therefore, the State should make the restitution payment to Ms. Contreras Montoya de Cantoral.<sup>201</sup>

Finally, the State asked the Court to reevaluate the facts and legal status surrounding Ms. Huamaní Infanzón because the Court stated in its judgment that she was deceased, and the State believed that she may still be alive.<sup>202</sup> The Court deemed this request inadmissible because the State disputed a question of fact already evaluated in a prior procedural stage.<sup>203</sup>

## VI. COMPLIANCE AND FOLLOW-UP

**May 8, 2008:** The State requested that a State University President grant a scholarship to Brenda Cantoral Contreras.<sup>204</sup>

**August 3, 2008:** Peru failed to submit a compliance report to the Court on time.<sup>205</sup>

**November 20, 2008:** The Court's Secretariat delivered a note to Peru reminding it of its obligations to comply with the Court's Judgment.<sup>206</sup>

**February 2, 2009:** The Secretariat delivered another note to Peru reminding it of its obligations to comply with the Court's Judgment.<sup>207</sup> The Secretariat extended Peru's deadline until February 16, 2009.<sup>208</sup>

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198. *Id.* ¶ 17.

199. *Id.* ¶ 22.

200. *Id.*

201. *Id.*

202. *Id.* ¶ 24.

203. *Id.* ¶ 29.

204. *Cantoral Huamaní and García Santa Cruz v. Peru*, Monitoring of Compliance with Judgment, Inter-Am. Ct. of H.R. (ser. C), No. 167, ¶ 21 (Sept. 21, 2009).

205. *Id.*

206. *Id.* ¶ 3.

207. *Id.* ¶ 5.

208. *Id.*

**April 16, 2009:** Representatives confirmed that the State spoke to Vanessa Cantoral Contreras and Brenda Cantoral Contreras and determined that the two wished to continue their psychological treatment.<sup>209</sup>

**April 28, 2009:** The Court issued an order recognizing that the State has not complied with the Judgment and directing the State to implement the orders of the Court.<sup>210</sup> The Court gave the State a deadline of June 1, 2009, to submit a compliance report.<sup>211</sup>

**May 11, 2009:** Representatives confirmed that the State paid, “by way of down payment,” \$40,500 to be distributed among the next of kin of the victims.<sup>212</sup>

**June 10, 2009:** The State submitted a report that demonstrates its progress on compliance with the Court’s judgment.<sup>213</sup> It reported that it placed links to the Court’s Judgment on a newspaper’s website.<sup>214</sup>

**September 21, 2009:** The Court found that the State did not submit all of the materials the Court requested, including progress on the status of the investigation, whether the State held a public ceremony acknowledging the human rights violations, and whether the next of kin received appropriate medical and psychological treatment.<sup>215</sup> Although the Court appreciated that the State placed information about the case on a website, it deemed that this did not constitute compliance with the Judgment, and ordered that the State fulfill the directives of the Judgment.<sup>216</sup> The Court also appreciated that the State made efforts to grant a scholarship to Brenda Cantoral Contreras, but ordered the State to issue scholarships to the other family members indicated in the Judgment.<sup>217</sup> The Court acknowledged that the State made a partial payment of the damages, but ordered the State to complete the

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209. *Id.* ¶ 27.

210. *Id.* ¶ 3.

211. *Id.*

212. *Id.* ¶ 32.

213. *Id.* ¶ 4.

214. *Id.* ¶¶ 14, 18.

215. *Id.* ¶¶ 15, 31.

216. *Id.* ¶ 16.

217. *Id.* ¶¶ 23-25.



payments as ordered in the Judgment.<sup>218</sup> Because the State missed the deadline set in the Judgment, the State must pay arrearages on the late payments.<sup>219</sup> Finally, the Court ordered that the State submit another compliance report no later than January 29, 2010.<sup>220</sup>

**February 2010 - December 2010:** The State submitted four compliance reports to the Court.<sup>221</sup>

**April 26, 2010:** The State published the relevant paragraphs of the Judgment in the newspaper *Expreso S.A.*<sup>222</sup> It also paid \$132,000 in compensation to the victims' next of kin.<sup>223</sup>

**October 25, 2010:** The State agreed to pay \$150,000 in compensation to the victims' next of kin, \$30,000 of which was designated for Ms. Contreras Montoya de Cantoral.<sup>224</sup>

**February 22, 2011:** Although the State indicated that there were pending *habeas corpus* proceedings related to the case of the victims, the Court found that the State had not carried out justice, and ordered that the State apprise the Court of the status of the judicial proceedings related to the case.<sup>225</sup> The Court also ordered that the State provide updated reports on the status of the scholarship for the victim's family, as the State only reported partial compliance.<sup>226</sup> In regard to the media publication, the Court requested that the State submit a copy of the publication in *Expreso*, and ordered the State to publish the relevant parts of the judgment in the Official Gazette as ordered.<sup>227</sup> In regard to the State's obligation to provide psychological and medical treatment to the victims' next of kin, the Court found that the State partially complied by providing health insurance to all but two of the family members, and that Brenda and Vanessa Cantoral Contreras had continued to receive psychological treatment.<sup>228</sup> The Court requested

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218. *Id.* ¶ 36.

219. *Id.*

220. *Id.* ¶ 2.

221. *Cantoral Huamaní and García Santa Cruz v. Peru*, Monitoring of Compliance with Judgment, Inter-Am. Ct. of H.R., (ser. C), No. 167 ¶ 4 (Feb. 22, 2011).

222. *Id.* ¶ 20.

223. *Id.* ¶ 30.

224. *Id.*

225. *Id.* ¶ 12.

226. *Id.* ¶¶ 18-19.

227. *Id.* ¶ 23.

228. *Id.* ¶¶ 24-29.

that the State deliver updated reports on its compliance with these provisions so that it could render a more complete evaluation on the State's compliance with this obligation.<sup>229</sup> Regarding compensation, the Court noted that the State fulfilled most of the required payments, but had not fully compensated all of the victims' next of kin.<sup>230</sup> Furthermore, the Court ordered that the State pay restitution to Ms. Contreras Montoya de Cantoral, and the interest that accrued due to the late payments.<sup>231</sup> Finally, the Court ordered that the State submit information regarding a public ceremony acknowledging the human rights violations.<sup>232</sup>

## VII. LIST OF DOCUMENTS

### A. *Inter-American Court*

#### 1. Preliminary Objections

[None]

#### 2. Decisions on Merits, Reparations and Costs

[Cantoral Huamaní and García Santa Cruz v. Peru, Preliminary Objection, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 167 \(July 10, 2007\).](#)

[Cantoral Huamaní and García Santa Cruz v. Peru, Preliminary Objection, Merits, Reparations and Costs, Separate Opinion of Judge Manuel E. Ventura Robles, Inter-Am. Ct. H.R. \(ser. C\) No. 167 \(July 10, 2007\).](#)

#### 3. Provisional Measures

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229. *Id.*

230. *Id.* ¶¶ 31-35.

231. *Id.*

232. *Id.* ¶¶ 36-39.

[None]

#### 4. Compliance Monitoring

[Cantoral Huamaní and García Santa Cruz v. Peru, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Feb. 22, 2011\).](#)

[Cantoral Huamaní and García Santa Cruz v. Peru, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Sept. 21, 2009\).](#)

[Cantoral Huamaní and García Santa Cruz v. Peru, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Apr. 28, 2009\).](#)

#### 5. Review and Interpretation of Judgment

[Cantoral Huamaní and García Santa Cruz v. Peru, Preliminary Objection, Merits, Reparations and Costs, Interpretation of the Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 167 \(Jan. 28, 2008\).](#)

#### *B. Inter-American Commission*

##### 1. Petition to the Commission

Cantoral Huamaní and García Santa Cruz v. Peru, Petition No. 10.435, Inter-Am. Comm'n H.R. (May 9, 1989).

##### 2. Report on Admissibility

Cantoral Huamaní and García Santa Cruz v. Peru, Admissibility Report, Report No. 7/08, Inter-Am. Comm'n H.R., Case No. 10.435 (Oct. 15, 2005).

##### 3. Provisional Measures

[None]

##### 4. Report on Merits

Cantoral Huamaní and García Santa Cruz v. Peru, Report on Merits, Report No. 76/05, Inter-Am. Comm'n H.R., Case No. 10.435 (Oct. 15, 2005).

#### 5. Application to the Court

[Cantoral Huamaní and García Santa Cruz v. Peru, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 10.435, \(Feb. 21, 2006\) \(Available only in Spanish\).](#)

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César Romero, *Fiscalía Pide 25 Años de Cárcel para Mantilla y Grupo Rodrigo Franco*, LA REPÚBLICA, Aug. 6, 2012, <http://www.larepublica.pe/06-08-2012/fiscalia-pide-25-anos-de-carcel-para-mantilla-y-grupo-rodrigo-franco>.

Ana Véliz, *Desaparece Acta de Autopsia a Saúl Cantoral*, LA REPÚBLICA, Jun. 16, 2006, <http://www.larepublica.pe/16-06-2006/desaparece-acta-de-autopsia-saul-cantoral>.