

Garífuna Triunfo de la Cruz Community and its Members v. Honduras

ABSTRACT¹

As the case of the Garífuna Punta Piedra Community and its Members v. Honduras, this case is about land rights of a group of Garifunas, a mixed-race indigenous community living on the Caribbean coast of Honduras. Eventually, the Court ruled against Honduras, finding violations of the American Convention.

I. FACTS

A. Chronology of Events

December 9, 1946: The Garífuna Triunfo de la Cruz Community (hereinafter, “the Community”) is a community of indigenous people living along the Caribbean coast of Honduras. The Garifuna are mixed-race descendants of West African, Central African, Caribbean, European, and Arawak people. On this date, in accordance with the Agrarian Law, it formally requests the government of Honduras to grant title to the land the Community has historically occupied.²

November 29, 1950: The President of the Republic approves the Community’s request to grant title to the communal land.³ The land is bordered by the ocean to the north and by State-owned land to the east, south, and west.⁴ In total, the granted title covers 380 hectares, 51 ares, and 82.7 centiares.⁵

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2. Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Report on Merits, Report No. 76/12, Inter Am. Comm’n H.R., Case No. 12.548, ¶¶ 69-70 (Nov. 7, 2012).

3. *Id.* ¶ 60.

4. *Id.* ¶ 74.

5. *Id.* ¶ 72.

October 6, 1951: The title is registered with the State's Register of Property, Mortgages, and Provisional Property Registration.⁶ The registered title covers the Community's structures, but not all of its farmland.⁷

June 27, 1969: Members of the Community file an application with the National Agrarian Institute (*El Instituto Nacional Agrario*; "INA") requesting title over an "agricultural population center" in land located to the east of the Community title, known as the Plátano River Sandban.⁸

June and November 1969: The Community asks the INA for protection after a trading company, MACERICA S. de R.L., LLP ("MACERICA"), attempts to fence off some of the Community's land, which would essentially evict the Community.⁹ MACERICA asserts that it purchased the land, a 50-hectare plot, from private owners.¹⁰

September 28, 1979: Based on the newly-enacted Agrarian Reform Law, the INA grants the Community a "guarantee of occupancy" title to 126.40 hectares.¹¹ This land is located on the eastern portion of the communal title previously granted to the Community.¹²

May 25, 1984: The INA concludes that the Plátano River Sandbank area requested by the Community is State's property.¹³

November 6, 1986: The Community requests that twenty-five *manzanas* – or regions – of the 126.40 hectares over which the Community was given "guaranteed occupancy" status to be officially given to the *El Esfuerzo* Cooperative.¹⁴ The *El Esfuerzo* Cooperative is made up of poor women from the Community who wish to cultivate the land.¹⁵

6. *Id.* ¶ 73.

7. *Id.*

8. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras*, Report on Merits, ¶ 74.

9. *Id.* ¶¶ 75-76.

10. *Id.* ¶ 76.

11. *Id.* ¶¶ 80-81.

12. *Id.* ¶ 81.

13. *Id.* ¶ 76.

14. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras*, Report on Merits, ¶ 137.

15. *Id.* ¶¶ 137-38.

May 18, 1987: The INA provides a “Provisional Possession Certificate,” documenting their acceptance of the Community’s request to give some of their land to the *El Esfuerzo* Cooperative.¹⁶

April 24, 1989: The INA approves an expansion of the town border for the nearby Municipality of Tela.¹⁷ The expansion will engulf some of the Community’s land but the Municipality agreed to compensate fairly the Community for the land.¹⁸ However, the INA fails to notify the Community of this development and no effort is made to compensate or obtain their consent to the expansion.¹⁹ This results in the Municipality selling various portions of the Community’s land to private parties, and furthering the dispute over the Community’s land.²⁰

April 6, 1992: The Agrarian Reform Law is amended to allow indigenous communities to apply for full ownership of land that they have occupied for at least three years.²¹

November 11, 1992: The Community, in accordance with the amended Agrarian Reform Law, applies for full ownership of the land granted to them as communal title in 1950.²²

October 29, 1993: The INA grants the Community full ownership rights over the land that was previously granted as communal land in 1950.²³ A condition of the deed is that any future sales of the land may only be authorized for tourism projects through the Honduran Tourism Institute (“IHT”) and for the descendants of the Community.²⁴ The IHT also files an inquiry with the Attorney General’s Office regarding the land sold to private entities by the Municipality and the legality of those sales.²⁵

16. *Id.* ¶ 137.

17. *Id.* ¶¶ 100-05.

18. *Id.* n.86.

19. *Id.* ¶ 106.

20. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras*, Report on Merits, ¶ 108.

21. *Id.* ¶ 82.

22. *Id.* ¶ 83.

23. *Id.* ¶ 84.

24. *Id.*

25. *Id.* ¶ 77.

March 25, 1996: The INA suspends granting the Plátano River Sandbank area to the Community until the Attorney General rules on the issues raised by the IHT.²⁶

January 15, 1998: The Municipality of Tela, believing that their town encompasses the Community's communal lands, sells lots to third parties.²⁷ Notably, the Municipality sells a portion of Community land to the Tela Municipal Workers Trade Union.²⁸ This causes tension in the area, and armed men threaten and harass Community members.²⁹ The Municipality sells at least 42.2 hectares of Community land in total.³⁰

June 3, 1998: The INA files a request for information on the matter with the Attorney General, but the request is never answered.³¹

December 29, 2000: The President of Honduras signs an order establishing the Punta Izopo National Park.³² The park covers 18,820 hectares and overlaps with significant portions of Community land and is located adjacent to the Community's established fishing area.³³ The order provides that anyone who owns property within the boundaries of the new Park must abide by strict Park management plans, and the State has the right of refusal for any sales of land within the protected zone.³⁴ The Community is not consulted prior to the Punta Izopo's establishment.³⁵

June 22, 2000 – March 26, 2001: Community members file numerous complaints with State authorities, alleging threats, evictions, and acts of violence being made against them by various parties attempting to remove the Community from its historical land.³⁶ Community member Raymundo Dominguez files a complaint with the Honduran Criminal Investigation Bureau ("CIB") after facing numerous "death threats and

26. Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Report on Merits, ¶ 78.

27. *Id.* ¶ 21.

28. *Id.*

29. *Id.*

30. *Id.* ¶ 108.

31. *Id.* ¶ 78.

32. Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Report on Merits, ¶ 166.

33. *Id.* ¶¶ 167, 170.

34. *Id.* ¶ 168.

35. *Id.* ¶ 171.

36. *Id.* ¶¶ 134-36.

threats to harm him” from the members of the Tela Municipal Workers Trade Union.³⁷

Black Fraternal Organization of Honduras (*Organizacion Fraternal Negra Hondurena*; “OFRANEH”) Coordinator General Gregoria Flores Martinez also files a complaint with the Attorney General on behalf of the Community.³⁸ She alleges that the Municipality of Tela is responsible for individuals threatening the Community.³⁹

January 22, 2001: The Community demands the expansion of the title given to them in 1993 to gain ownership over more of the land they historically occupied.⁴⁰

September 27, 2001: The INA acquiesces to the Community’s demand and grants title over three lots covering 234 hectares, 48 acres, and 76.03 centiares.⁴¹

February–March 2002: The Office of the Prosecutor for Ethnic Groups takes statements from the women of the *El Esfuerzo* Cooperative.⁴² The women claim that, beginning with the expansion of the Municipality of Tela border, third parties have laid claim to their 25 *manzanas* and they have faced harassment, including the burning of their crops and theft of their cattle.⁴³

May 16, 2003: An agreement is signed between the *El Esfuerzo* Cooperative, the third parties claiming the land, and others, in which they agree to “peacefully split [the land] among the parties.”⁴⁴

August 4, 2005: The President signs an Executive Decree, calling for the construction of a tourism “mega project” called “Los Micos Beach and Golf Resort,” to be built on Community land.⁴⁵

37. *Id.*

38. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras*, Report on Merits, ¶¶ 134-36.

39. *Id.*

40. *Id.* ¶ 18.

41. *Id.*

42. *Id.* ¶ 139.

43. *Id.*

44. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras*, Report on Merits, ¶ 140.

45. *Id.* ¶ 160.

April 19, 2006: Community members file complaints in response to actions taken by the Municipality of Tela.⁴⁶ For example, the Municipality created a “Community Council” that authorizes sales of Community land without the consent of the Community or its own legitimate Community Council.⁴⁷ The Municipality also repeatedly fails to officially recognize the Community’s own Council, despite numerous attempts by the Community to do so.⁴⁸

May 27, 2006: Armed members of the Trade Union enter the 22 *manzanas* under dispute and threaten to burn down Community buildings, including the Community’s main meeting hall.⁴⁹

April 26, 2009: Although an agreement is signed between the parties interested in the land owned by the *El Esfuerzo* Cooperative, problems persist and six armed men come to the 25 *manzanas* to enforce the claimed boundaries.⁵⁰

B. Other Relevant Facts

While the Community defends its ancestral lands, they experience constant threats, harassment, and violence.⁵¹ Specifically, four members of the Community, Oscar Brega, Jesús Álvarez Roche, Jorge Castillo Jiménez, and Julio Alberto Morales are murdered during this time as a result of the feud between the Community and private parties.⁵²

II. PROCEDURAL HISTORY

A. Before the Commission

October 29, 2003: The Commission receives a petition from OFRANEH, alleging that the State is responsible for human rights

46. *Id.* ¶ 155.

47. *Id.*

48. *Id.* ¶¶ 155-57.

49. *Id.* ¶ 135.

50. Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Report on Merits, ¶ 140.

51. *Id.* ¶ 133.

52. Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Merits, Reparations, and Costs, Judgment, Inter-Am Ct. H.R. (ser. C) No. 305, ¶ 204 (Oct. 8, 2015).

violations committed against the Community, as well as other Garífuna Communities in the State.⁵³

December 19, 2003: The Commission divides the petition into three separate cases with one for each of the three Garífuna Communities in the petition.⁵⁴ The Commission assigns the Garífuna Triunfo de la Cruz Community registration number 906-03.⁵⁵

March 14, 2006: The Commission issues Admissibility Report No. 29/06 and declares the petition admissible insofar as the petition alleges violations of Articles 8 (Right to a Fair Trial), 21 (Right to Property), and 25 (Right to Judicial Protection) in relation to Articles 1(1) (Obligation of Non-Discrimination) and 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention.⁵⁶

April 28, 2006: The Commission requests the Court order the State to adopt precautionary measures to protect the Community's ancestral lands pending the Commission's investigations.⁵⁷

May 17, 2006: The State informs the Commission that it is working to adopt the precautionary measures and is requesting the Municipality of Tela not to issue resolutions effecting Community land.⁵⁸

November 7, 2012: The Commission issues Report on the Merits No. 76/12, which determines the State is responsible for the alleged violations in the admissibility petition.⁵⁹ The Commission recommends the State⁶⁰: (1) take the proper legislative steps to give the Community the right to its communal property and other property; (2) give the indigenous peoples access to free consultation; (3) create an efficient method for indigenous peoples of the State to claim and gain access to their ancestral lands; (4) investigate and punish the criminal actions taken by those who threaten or harass members of the Community;

53. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras*, Report on Merits ¶ 1.

54. *Id.* ¶ 2.

55. *Id.*

56. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras*, Admissibility Report, Report No. 29/06, Inter-Am. Comm'n H.R., Case No. 12.548, ¶ 58 (Mar. 14, 2006).

57. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras*, Report on Merits, ¶ 12.

58. *Id.* ¶ 13.

59. *Id.* ¶ 294.

60. *Id.* ¶ 295.

(5) make reparations; and (6) take any other steps necessary to prevent similar occurrences in the future.⁶¹

B. Before the Court

February 21, 2013: The Commission submits the case to the Court after the State failed to adopt its recommendations.⁶²

1. Violations Alleged by Commission⁶³

Article 8 (Right to a Fair Trial)

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

Article 21 (Right to Property)

Article 25 (Right to Judicial Protection)

all in relation to:

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

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

2. Violations Alleged by Commission⁶⁴

Same Violations Alleged by Commission, plus:

Article 4 (Right to Life)

December 18, 2013: The President of the Court issues an Order declaring the victims to be eligible for financial assistance from the Victim's Legal Assistance Fund.⁶⁵

April 7, 2014: A second Order of the President establishes that the victims will receive financial assistance for two witnesses to attend court proceedings.⁶⁶

61. *Id.*

62. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Merits, Reparations, and Costs*, ¶ 1.

63. *Id.*

64. *Id.*

65. *See Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Provisional Measures, Order of the President of the Court, Inter-Am. Ct. H.R. (ser. E) (Dec. 18, 2013).*

66. *See Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Provisional Measures, Order of the President of the Court, Inter-Am. Ct. H.R. (ser. E) (Apr. 2014).*

August 21-22, 2015: A delegation of the Court visits the disputed ancestral lands of the Community to better assess the issues before the Court.⁶⁷

III. MERITS

A. Composition of the Court

Humberto Antonio Sierra Porto, President
Roberto F. Caldas, Vice-President
Manuel E. Ventura Robles, Judge
Diego García-Sayán, 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

October 8, 2015: The Court issues its Judgment on Merits, Reparations, and Costs.⁶⁸

The Court found, unanimously, that the State had violated:

Article 21 (Right to Property) in relation to Articles 1(1) (Obligation of Non-Discrimination) and 2 (Obligation to Give Domestic Legal Effect to Rights) of the Convention, to the detriment of the Community,⁶⁹ because:

The State did not provide the Community with effective access to communal title over their ancestral lands, and did not demarcate or effectively protect that territory as required by the American Convention on Human Rights.⁷⁰ The Court considered that indigenous people, by virtue of their existence, have the right to live freely in their territories, and that the Community's identity is closely intertwined with

67. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Merits, Reparations, and Costs*, ¶ 16.

68. *See generally id.*

69. *Id.* “Operative Paragraphs” ¶ 1.

70. *Id.* ¶¶ 100-09.

their land.⁷¹ The Community's use of its ancestral lands was not a privilege, but a right upon which the State infringed.⁷² Accordingly, the Court found the State in violation of Article 21 (Right to Property).

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25 (Right to Judicial Protection), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of the Community,⁷³ because:

The State failed to respond to the Community's many attempts to obtain legal recognition of its ancestral lands.⁷⁴ In some instances, the State responded to the Community's filings for recognition, but those responses were ineffective because the State failed to award the entirety of the land requested.⁷⁵ Although the State was not required to award all the land requested, it failed to adequately analyze the Community's requests in light of its status as an indigenous community.⁷⁶ In instances where it was not feasible to grant the land requested by the Community, the State failed to assess whether it could grant other land in order to compensate for the State's inability to comply with the Community's requests.⁷⁷

Further, several attempts by the Community to obtain relief through criminal and administrative investigations were stalled or closed without an adequate resolution.⁷⁸ Namely, an investigation into the legality of sales of the Community's disputed lands by the Office of the Comptroller General was suspended in 1996, and still has not been resumed.⁷⁹ Although the Court took into consideration the complexity of the issues facing the Community, the Court found the prolonged stalling of tribunal proceedings was unacceptable.⁸⁰

71. *Id.*

72. *Id.*

73. Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Merits, Reparations, and Costs, "Operative Paragraphs" ¶ 2.

74. *Id.* ¶¶ 235-36.

75. *Id.*

76. *Id.* ¶ 237.

77. *Id.* ¶¶ 238-40.

78. *Id.* ¶¶ 242-51.

79. Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Merits, Reparations, and Costs, ¶ 248.

80. *Id.* ¶ 251.

Lastly, the Court found that the State failed to investigate various allegations of violence and threats against members of the Community.⁸¹ Due to the State's constant neglect of the Community's filings and attempts for relief, the Court found the State in violation of Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25 (Right to Judicial Protection).

Article 2 (Obligation to Give Domestic Legal Effect to Rights), in relation to Article 1(1) (Obligation of Non-Discrimination), Article 21 (Right to Property), Article 8 (Right to a Fair Trial) and Article 25 (Right to Judicial Protection) of the Convention, to the detriment of the Community,⁸² because:

The Community has had a domestic legal right to ownership of their ancestral lands since 1974, if not before.⁸³ This right was furthered by the 1982 Honduran Constitution, which established an obligation by the State, under its own domestic law, to delimit and demarcate the ancestral lands of tribal communities within the State's borders.⁸⁴ Further, under the terms of the International Labor Organization Convention 169, the State had an obligation to consult with indigenous and tribal communities regarding use of their lands.⁸⁵ The Convention, which entered into force for Honduras in 1996, also required the State to adopt a standard procedure to ensure that the tribal right to consultation would be effective.⁸⁶ The State failed to provide the required channels for consultation with Community members in regards to the Club Marbella tourist project as well as the creation of the Punta Izopo protected area.⁸⁷ Therefore, the State was responsible for failing to adopt its domestic law concerning the Community's right to consultation.⁸⁸

The Court found, unanimously, that the State had not violated:

81. *Id.* ¶¶ 252-53.

82. *Id.* "Operative Paragraphs" ¶ 3.

83. *Id.* ¶ 189.

84. *Id.* ¶ 190.

85. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Merits, Reparations, and Costs*, ¶¶ 196-99.

86. *Id.*

87. *Id.*

88. *Id.*

Article 4 (Right to Life), to the detriment of Jesús Álvarez Roche, Oscar Brega, Jorge Castillo Jiménez, and Julio Alberto Morales,⁸⁹ because:

Under the American Convention, States must take all necessary actions to ensure its people are afforded the right to life.⁹⁰ This includes taking reasonable actions to prevent violations, investigate alleged violations, and identify those responsible for violations.⁹¹ While it is possible a violation occurred, the representative of the victims did not present sufficient evidence of such a violation to the Court.⁹² As such, there was not enough evidence to establish the State violated Article 4 (Right to Life) and consequently, the Court ruled the State was not in violation of the Article.

C. Dissenting and Concurring Opinions

1. Concurring Opinion of Judge Humberto Antonio Sierra Porto

In a separate opinion, Judge Sierra Porto concurred with the Court, but expressed a need to highlight issues which he felt deserved special attention, including: (1) the lack of clarity with the facts as they were presented to the Court; and (2) the reasoning behind the Court's order of collective redress and how that is not meant to replace any public policy actions taken by the State on its own initiative.⁹³

Judge Sierra Porto was concerned with the way the facts were presented to the Court because they were unclear and lacked the proof needed by the Court to adequately rule on the issues.⁹⁴ Because the Court did not have clear information regarding the exact size of the disputed territory, the number of inhabitants and third parties that claimed the land, and the sale of lands to third parties, the Court had to seek out additional information in order to issue an adequate judgment.⁹⁵ Judge Sierra Porto expressed a need to present cases to the

89. *Id.* "Operative Paragraphs," ¶ 1.

90. *Id.* ¶ 208.

91. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Merits, Reparations, and Costs*, ¶ 208.

92. *Id.* ¶ 210.

93. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Merits, Reparations, and Costs, Concurring Opinion of Judge Humberto Antonio Sierra Porto, Inter-Am. Ct. H.R. (ser. C) No. 305, ¶ 1 (Oct. 8, 2015).*

94. *Id.* ¶ 5.

95. *Id.* ¶ 11.

Court with enough proven facts for the Court to be able to come to a fair conclusion, which did not happen in this case.⁹⁶

Lastly, Judge Sierra Porto wrote to clarify the Court's Judgment.⁹⁷ He provided further reasoning behind the Court's decision to provide collective redress to the Community as a whole, and stressed that the ruling did not bind members of the Community with individual claims.⁹⁸ Further, since the Judgment came in response to human rights violations, it is not meant to replace any public policy measures taken by the State on its own initiative.⁹⁹ The State is still obliged to continue to uphold the terms of the American Convention on Human Rights and cannot do so by merely complying with the Court's judgment.¹⁰⁰

IV. REPARATIONS

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

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

1. Demarcate of the Communal Land Granted to the Community

The Court ordered that the State must effectively demarcate the land given to the Community over the years.¹⁰¹ The State must do so with the full participation of the Community and take into consideration the customary law and customs of the Community.¹⁰² Moreover, the Court also identified an area called "Lot A1," which the State must also demarcate for the Community.¹⁰³ Lot A1 was recognized as part of the Community's traditional land by the INA.¹⁰⁴ The State must carry out relocation measures for those who hold full title to land included in Lot A1 and pay damages to those injured as a result.¹⁰⁵ If the State finds it not possible to carry out those relocation measures, the State must

96. *Id.* ¶¶ 4-8.

97. *Id.* ¶ 20.

98. *Id.* ¶ 26.

99. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Merits, Reparations, and Costs, Concurring Opinion of Judge Humberto Antonio Sierra Porto, ¶¶ 29-35.*

100. *Id.*

101. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Merits, Reparations, and Costs, "Operative Paragraphs" ¶¶ 6-7.*

102. *Id.* ¶ 259.

103. *Id.*

104. *Id.* ¶¶ 260-64.

105. *Id.*

compensate the Community by giving it title to different land.¹⁰⁶ In that scenario, the land granted to the Community must be equal in both size and quality to that of Lot A1.¹⁰⁷ Moreover, the State must grant this portion of land with full participation from members of the Community, just as the rest of the land to be demarcated requires consultation from Community members.¹⁰⁸

2. Investigate the Deaths of the Four Community Members

The Court ordered that within a reasonable period of time the State must initiate investigations into the deaths of the four Community members, Jesús Álvarez, Óscar Brega, Jorge Castillo Jiménez, and Julio Alberto Morales.¹⁰⁹ The State must investigate to determine criminal responsibility, and apply consequences in accordance with domestic law.¹¹⁰

3. Publish the Judgment and Publicly Recognize Responsibility

The State must publish a summary of the Court's Judgment in both the Official Gazette and in a widely circulated national newspaper in the State.¹¹¹ Moreover, it must publish the Judgment in full on an official State website and make it available for at least one year.¹¹²

The Court also ordered that the official summary of the Judgment be broadcast on a radio station that can be heard on Community lands.¹¹³ The summary of the Judgment must be broadcast on the first Sunday of every month for at least three months.¹¹⁴ It must be broadcast in both Spanish and in the Garífuna language, and the State must inform representatives of the Community of the date, time and station on which it will be broadcast¹¹⁵ at least two weeks before the broadcast.¹¹⁶

Further, the State must organize a public ceremony acknowledging international responsibility for the human rights violations discussed in

106. *Id.*

107. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Merits, Reparations, and Costs*, ¶¶ 260-64.

108. *Id.*

109. *Id.* "Operative Paragraphs," ¶ 8.

110. *Id.* ¶¶ 266-67.

111. *Id.* ¶ 271.

112. *Id.*

113. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Merits, Reparations, and Costs*, ¶ 272.

114. *Id.*

115. *Id.*

116. *Id.*

the Judgment.¹¹⁷ The highest authorities of both the State and the Community must be present, and the ceremony must be conducted in both Spanish and the language of the Community.¹¹⁸

4. Guarantee Free Access, Use and Enjoyment of Garífuna Triunfo de la Cruz Property

The Court ordered that the State must guarantee free access, use, and enjoyment of the parts of Community territory that overlap with the Punta Izopo National Park.¹¹⁹

5. Create Property Registry Regulation

The State must take adequate measures to properly regulate its system of property registration.¹²⁰ This is due to the lack of clarity in of the Honduran Property Registry.¹²¹ The Court ordered this so that ownership will be clearer in future cases involving rural territory.¹²²

6. Create a Community Development Fund

The State must appoint a competent authority to oversee the administration of a Community Development Fund.¹²³ The Fund is to serve four purposes: (1) develop projects to increase agricultural production in the Community; (2) improve Community infrastructure; (3) restore deforested areas; and (4) provide for other needs that benefit the Community.¹²⁴ The State must allocate \$1.5 million dollars to the Fund to be invested for the Community's benefit for the next three years.¹²⁵

B. Compensation

The Court awarded the following amounts:

117. *Id.* ¶ 274.

118. *Id.*

119. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Merits, Reparations, and Costs*, ¶ 280.

120. *Id.* ¶ 282.

121. *Id.*

122. *Id.*

123. *Id.* ¶ 297.

124. *Id.* ¶ 296.

125. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Merits, Reparations, and Costs*, ¶ 298.

1. Pecuniary Damages

The Court found the Community failed to provide enough information regarding the amount of damages suffered by the State's violations so the Court assessed pecuniary damages to the Community as a whole.¹²⁶ The Court considered that the Community could not obtain the full economic benefit of their traditional land because of the State's failure to adequately demarcate or provide title to the land.¹²⁷ Parts of Community land were sold off to third parties, and both tourist projects and protected areas took over Community territory without the consent of Community members.¹²⁸

2. Non-Pecuniary Damages

In awarding non-pecuniary damages, the Court considered actions, or inactions, by the State that negatively impacted the Community because of the Community's close cultural ties with its traditional land.¹²⁹ First, the State failed to properly demarcate the collective land that was given to the Community and failed to award land ("Lot A1") that it had previously recognized as traditional Community land.¹³⁰ Furthermore, the State failed to protect that land from third parties.¹³¹ These failures were significant because of the special meaning that traditional lands have for the Community.¹³² Because of the State's failure to adequately demarcate and protect Community territory, the State put the Community in danger of suffering irreparable harm to its cultural identity.¹³³

Ultimately, the Court combined its award for both pecuniary and non-pecuniary damages into the \$1.5 million U.S. dollar Community Development Fund.¹³⁴

126. *Id.* ¶ 292.

127. *Id.*

128. *Id.*

129. *Id.* ¶ 294.

130. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Merits, Reparations and Costs*, ¶ 294.

131. *Id.*

132. *Id.*

133. *Id.*

134. *Id.* ¶ 295.

3. Costs and Expenses

Although the Community's representatives claimed a number of expenses totaling \$50,000, they failed to provide the Court with the evidence necessary for the Court to adequately rule on their claims.¹³⁵ Therefore, the Court set the total costs and expenses at \$10,000 for the work done in the domestic and international case litigation.¹³⁶

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

\$1,510,000

C. Deadlines

Within ninety days, the State must reimburse the Victim's Legal Assistance Fund \$1,677.97 for the expenditures incurred in providing for the costs of litigation.¹³⁷

Within six months, the State must pay the Community's representatives \$10,000 in costs and expenses resulting from the work done in domestic and international case litigation.¹³⁸

Within one year, the State must submit to the Court a report on the measures that it has taken to comply with this judgment.¹³⁹

Within six months, the State must publicize and broadcast by radio the Court's Judgment.¹⁴⁰

Within one year, the State must organize a public ceremony recognizing international responsibility for its violations.¹⁴¹

Within two years, the State must demarcate and grant in communal title the area known as "Lot A1."¹⁴²

Within two years, the State demarcate the land which was previously granted to the Community as communal title, taking into consideration the laws and customs of the Community.¹⁴³

135. *Id.* ¶¶ 302-03.

136. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Merits, Reparations, and Costs*, ¶¶ 302-03.

137. *Id.* ¶¶ 305, 308.

138. *Id.* ¶ 304.

139. *Id.* "Operative Paragraphs" ¶ 16.

140. *Id.* "Operative Paragraphs" ¶ 10.

141. *Id.*

142. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Merits, Reparations, and Costs*, "Operative Paragraphs" ¶ 7.

143. *Id.* "Operative Paragraphs" ¶ 6.

Within a reasonable time, the State must create more adequate measures to regulate its Property Registry.¹⁴⁴

The State must, within a reasonable time, initiate investigations into the deaths of Jesús Álvarez, Óscar Brega, Jorge Castillo Jiménez, and Julio Alberto Morales.¹⁴⁵

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

July 11, 2016: The Court established that the State had reimbursed the Victim's Legal Assistance Fund \$1,677.97 for the expenses incurred during litigation.¹⁴⁶ This amount, however, was fifteen dollars short of the amount the State was ordered to reimburse.¹⁴⁷ Additionally, the State made the payments 112 days after its ninety-day deadline passed.¹⁴⁸ Although the Court reasoned that the payments were likely short due to fees incurred in the wire transfer, the State also failed to pay the amount it owed in interest as a result of missing its ninety-day deadline.¹⁴⁹ Therefore, the Court found that the State had complied with its duty to reimburse the Victim's Legal Assistance Fund, but must still pay the missing amounts.¹⁵⁰

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[None]

144. *Id.* "Operative Paragraphs" ¶ 12.

145. *Id.* "Operative Paragraphs" ¶ 8.

146. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Considering that:"* ¶ 3 (Sept. 1, 2016).

147. *Id.*

148. *Id.*

149. *Id.*

150. *Id.*

2. Decisions on Merits, Reparations and Costs

[Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Merits, Reparations, and Costs, Judgment, Inter-Am Ct. H.R. \(ser. C\) No. 305, \(Oct. 8, 2015\).](#)

[Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Merits, Reparations, and Costs, Concurring Opinion of Judge Humberto Antonio Sierra Porto, Inter-Am. Ct. H.R. \(ser. C\) No. 305, \(Oct. 8, 2015\).](#)

3. Provisional Measures

[Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Provisional Measures, Order of the President of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Dec. 18, 2013\).](#)

[Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Provisional Measures, Order of the President of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(April 2014\)](#)

[Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Sept. 1, 2016\).](#)

4. Compliance Monitoring

[Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Sept. 1, 2016\).](#)

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

[Not Available]

2. Report on Admissibility

[Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Admissibility Report, Report No. 29/06, Inter-Am. Comm'n H.R., Case No. 12.548, \(Mar. 14, 2006\).](#)

3. Provisional Measures

[None]

4. Report on Merits

[Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Report on Merits, Report No. 76/12, Inter Am. Comm'n H.R., Case No. 12.548, \(Nov. 7, 2012\).](#)

5. Application to the Court

[Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Petition to the Court, Inter-Am Comm'n H.R., Case No. 12.548, \(Feb. 21, 2013\).](#)

VIII. BIBLIOGRAPHY

[None]