

Huilca Tecse v. Peru

ABSTRACT¹

This case is about the assassination of a trade union leader who had challenged legislation restricting freedom of association and trade unions in Peru during Alberto Fujimori's regime. The State eventually acknowledged responsibility and the Court found violation of several articles of the American Convention.

I. FACTS

A. Chronology of Events

December 4, 1949: Mr. Pedro Crisólogo Huilca Tecse is born in Cusco, Peru.²

1968-1992: Beginning when he was just nineteen years old, Mr. Huilca Tecse transitions through numerous leadership positions within his trade union for construction workers, and rises up through the ranks.³

June 1992: The State enacts a law that curtails trade unions and weakens collective bargaining, which has the potential to eliminate trade unions altogether.⁴

July 7, 1992: Mr. Huilca Tecse, as the Secretary General of the General Confederation of Workers of Peru (*Confederación General de Trabajadores del Peru*, "CGTP"), leads an initiative that calls for labor reform in light of the State's violations of workers' rights.⁵

July 19, 1992: A State newspaper, *La República*, features Mr. Huilca

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

2. Huilca Tecse v. Peru, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 121, ¶ 60(1) (Mar. 5, 2005).

3. *See id.* ¶¶ 60(2)-60(5).

4. *Id.* ¶ 60(10).

5. *Id.* ¶ 60(11).

Tecse's challenge to the President of the Republic of Peru, Mr. Alberto Fujimori, to hold a meeting between the Government and 200,000 workers to discuss the State's reaction to trade unions.⁶

October 1992: Despite the unions' claims that the State's reform on labor laws weakened the role of unions in the society, the State publishes the Collective Labor Relations Act, which affects freedom of association, collective bargaining, and strikes.⁷

December 3-6, 1992: Mr. Huilca Tecse gives a speech that criticizes the newly adopted measure for putting constraints on the labor sector.⁸

December 15, 1992: Mr. Huilca Tecse participates in a protest march and writes an article in which he criticizes the State and references a speech given by President Fujimori.⁹

December 17, 1992: Mr. Huilca Tecse addresses a crowd in the central streets of Lima.¹⁰

December 18, 1992: A group of eight to ten armed individuals approach Mr. Huilca Tecse as he leaves his home in Lima to go to work with his daughter, Flor de María Huilca Gutiérrez, and his stepson, Mr. Julio César Escobar Flores.¹¹ One of the men fatally shoots Mr. Huilca Tecse with several bullets.¹² Mr. Huilca Tecse's stepson is sitting in the back seat of the car and suffers injuries in the shooting, but his daughter escapes unharmed and runs for help.¹³ Mr. Huilca Tecse's companion, Mrs. Martha Flores Gutiérrez, witnesses the shooting from the door of their house.¹⁴ The group fires shots at the door of the Huilca Tecse family household as they flee.¹⁵

Mr. Huilca Tecse's other children are José Carlos Huilca Flores, Indira Isabel Huilca Flores, Pedro Humberto Huilca Gutiérrez, and Katuska Tatiana Huilca Gutiérrez.¹⁶

6. *Id.* ¶ 60(13).

7. *Id.* ¶¶ 60(10), 60(15)-60(16).

8. *Id.* ¶ 60(17).

9. *Id.* ¶¶ 60(19)-60(20).

10. *Id.* ¶ 60(21).

11. *Id.* ¶ 60(22).

12. *Id.*

13. *Id.* ¶ 60(23).

14. *Id.*

15. *Id.* ¶ 60(24).

16. *Id.* ¶ 60(58).

January 13, 1993: The National Counter-terrorism Directorate of the Peruvian National Police (“DINCOTE”) attributes the planning and execution of Mr. Huilca Tecse to alleged members of *Sendero Luminoso* (“Shining Path”).¹⁷ The alleged members of the Shining Path are Mr. Hernán Ismael Dipas Vargas, Mr. José Marcos Iglesias Cotrina, Mr. Percy Glodoaldo Carhuaz Tejada, Mr. Yuri Higinio Huamani Gazani, Mr. Juan Ricardo Peña Bardales, Ms. Margot Cecilia Domínguez Berrospi and Mr. Daniel Ascencio Espinoza.¹⁸

February 8, 1993: After receiving a formal complaint by the Navy’s Special Provincial Prosecutor that charges Mr. Dipas Vargas, Mr. Iglesias Cotrina, Mr. Carhuaz Tejada, Mr. Huamani Gazani, Mr. Peña Bardales, Ms. Domínguez Berrospi and Mr. Ascencio Espinoza for the crime of treason, the Navy’s Special Trial Judge finds the alleged murderers guilty of treason.¹⁹

April 14, 1997: Retired General Rodolfo Robles Espinoza shows the press a letter dated April 22, 1994, in which Mr. Mesmer Carles Talledo, a former National Intelligence Service (“SIN”) agent, claims members of the Colina Paramilitary Group are responsible for Mr. Huilca Tecse’s murder.²⁰ The Colina Paramilitary Group is a death squad with connections to the State Army’s Intelligence Service.²¹ A second letter by Mr. Carles Talledo, who was previously convicted to life imprisonment for treason, confirms his claims and states that the murder of Mr. Huilca Tecse was politically motivated due to Mr. Huilca Tecse’s advocacy for nationwide strikes.²²

May 13, 1997: Mrs. Flores Gutiérrez files a criminal complaint before the Public Prosecutor’s Office against members of the SIN for the murder of Mr. Huilca Tecse.²³ Mrs. Flores Gutiérrez bases her allegations against members of the SIN on General Robles Espinoza’s information, and the inconsistencies in the murder investigation of Mr. Huilca Tecse, which results in a trial that convicts alleged members of Shining Path

17. *Id.* ¶¶ 60(25)-60(26).

18. *Id.* ¶ 60(28).

19. *Id.* ¶¶ 60(27)-60(28).

20. *Id.* ¶ 60(35); *Huilca Tecse v. Peru*, Admissibility Report, Report No. 55/98, Inter-Am. Comm’n H.R., Case No. 11.768, ¶ 3 (Sept. 25, 1998).

21. *Huilca Tecse v. Peru*, Merits, Reparations and Costs, ¶ 3.

22. *Huilca Tecse v. Peru*, Admissibility Report, ¶ 3.

23. *Huilca Tecse v. Peru*, Merits, Reparations and Costs, ¶ 60(35).

for the assassination of Mr. Huilca Tecse.²⁴

January 5, 1998: After being acquitted of the crime of treason and regaining his liberty, Mr. Carles Talledo reverses his position that the Colina Group murdered Mr. Huilca Tecse.²⁵

June 1998: A congressional sub-committee investigates Mr. Carles Talledo's conflicting versions of events, and issues a report stating that Mr. Carles Talledo's statements are worthless and that he is "mentally incompetent."²⁶ Congressman Jorge Del Castillo Gálvez, a member of the investigative committee, finds that Mr. Clement Alayo Calderón, another former SIN agent, also links the Colina Group to Mr. Huilca Tecse's murder.²⁷ Congressman Castillo Gálvez reports that Government authorities pressure Mr. Carles Talledo to deny his previous statements, and concludes that Mr. Carles Talledo is fully mentally competent.²⁸

December 7, 1998: The Lima Provincial Criminal Prosecutor files an investigation against members of the Army in connection with Mr. Huilca Tecse's murder.²⁹ The Public Prosecutor's Office determines there is insufficient evidence to hold members of the Army responsible for what happened to Mr. Huilca Tecse.³⁰

November 20, 2000: Mr. Alayo Calderón confirms his accusation that senior State authorities are involved in the murder of Mr. Huilca Tecse in a letter to Peruvian society.³¹

December 20, 2000: Mrs. Flores Gutiérrez, the Association for Human Rights in Peru (*Asociación pro Derechos Humanos*, "APRODEH"), and the Secretary General of the Peruvian Civil Construction Workers' Federation ("FTCCP"), request the Public Prosecutor to re-open Mr. Huilca Tecse's murder investigation to determine if members of the Colina Group committed the crime.³²

24. *Id.*

25. *Id.* ¶ 60(39).

26. *Id.* ¶ 60(40).

27. *Id.* ¶ 60(41).

28. *Id.*

29. *Id.* ¶ 60(42).

30. *Id.*

31. *Id.* ¶ 60(43).

32. *Id.* ¶ 60(45).

May 26, 2003: Congresswoman Mercedes Cabanillas Bustamante files a complaint against former President Fujimori, alleging that he committed the aggravated homicide of Mr. Huilca Tecse.³³

August 28, 2003: The Peruvian Truth and Reconciliation Commission concludes that it cannot determine with certainty the people responsible for Mr. Huilca Tecse's death.³⁴

April 14, 2004: Congress adopts legislation to impeach former President Fujimori, and name him as the mastermind of the killing of Mr. Huilca Tecse.³⁵

April 23, 2004: The Public Prosecutor's Office brings criminal charges against Mr. Fujimori.³⁶

May 6, 2004: The examining magistrate of the Supreme Court of Justice issues the writ to open pretrial proceedings for the murder of Mr. Huilca Tecse, based on the complaint by the Public Prosecutor's Office.³⁷

B. Other Relevant Facts

[None]

II. PROCEDURAL HISTORY

A. Before the Commission

June 4, 1997: Mrs. Flores Gutiérrez and Mr. Aurelio Pastor Valdivieso file Petition No. 11.768 with the Inter-American Commission on Human Rights on behalf of Mr. Huilca Tecse, alleging that members of the Colina Group executed Mr. Huilca Tecse, and that the State subsequently failed to initiate an effective investigation to determine the facts and to punish those responsible.³⁸

September 25, 1998: The Commission adopts Admissibility Report No.

33. *Id.* ¶ 60(50).

34. *Id.* ¶ 60(48).

35. *Id.* ¶ 60(55).

36. *Id.* ¶ 60(56).

37. *Id.* ¶ 60(57).

38. *Huilca Tecse v. Peru*, Merits, Reparations and Costs, ¶ 5.

55/98, declaring the petition admissible.³⁹

October 23, 2003: The Commission issues Report on the Merits No. 93/03.⁴⁰ The Commission recommends that the State immediately conduct a complete, impartial, and effective investigation not only to establish who was responsible for the murder of Mr. Huilca Tecse, but also to determine who intervened in the prior investigations and proceedings.⁴¹ The State should identify the people responsible for the assassination, expedite the criminal proceedings, and apply the appropriate penalties.⁴² The Commission further recommends that the State make adequate pecuniary and non-pecuniary reparation to Mr. Huilca Tecse's widow and his children, for the violations of their human rights.⁴³ Lastly, the Commission recommends that the State install the necessary preventive measures to avoid such acts from reoccurring to honor the memory of Mr. Huilca Tecse.⁴⁴

February 13, 2004: The State responds to the Merits Report by claiming it had competently investigated the extrajudicial execution of Mr. Huilca Tecse, and imprisoned the members of the Shining Path responsible for the murder.⁴⁵ The State also indicates it would make reparations to Mr. Huilca Tecse's widow and children once it was determined that the State was the author of Mr. Huilca Tecse's death.⁴⁶ The State's preventive measure to avoid similar acts from occurring in the future is to have the Secretary General of the Ministry of Labor to focus on Mr. Huilca Tecse's achievements as a trade union leader.⁴⁷

B. Before the Court

March 12, 2004: The Commission submits the case to the Court after the State failed to adopt its recommendations.⁴⁸

39. *Id.* ¶ 6.

40. *Id.* ¶ 8.

41. *Id.* ¶¶ 8(1)-8(2).

42. *Id.*

43. *Id.* ¶ 8(3).

44. *Id.* ¶ 8(4).

45. *Id.* ¶ 10.

46. *Id.*

47. *Id.*

48. *Id.* ¶ 1.

1. Violations Alleged by Commission⁴⁹

Article 4 (Right to Life)

Article 8 (Right to a Fair Trial)

Article 25 (Right to Judicial Protection)

all in relation to:

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

2. Violations Alleged by Representatives of the Victims⁵⁰

Same Violations Alleged by Commission, plus:

Article 16 (Freedom of Association) of the American Convention.

September 7, 2004: The State acknowledges international responsibility for the violation of Articles 1 (Obligation to Respect Rights), 4 (Right to Life), 8 (Right to a Fair Trial), 11(1) (Right to Honor and Dignity), 16 (Freedom of Association), and 25 (Right to Judicial Protection).⁵¹ The State admits its participation in the assassination of Mr. Huilca Tecse, that the murder violates trade union rights, and that it actively sought to conceal the truth so that the State and its accomplices would not be found responsible.⁵² The State accepts that it should make total reparation to the alleged victims, but it also requests a friendly settlement.⁵³

December 9, 2004: The State sends a settlement agreement signed by its agent and the representatives, with the request that the Court consider the contents of the settlement in its judgment on the case.⁵⁴

December 20, 2004: The State presents a brief to the Court in an attempt to withdraw its settlement agreement.⁵⁵ The State informs the

49. *Id.* ¶ 2.

50. *Id.* ¶ 19. The Peruvian Human Rights Commission (“COMISEDH”) and the Center for Justice and International Law (“CEJIL”) serve as representatives of Mr. Huilca Tecse and his next of kin. *Id.* ¶ 17.

51. *Id.* ¶ 20. Since the State recognized its international responsibility, it did not submit any preliminary objections to the admissibility of the petition or to the jurisdiction of the Court. *See generally* Huilca Tecse v. Peru, Merits, Reparations and Costs.

52. *Id.*

53. *Id.*

54. *Id.* ¶ 28.

55. *Id.* ¶ 30.

Court that the agreement is invalid because it did not adhere to the norms and practices of the State.⁵⁶

December 21, 2004 – March 2, 2005: The State and the representatives' debate over whether the agreement is valid.⁵⁷

III. MERITS

A. *Composition of the Court*

Sergio García Ramírez, President
Alirio Abreu Burelli, Vice President
Oliver H. Jackman, Judge
Antônio Augusto Cançado Trindade, Judge
Cecilia Medina Quiroga, Judge
Manuel E. Ventura Robles, Judge
Diego García-Sayán, Judge

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

B. *Decision on the Merits*

March 3, 2005: The Court issues its Judgment on Merits, Reparations and Costs.⁵⁸

The Court found unanimously that Peru had violated:

Articles 4 (Right to Life) and 16 (Freedom of Association) in relation to Article 1(1) of the Convention, to the detriment of Mr. Huilca Tecse,⁵⁹ because:

*The State not only admitted that it had failed to ensure that Mr. Huilca Tecse's right to life was respected, but the facts also established that the State targeted him because of his activities within trade unions and his public criticisms of State policies.*⁶⁰

56. *Id.*

57. *See generally* ¶¶ 31-39.

58. *Huilca Tecse v. Peru, Merits, Reparations and Costs.*

59. *Id.* "Declares" ¶ 2.

60. *Id.* ¶¶ 64, 67-68.

Article 4 (Right to Life) provides that no person can be arbitrarily deprived of his or her life, and the State is required to implement all appropriate measures to ensure that the right to life is protected and preserved for all persons subject to its jurisdiction.⁶¹ The right to life is essential because other rights depend on it being respected; otherwise, the other rights cannot be enjoyed and are meaningless.⁶² The State is obligated to take all necessary steps to develop the conditions necessary to assure compliance not only with its agents, but also to prevent, prosecute, and punish the criminal acts that result in the deprivation of life in general.⁶³ All State institutions, including its legislators, police forces, and armed forces, are tasked with preventing the random taking of any individual's life.⁶⁴ Article 16 (Freedom of Association) stipulates that each person has the right to associate with other persons, whether it is for labor, social, religious, political or economic purposes, to achieve collective goals, unfettered by State interference that could alter the individual's purpose.⁶⁵

The State used its military intelligence to facilitate the covert operation to execute Mr. Huilca Tecse.⁶⁶ The State's active involvement in the assassination of a trade union leader and subsequent cover-up not only arbitrarily deprived Mr. Huilca Tecse of his life, but also restricted his ability to freely associate without pressure or fear by the Government to change who he associated with.⁶⁷ When an individual's right to life and safety is not fully guaranteed and respected, the freedom of association cannot be fully exercised because it is implied that the freedom of association contains the power to choose how to exercise it.⁶⁸ In this case, the right to freedom of association became illusory because Mr. Huilca Tecse was not capable of exercising his right to freely associate without being subjected to fatal repercussions by State authorities.⁶⁹ The Court also considered that Mr. Huilca Tecse's murder would intimidate other workers in the trade union movement to self-impose a limitation on associating with a group for fear of similar reprisals from the State.⁷⁰

61. *Id.* ¶ 66.

62. *Id.* ¶ 65.

63. *Id.* ¶¶ 65-66.

64. *Id.* ¶ 66.

65. *Id.* ¶ 69.

66. *Id.* ¶ 64.

67. *Id.* ¶ 69.

68. *Id.* ¶¶ 75, 77.

69. *Id.* ¶¶ 77-78.

70. *Id.* ¶ 78.

*Therefore, the Court determined that the State violated Articles 4 (Right to Life) and 16 (Freedom of Association) to the detriment of Mr. Huilca Tecse because the State acknowledged its international responsibility for violating the rights, and the facts showed that State actors carried out the murder of Mr. Huilca Tecse in response to his work as a trade union leader.*⁷¹

Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) in relation to Article 1(1) of the Convention, to the detriment of Mrs. Flores Gutiérrez, Flor de María Huilca Gutiérrez, José Carlos Huilca Flores, Indira Isabel Huilca Flores, Pedro Humberto Huilca Gutiérrez, Katuska Tatiana Huilca Gutiérrez and Mr. Escobar Flores,⁷² because:

*Based on the State's admissions, it purposely obstructed the domestic proceedings concerning Mr. Huilca Tecse's death, and it did not carry out a diligent investigation in the killing to allow the masterminds and perpetrators to get away with impunity.*⁷³

*Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) embody the right to have an effective, thorough, and diligent investigation determine the truth and access to justice.*⁷⁴ *The State is obligated to have a competent, independent court provide prompt and effective judicial remedies to victims of human rights violations.*⁷⁵

*The State's failures to uphold its duty to investigate, prosecute, and punish the individuals responsible for the extrajudicial killing of Mr. Huilca Tecse contributed to the victim's next of kin's feelings of total defenselessness and vulnerability.*⁷⁶ *It also promoted the chronic repetition of human rights violations in the future because the perpetrators were not held accountable for their crimes.*⁷⁷ *While the State held domestic proceedings to investigate the incident, the proceedings were eventually annulled.*⁷⁸ *After more than twelve years since the date of Mr. Huilca Tecse's assassination, the case remains unresolved because the State's investigation is still incomplete, and a judicial decision has*

71. *Id.* ¶ 79.

72. *Id.* "Declares" ¶ 3.

73. *Id.* ¶ 80.

74. *See id.* ¶¶ 80-83.

75. *See id.* ¶¶ 80, 82-83.

76. *Id.*

77. *Id.* ¶ 82.

78. *Id.* ¶ 81.

yet to be rendered.⁷⁹

Accordingly, the Court concluded that the State violated Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) to the detriment of Mr. Huilca Tesce's next of kin.⁸⁰

C. Dissenting and Concurring Opinions

[None]

IV. REPARATIONS

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

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

1. Investigate, Prosecute, and Punish Those Responsible

The State must complete an effective investigation that identifies, prosecutes, and punishes those responsible for the extrajudicial execution of Mr. Huilca Tecse.⁸¹ Mr. Huilca Tecse's next of kin have full access and capacity to act at all stages and in all instances of the investigation and the corresponding trial, so long as these proceedings adhere to domestic laws and the provisions of the American Convention.⁸² The State must publish the true facts that the criminal proceeding reveals.⁸³ The State must also guarantee that its domestic proceedings to investigate, prosecute, and punish the perpetrators responsible will be effective.⁸⁴

2. Publicly Acknowledge International Responsibility

The State must publicly acknowledge its international responsibility for the extrajudicial execution of Mr. Huilca Tecse before the State's most senior authorities, trade unions, and human rights organizations.⁸⁵

79. *Id.*

80. *Id.* ¶ 83.

81. *Id.* ¶ 107.

82. *Id.*

83. *Id.*

84. *Id.* ¶ 108.

85. *Id.* ¶ 111.

The public act must be carried out in the presence of Mr. Huilca Tecse's next of kin.⁸⁶ In addition, the State must apologize to Mr. Huilca Tecse's next of kin for concealing the truth for over twelve years.⁸⁷

3. Publish the Judgment

The State must publish the "Proven Facts" section and operative paragraphs of the Judgment in the official gazette and in another newspaper with national circulation in the State.⁸⁸

4. Establish a University Course on Human Rights

The State must establish a course or subject on human rights and labor law entitled "Cátedra Pedro Huilca," that is offered every academic year by the Universidad Nacional Mayor de San Marcos, to honor the memory of Mr. Huilca Tecse.⁸⁹

5. Labor Day Remembrance

The State must recognize the work that Mr. Huilca Tecse performed in favor of the trade union movement in the State during the official celebration on May 1 (Labor Day).⁹⁰

6. Erect a Commemorative Bust

The State must put up a commemorative bust in a public place in Lima to recall Mr. Huilca Tecse's activities as a trade union leader.⁹¹ The State must consult with Mr. Huilca Tecse's next of kin to determine the location and inscription for the bust.⁹²

7. Provide Medical Treatment

For the necessary time determined by a psychologist, the State must provide Mrs. Flores Gutiérrez, Flor de María Huilca Gutiérrez, José Carlos Huilca Flores, Indira Isabel Huilca Flores, and Mr. Escobar

86. *Id.*

87. *Id.*

88. *Id.* ¶ 112.

89. *Id.* ¶ 113.

90. *Id.* ¶ 114.

91. *Id.* ¶ 115.

92. *Id.*

Flores with psychological attention and treatment.⁹³

Mr. Escobar Flores is the 18 year-old son of Mrs. Flores Gutiérrez.⁹⁴ Mr. Huilca Tecse's next of kin suffered emotional and financial harm not only because of his death, but also because of the frustration from the difficulties the next of kin later faced in obtaining justice for his murder.⁹⁵

Mr. Huilca Tecse's death negatively impacted the mixed family's social relationships, as the person who united the two families now ceases to exist.⁹⁶ Mrs. Flores Gutiérrez struggled to financially support her children as a single mother.⁹⁷ Mr. Huilca Tecse's sudden death triggered psychological problems in Mrs. Flores Gutiérrez, further contributing to the family's isolation.⁹⁸ The lack of an effective investigation affected Flor de María Huilca Gutiérrez in particular, spawning the feeling of uncertainty of not knowing who killed her father, and forced her to put her life on hold to take care of her younger siblings.⁹⁹ The murder of Mr. Huilca Tecse created distress, learning difficulties, anxiety, depression, and feelings of fear in his children.¹⁰⁰ The traumatic experience of being injured in the same act in which his stepfather was murdered caused Mr. Escobar Flores to isolate himself and withdraw from the university he attended.¹⁰¹

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court awarded \$20,000 to Mrs. Flores Gutiérrez as a consequence for the State's culpability in the extrajudicial execution of her companion, Mr. Huilca Tecse.¹⁰²

93. *Id.* ¶ 116.

94. *Id.* ¶¶ 60(58), 60(63).

95. *Id.* ¶¶ 60(59), 60(64).

96. *Id.* ¶ 60(59).

97. *Id.* ¶ 60(60).

98. *Id.*

99. *Id.* ¶ 60(61).

100. *Id.* ¶ 60(62).

101. *Id.* ¶ 60(63).

102. *Id.* ¶ 95.

2. Non-Pecuniary Damages

The Court awarded a sum of \$250,000 to Mr. Huilca Tecse and his next of kin for the suffering and hardship incurred as a result of the loss of their companion, father and stepfather.¹⁰³ The Court distributed the \$250,000 in the following manner: \$60,000 to Mr. Huilca Tecse; \$40,000 each to Mrs. Flores Gutiérrez and Flor de María Huilca Gutiérrez; \$20,000 each to José Carlos Huilca Flores, Indira Isabel Huilca Flores, Pedro Humberto Huilca Gutiérrez, Katuska Tatiana Huilca Gutiérrez; and \$30,000 to Mr. Escobar Flores.¹⁰⁴ The compensation that would have gone to Mr. Huilca Tecse should be distributed to his next of kin, with \$12,000 each to Mrs. Flores Gutiérrez and Flor de María Huilca Gutiérrez; \$6,500 each to José Carlos Huilca Flores, Indira Isabel Huilca Flores, Pedro Humberto Huilca Gutiérrez, Katuska Tatiana Huilca Gutiérrez; and \$10,000 to Mr. Escobar Flores.¹⁰⁵

3. Costs and Expenses

The Court enforced the representatives' agreement with the State, which relieved the State of reimbursing the representatives for the costs and expenses incurred in processing this case in domestic proceedings, and in the international proceedings before the Inter-American system.¹⁰⁶

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

\$ 270,000

C. Deadlines

The State must perform its public act to acknowledge international responsibility within three months of the notification of the Judgment.¹⁰⁷

The State must publish specific portions of the Judgment within three months of receiving notice of the Judgment.¹⁰⁸

The State must establish the course to honor the memory of Mr. Huilca Tecse by the start of the next university year.¹⁰⁹

103. *Id.* ¶¶ 96, 98.

104. *Id.* ¶¶ 99-100.

105. *Id.* ¶ 101.

106. *Id.* ¶ 117.

107. *Id.* ¶ 111.

108. *Id.* ¶ 112.

109. *Id.* ¶ 113.

Starting in 2005, the State must celebrate Mr. Huilca Tecse's trade union endeavors along with the Labor Day holiday.¹¹⁰

The State must erect a commemorative bust within one year of notification of the Judgment.¹¹¹

The State has one month after receiving notice of this Judgment to provide medical treatment to Mr. Huilca Tecse's aforementioned next of kin.¹¹²

The State must make payments for compensation for pecuniary damages and non-pecuniary damages during the first quarter of the 2006 fiscal year.¹¹³ If Mr. Huilca Tecse's next of kin do not claim their compensation within ten years, then the funds will be given back to the State with accrued interest.¹¹⁴ The State's payment to the minors at the time of the judgment, José Carlos Huilca Flores and Indira Isabel Huilca Flores, will revert back to the State with interest if it has not been claimed within ten years after each child has come of age.¹¹⁵

Within one year of notification of this Judgment, the State must provide the Court with a report on the measures adopted to comply with it.¹¹⁶

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

September 22, 2006: The Court determined that the State complied with its obligation to publically acknowledge its international responsibility in the presence of high-ranking authorities, and offer a public apology to Mr. Huilca Tecse's next of kin.¹¹⁷ The Court deemed that the State fulfilled its obligation to publish the requisite parts of the Judgment in a newspaper of national circulation, and in the Official Gazette.¹¹⁸ Also, the Court found that the State complied with its obligation to pay the

110. *Id.* ¶ 114.

111. *Id.* ¶ 115.

112. *Id.* ¶ 116.

113. *Id.* ¶¶ 120(3), 120(5).

114. *Id.* ¶ 120(4).

115. *Id.* ¶ 121.

116. *Id.* ¶ 123.

117. *Huilca Tecse v. Peru*, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Declares" ¶ 1(a) (Sept. 22, 2006).

118. *Id.* ¶ 1(b).

pecuniary and non-pecuniary damage to the victims.¹¹⁹

The Court noted that the State had yet to fulfill its obligations to effectively investigate the murder of Mr. Huilca Tecse, establish a university course on human rights and labor law, praise Mr. Huilca Tecse's work during official Labor Day celebrations, erect a bust in memory of Mr. Huilca Tecse, and provide psychological treatment to Mr. Huilca Tecse's next of kin.¹²⁰

The Court requested that the State submit a report, by January 19, 2007, detailing the measures it has adopted to comply with the reparations not yet satisfied.¹²¹

The Court kept open the proceeding for monitoring compliance with regard to the aspects of the Judgment on Merits, Reparations and Costs of March 3, 2005 still pending compliance.¹²²

February 7, 2008: The Court ruled that the State had failed to submit its report, which specified the measures that had been adopted to make headway towards complying with the orders of the Judgment, before the deadline had lapsed.¹²³

The Court requested that the State submit a report, no later than March 12, 2008, which explains all the necessary measures that the State adopted to fully and promptly comply with the Judgment.¹²⁴

The Court kept open the proceeding for monitoring compliance with regard to the reparations still pending compliance.¹²⁵

August 21, 2013: The Court concluded that the State fully complied with its obligation to create and maintain the specified course at the Universidad Nacional Mayor de San Marcos.¹²⁶ The Court also found that, in recent years, the State has been in compliance with its obligation to recall and praise Mr. Huilca Tecse's trade union work during Labor Day.¹²⁷ The Court determined that the State satisfied another obligation when it unveiled a bust in memory of Mr. Huilca Tecse in Lima, in Plaza Víctor Raúl Haya de la Torre on December 18, 2012.¹²⁸ Lastly, the

119. *Id.* ¶ 1(c).

120. *Id.* ¶¶ 2(a)-(e).

121. *Id.* "And Decides" ¶¶ 1-2.

122. *Id.* ¶ 4.

123. *Huilca Tecse v. Peru*, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Rules" ¶ 1 (Feb. 7, 2008).

124. *Id.* "Resolves" ¶¶ 1-2.

125. *Id.* "Rules" ¶ 2.

126. *Huilca Tecse v. Peru*, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Decides That" ¶ 1(a) (Aug. 21, 2013).

127. *Id.* ¶ 1(b).

128. *Id.* ¶ 1(c).

Court found that the State fulfilled its obligation to provide medical treatment to Mr. Huilca Tecse's next of kin, as specified by the Judgment.¹²⁹

Although the State had initiated three criminal proceedings, the Court requested that the State promptly deliver detailed information about the current status of the proceedings.¹³⁰ The Court considered it important to evaluate the State's handling of the proceedings, to ensure that the State conducts an effective and diligent investigation of the facts.¹³¹

The Court ordered the State to submit a report, by November 21, 2013, that lists all the measures it has adopted to comply with its obligation to effectively investigate the facts to bring the perpetrators behind the extrajudicial execution of Mr. Huilca Tecse to justice.¹³² In addition, the State must report its progress in fulfilling this remaining obligation to the Court every three months.¹³³

The Court kept open the proceeding for monitoring compliance with regard to the State's investigation and its handling of the pending criminal proceedings.¹³⁴

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations and Costs

[Huilca Tecse v. Peru, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 121 \(Mar. 3, 2005\).](#)

3. Provisional Measures

[None]

129. *Id.* ¶ 1(d).

130. *Id.* "Considering That" ¶¶ 5, 7, 9.

131. *Id.* ¶¶ 7-8.

132. *Id.* "Decides That" ¶ 5.

133. *Id.*

134. *Id.* ¶ 2(a).

4. Compliance Monitoring

[Huilca Tecse v. Peru, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Aug. 21, 2013\).](#)

[Huilca Tecse v. Peru, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Feb. 7, 2008\).](#)

[Huilca Tecse v. Peru, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Sept. 22, 2006\).](#)

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

Huilca Tecse v. Peru, Petition No. 11.768, Inter-Am. Comm'n H.R. (June 4, 1997).

2. Report on Admissibility

[Huilca Tecse v. Peru, Admissibility Report, Report No. 55/98, Inter-Am. Comm'n H.R., Case No. 11.768 \(Sept. 25, 1998\).](#)

3. Provisional Measures

[None]

4. Report on Merits

Huilca Tecse v. Peru, Report on Merits, Report No. 93/03, Inter-Am. Comm'n H.R., Case No. 11.768 (Oct. 23, 2003).

5. Application to the Court

[Huilca Tecse v. Peru, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 11.768 \(Mar. 12, 2004\) \(Available only in Spanish\).](#)

VIII. BIBLIOGRAPHY

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