

Kawas Fernández v. Honduras

ABSTRACT¹

On February 6, 1995, Ms. Blanca Jeannette Kawas Fernández, president of the Foundation for the Protection of Lancetilla, Punta Sal, Punta Izopo and Texiguat was murdered. The organization was created to improve the quality of life for people who live within the watersheds of the Bahía de Tela region. Ms. Kawas Fernández denounced attempts by private individuals and entities to illegally appropriate Punta Sal, as well as the contamination of the lakes and the depredation of the forests in the region. The Court found that the State was directly responsible for Ms. Kawas Fernández's death and the subsequent lack of investigation that took place, violating the American Convention on Human Rights.

I. FACTS

A. Chronology of Events

1989: Blanca Jeannette Kawas Fernández returns home after living abroad for many years to begin her work to protect the natural resources of her region, the city of Tela.² Ms. Kawas Fernández, along with other locals from the city of Tela, establish the *Asociación Hondureña de Ecología*, the first ecological association in the Atlántida region.³

1990: Ms. Kawas Fernández founds the *Fundación para la Protección de Lancetilla, Punta Sal y Texiguat* (Foundation of the Protection of Lancetilla, Punta Sal, Punta Izopo and Texiguat, “PROLANSATE”),⁴ to improve the lives of the people of Bahía de Tela through environmental

1. Heather Hassan, Author; Grace Kim and Sascha Meisel, Editors; Sarah Frost, Chief Articles Editor; Cesare Romano, Faculty Advisor.

2. *Kawas Fernández v. Honduras*, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.507, ¶ 45 (Feb. 4, 2008).

3. *Id.*

4. *Id.*; *Kawas Fernández v. Honduras*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 196, ¶¶ 2, 50 (Apr. 3, 2009).

awareness and the preservation of natural resources.⁵ She serves as the foundations' first president.⁶

1994: After tireless lobbying, PROLANSATE convinces the National Congress to formally recognize the Punta Sal area as a national park through the approval of Decree No. 154-94.⁷

Ms. Kawas Fernández also receives approval from the Ministry of Education to institute a degree program in ecology and the environment to be offered at the Instituto Triunfo de la Cruz in Tela.⁸ She regularly takes a stand against the *Unión Nacional Campesina* (National Farmers Union, "UNC"), an organization whose goal is to settle poor families inside the Punta Sal National Reserve,⁹ and the HONDUPALMA Company, a producer of African palm oil, for their exploitation of Honduran national resources.¹⁰

In addition to her lobbying work, Ms. Kawas Fernández is a regular guest on the radio program "Vida y Naturaleza" ("Life and Nature"), on the local station *Radio América*, where she denounces the actions of private individuals and companies that try to "illegally take control of the Punta Sal Peninsula," contaminate the lagoons, and devastate the forests in the region.¹¹

February 4, 1995: Ms. Kawas Fernández leads a demonstration protesting the State's plan to sell land in the Punta Sal Reserves to agribusinessmen and farmers.¹²

February 6, 1995: At 7:30 p.m., Ms. Kawas Fernández is at home in the *El Centro* neighborhood of Tela with her personal assistant, Trinidad Marcial Bueno Romero,¹³ when two unidentified men, one of which is later alleged to be a man by the name of Sergeant Ismael Perdomo,¹⁴ driving a white pick-up truck break into her home and shoot her in the back of the neck with a single bullet from a 9mm gun.¹⁵ She

5. Kawas Fernández v. Honduras, Petition to the Court, ¶ 45.

6. *Id.*

7. *Id.* ¶ 46.

8. *Id.* ¶ 47.

9. *Id.*

10. *Id.* ¶ 48.

11. *Id.*

12. *Id.*

13. Kawas Fernández v. Honduras, Merits, Reparations, and Costs, ¶ 53.

14. Kawas Fernández v. Honduras, Petition to the Court, ¶ 59.

15. *Id.*, ¶¶ 49, 50; Kawas Fernández v. Honduras, Merits, Reparations, and Costs, ¶ 2.

dies instantly as the bullet fractures her skull base and severs her spinal cord.¹⁶ The Public Security Forces arrive soon after to remove her body, but no measures are implemented to arrest the perpetrators.¹⁷

February 7, 1995: The Tela Criminal Magistrate's Court opens a case into the murder of Ms. Kawas Fernández.¹⁸ The court orders an investigation into the crime and appoints a medical expert.¹⁹

March 6, 1995: The Tela Criminal Magistrate's Court orders the arrest of Juan Mejía Ramírez and Sabas Mejía Ramírez as suspects in the murder of Ms. Kawas Fernández.²⁰

March 17, 1995: The National Congress renames the Punta Sal National Park after Ms. Kawas Fernández.²¹ The park's official name is now Blanca Jeannette Kawas Fernández National Park.²²

September 2000: The State and indigenous communities sign the Act of Commitment relating to the murders of Ms. Kawas Fernández and two other Honduran environmentalists, Carlos Escaleras and Carlos Luna.²³

September 23, 2003: The Tela Criminal Magistrate's Court transfers the case to the District Court of First Instance.²⁴

October 30, 2003: The General Bureau of Criminal Investigation issues a report establishing Sergeant Ismael Perdomo as the principal suspect in the murder of Ms. Kawas Fernández based on a witness statement and Sergeant Perdomo's continual concealment of the identity of Ms. Kawas Fernández's murderers.²⁵ In the witness statement it is alleged that Sergeant Perdomo was seen traveling in the white pick-up truck on February 6, 1995, and so coupled with his continual concealment of the identity of the murderers made Sergeant Perdomo a

16. *Kawas Fernández v. Honduras*, Petition to the Court, ¶ 50.

17. *Kawas Fernández v. Honduras*, Merits, Reparations, and Costs, ¶ 54.

18. *Kawas Fernández v. Honduras*, Petition to the Court, ¶ 51.

19. *Id.*

20. *Id.* ¶ 53.

21. *Kawas Fernández v. Honduras*, Merits, Reparations, and Costs, ¶ 51.

22. *Id.*

23. *Kawas Fernández v. Honduras*, Petition to the Court, ¶ 43. Carlos Escaleras was killed in 1997 and Carlos Luna was killed in 1998.

24. *Id.* ¶ 57.

25. *Id.* ¶ 59.

prime suspect.²⁶

November 18, 2003: The Training and Advisory Services Department of the Public Prosecutor's Office issues a Technical Legal Report establishing that Army Colonel Mario Amaya, an officer in active service, is the chief suspect in the planning of the murder of Ms. Kawas Fernández.²⁷ The report alleges that Colonel Amaya, along with Mario "El Chapín" Pineda, a former member of the death squad known as "Mano Blanco," were seen on several occasions meeting with Sergeant Perdomo in the offices of the Tela Police in the days immediately prior to Ms. Kawas Fernández's murder.²⁸ The report also alleges that Sergeant Perdomo, who was a police sergeant, must have been involved because he tried to cover up facts of the murder and obstruct the investigation, including arriving at the crime scene immediately and claiming that "the police patrol was covering a false report of an attempt on one of the banks in the city of Tela" when no such robbery had occurred that day, pressuring and threatening witnesses not to testify, telling the investigating officers on the case that he had a suspect in custody for the murder when he did not, and taking no action to pursue the actual murderers of Ms. Kawas Fernández.²⁹

March 3, 2004: The District Court of First Instance issues a warrant for the arrest of Sergeant Perdomo on suspicion of coercion.³⁰

March 15, 2004: The District Court of First Instance orders the imprisonment of Sergeant Perdomo.³¹

March 23, 2004: The warrant for Sergeant Perdomo's arrest is never executed.³² The District Court allows Sergeant Perdomo's appeal to be sent to the Ceiba Atlántida Appellate Court.³³ The Public Prosecutor petitions the District Court to institute a full trial against Sergeant Perdomo but is denied because the defense counsel appeals the order of imprisonment.³⁴

26. *Id.*

27. *Id.* ¶ 60.

28. *Id.*

29. *Id.* ¶ 61.

30. *Id.* ¶ 67.

31. *Id.* ¶ 69.

32. *Id.* ¶ 70.

33. *Id.*

34. *Id.* ¶ 71.

February 4, 2008: The Appellate Court has yet to issue any findings on Sergeant Perdomo's appeal.³⁵

B. Other Relevant Facts

In the late 1990s, the Honduran public became more environmentally-conscious, realizing that their natural resources and timber supply were being depleted by the indiscriminate logging of their forests.³⁶

Indigenous communities are especially impacted because the depletion of natural resources occurred primarily in the remote areas of the country that they inhabited.³⁷ The depletion results in their inability to use the resources they have always depended on for food and to sustain their families.³⁸

The rise in environmental consciousness that caused environmentalists to fight the depletion of the State's natural resources results in their suffering of threats, harassment, death, and prosecution at the cost of the illegal exploitation of natural resources of the country by various sectors.³⁹ A number of international organizations, including Amnesty International and numerous domestic and international NGOs, as well as the Special Representative of the United Nations Secretary General for Human Rights Defenders, decry the harsh treatment the Honduran environmental defenders have endured, speaking out against the violence, hostility, and numerous other human rights violations committed against them.⁴⁰

II. PROCEDURAL HISTORY

A. Before the Commission

January 13, 2003: The Center for Justice and International Law ("CEJIL") and the *Equipo de Reflexión, Investigación y Comunicación*

35. *Id.*

36. *Id.* ¶¶ 37, 39.

37. *Id.* ¶ 44.

38. *Id.*

39. *Id.* ¶ 40.

40. *Id.* ¶¶ 39-42.

de la Compañía de Jesús (Team of Reflection, Research and Communication of the Society of Jesus, "ERIC") in Honduras present a petition to the Commission on behalf of Ms. Kawas Fernández.⁴¹

October 13, 2005: The Commission adopts Report on Admissibility No. 67/05.⁴²

July 20, 2006: The Commission adopts Report on Merits No. 63/06.⁴³ The Commission finds a violation of Article 4 (Right to Life), in relation to Article 1(1) of the American Convention, to the detriment of Ms. Kawas Fernández, as well as Article 8 (Right to a Fair Trial) and Article 25 (Right to Judicial Protection), in relation to Article 1(1) (Obligation to Respect Rights) and 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention, to the detriment of Ms. Kawas Fernández's next of kin.⁴⁴

The Commission recommends that the State investigate the circumstances surrounding Ms. Kawas Fernández's death to identify and then criminally prosecute all persons involved.⁴⁵ In addition, the Commission recommends the State conduct an investigation into the obstructions of justice that occurred during the initial investigation into Ms. Kawas Fernández's murder, pay damages to Ms. Kawas Fernández's next of kin, and take preventive measure to ensure similar situations will be prevented in the future.⁴⁶

B. Before the Court

February 4, 2008: The Commission submits the case to the Court after the State failed to adopt its recommendations.⁴⁷

1. Violations Alleged by Commission⁴⁸

To the detriment of Ms. Kawas Fernández:

Article 4 (Right to Life)

41. *Id.* ¶ 10.

42. *Id.* ¶ 16; *Kawas-Fernández v. Honduras, Merits, Reparations, and Costs*, ¶ 1.

43. *Id.*

44. *Kawas Fernández v. Honduras, Petition to the Court*, ¶ 20.

45. *Id.* ¶ 21.

46. *Id.*

47. *Kawas Fernández v. Honduras, Merits, Reparations, and Costs*, ¶ 1.

48. *Id.* ¶ 4.

in relation to:

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

To the detriment of the next of kin of Ms. Kawas Fernández:

Article 8 (Right to a Fair Trial)

Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) (Obligation to Respect Rights)

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

2. Violations Alleged by Representatives of the Victims⁴⁹

Same Violations Alleged by the Commission, plus:

To the detriment of Ms. Kawas Fernández:

Article 16 (Freedom of Association)

in relation to:

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

To the detriment of the next of kin of Ms. Kawas Fernández:

Article 5 (Right to Humane Treatment)

in relation to:

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

March 25, 2009: Environmental Defense Law Center submits an *amicus curiae* brief to the Court.⁵⁰

III. MERITS

A. *Composition of the Court*

49. *Id.* ¶¶ 5, 6. Viviana Krsticevic (Executive Director of CEJIL); Luis Diego Obando, Ramiro Barriga, Soraya Long, and Gisela de León (all of CEJIL); together with Father Ismael Moreno (Director of ERIC), served as representatives of Ms. Kawas Fernández.

50. *Id.* ¶ 13.

Cecilia Medina Quiroga, President
Diego García-Sayán, Vice President
Sergio García Ramírez, Judge
Manuel E. Ventura Robles, Judge
Leonardo A. Franco, Judge
Margarette May Macaulay, Judge
Rhadys Abreu Blondet, Judge
Leo Valladares-Lanza, Judge *ad hoc*

Pablo Saavedra-Alessandri, Secretary
Emilia Segares-Rodríguez, Deputy Secretary

B. Decision on the Merits

April 3, 2009: The Court issues its Judgment on Merits, Reparations, and Costs.⁵¹

The Court found unanimously that Honduras had violated:

Article 4(1) (Prohibition of Arbitrary Deprivation of Life), in relation to Article 1(1) of the Convention, to the detriment of Ms. Kawas Fernández,⁵² because:

The State was internationally responsible for any acts or omissions of its agencies and bodies that violate the American Convention.⁵³ A violation of Article 4(1) results whenever a person is deprived of their life and when the State does not adopt the appropriate measures to preserve the right to life of any person.⁵⁴ The State's obligation is a positive one of which a fundamental requirement in the case of violent deaths, as in Ms. Kawas Fernández's case, is a prompt, impartial, and effective investigation.⁵⁵ There were no records showing that the evidence at the crime scene was properly safeguarded, nor that an autopsy of the remains had ever been performed.⁵⁶

51. Kawas Fernández v. Honduras, Merits, Reparations, and Costs.

52. *Id.* "Declares" ¶ 2.

53. *Id.* ¶ 72.

54. *Id.* ¶ 74.

55. *Id.* ¶ 75.

56. *Id.* ¶ 103.

Ms. Kawas Fernández's murder was "the product of careful planning" in which local people were involved.⁵⁷ According to an investigation report by the Tela Bureau of Criminal Investigations, those involved in the murder knew that she would be alone in her home and in what room she would be at the time when the murder was to occur.⁵⁸ Public Security Force Sergeant Perdomo attempted to thwart the investigation by threatening potential witnesses, coercing witnesses into incriminating innocent men for the murder and giving false testimony,⁵⁹ and negligently gathering evidence at the crime scene.⁶⁰ Also suspicious was the early presence of the same officer at the crime scene and that only a few days prior to the murder he had been seen meeting with Army Colonel Amaya who was known to have had disagreements with the victim and is also suspected to be involved with her murder.⁶¹

At the time of judgment, it has been fourteen years since the murder of Ms. Kawas Fernández and the State has yet to identify a single individual responsibly for her death.⁶² The State has yet to advise the Court as to the progress of any investigation by the State into the possible involvement by State agents into the murder of Ms. Kawas Fernández.⁶³ The Court finds it reasonable to conclude that that fact itself may itself be evidence of the involvement of State agents in the murder.⁶⁴ Although it was private interest groups, namely the HONDUPALMA Company and agribusinessmen, that were the cause of the murder, it was only made possible by State agents acting under protection of their national authority.⁶⁵

The Court concluded that the State did not perform an adequate investigation into the murder of Ms. Kawas Fernández and therefore failed to comply with provisions of the American Convention.⁶⁶

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse

57. *Id.* ¶ 84.

58. *Id.*

59. *Id.* ¶ 106.

60. *Id.* ¶ 85.

61. *Id.* ¶ 92.

62. *Id.* ¶ 97.

63. *Id.* ¶ 96.

64. *Id.* ¶ 97.

65. *Id.* ¶ 99.

66. *Id.* ¶ 100.

Before a Competent Court), in relation to Article 1(1) of the Convention, to the detriment of Ms. Kawas Fernández and her next of kin,⁶⁷ because:

The Court accepted the State's partial acknowledgment of international responsibility for violations of Article 8(1) and Article 25(1).⁶⁸ The relatives of a deceased victim are accorded the right to know the most complete and accurate account of the events that befell the victim.⁶⁹ To date, Ms. Kawas Fernández's relatives still do not know the truth regarding her murder.⁷⁰ The State had a duty to present them with an accurate and complete report to repair the damage the loss caused them.⁷¹ No judicial determination had been made yet concerning the events surrounding the murder of Ms. Kawas Fernández or whom the responsible parties are, nor has any punishment been handed down for the crime itself or in response to the violations of human rights endured by her next of kin.⁷² The anguish and suffering of her next of kin will continue as long as the circumstances of her death remain unknown.⁷³ The domestic investigation, therefore, did not sufficiently guarantee their right to justice.⁷⁴

Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), in relation to Article 1(1) of the Convention, to the detriment of the next of kin of Ms. Kawas Fernández,⁷⁵ because:

There is a presumption that mothers, fathers, daughters, sons, husbands, wives, and permanent companions of a victim, as the next of kin, may also have had their right to mental and moral integrity violated, depending on the specific facts of the case.⁷⁶ If a person alleging a violation is does not fall within one of the categories of next

67. *Id.* ¶¶ 119, 123. The Court identified as next of kin the following individuals: Jacobo Roberto Kawas Cury, Blanca Fernández, Selsa Damaris Watt Kawas, Jaime Alejandro Watt Kawas, Jacobo Roberto Kawas-Fernández, Jorge Jesús Kawas Fernández, and Carmen Marilena Kawas Fernández.

68. *Id.* ¶ 31.

69. *Id.* ¶ 117.

70. *Id.*

71. *Id.*

72. *Id.*

73. *Id.*

74. *Id.* ¶ 118.

75. *Id.* "Declares" ¶ 3.

76. *Id.* ¶ 128.

of kin listed above, the Court will determine if their relationship with the victim was sufficiently close that their right to humane treatment was violated.⁷⁷

Ms. Kawas Fernandez was very close to both her mother and father.⁷⁸ She took her two children to the United States to care for her ailing mother, Ms. Blanca Fernández,⁷⁹ and then returned to Honduras when her father, Mr. Jacobo Kawas Kury, fell ill to take care of him and manage his business.⁸⁰ Mr. Kawas Kury was significantly affected by her death; he died only a few months after her murder.⁸¹

Ms. Kawas Fernández's children were irreparably harmed because of the violent death of their mother.⁸² Her daughter, Selsa Damaris Watt Kawas, was able to study in the United States due to the financial support of her mother and would visit her mother in Honduras whenever she was able.⁸³ She last spoke to her mother a few days before she died and as a result of her death, "has suffered emotional [t]rauma."⁸⁴ She has since moved to Germany and is afraid to return to Honduras.⁸⁵

Ms. Kawas Fernández's son, Jaime Alejandro Watt Kawas, was only seventeen-years-old when she was murdered.⁸⁶ He testified in 2008 that he felt "unprotected without the only person who was so close to him" and that he "underwent a radical, negative, frustrating change, imbued with emotional instability and deep sadness that led [him] to distrust everything and everyone."⁸⁷

Since Ms. Kawas Fernández was the eldest child and a mother-like figure to her siblings, the Court concluded that even though they were not "direct" next of kin, Ms. Kawas Fernández's relationship with Jacobo Roberto, Jorge Jesús, and Carmen Marilena, was such that

77. *Id.* ¶ 129.

78. *Id.* ¶¶ 131, 132.

79. *Id.* ¶ 132.

80. *Id.* ¶ 131.

81. *Id.*

82. *Id.* ¶¶ 133, 134.

83. *Id.* ¶ 133.

84. *Id.*

85. *Id.*

86. *Id.* ¶ 134.

87. *Id.*

their right to humane treatment had been violated.⁸⁸ Ms. Kawas Fernández had taken over the care of her brother Jorge when she was only eighteen-years old.⁸⁹ Her brother Jacobo had suffered additional distress when he arrived at his sister's house minutes after her death and saw her "lying on the floor" and even "tried to pick her up [and] carry her."⁹⁰

Article 16(1) (Freedom of Association for Any Purpose), in relation to Article 1(1) of the Convention, to the detriment of Ms. Kawas Fernández,⁹¹ because:

In order to uphold an individual's right to freedom of association, the State must provide human rights defenders adequate protection in the event that they are threatened due to any of their associations, must refrain from unduly burdening the performance of their work, and, in the event their rights are violated, must conduct a thorough and effective investigation.⁹² According to Court precedent, only when fundamental human rights, such as the right to life and safety, are completely respected and guaranteed, can the freedom of association be exercised.⁹³

At the time of her death, Ms. Kawas Fernández was the President of PROLANSATE and was actively fighting to defend Punta Sal National Park.⁹⁴ A timber extraction contract was terminated between the national authorities and the National Corporation for Forestry Development as a result of her work in defending the environment.⁹⁵ In addition, at least one agent of the State, Sergeant Perdomo, was involved in the death of Ms. Kawas Fernández and his motivation to commit such a heinous act was her tireless defense of the environment through the PROLANSATE foundation.⁹⁶ The murder of Ms. Kawas Fernández intimidated other environmentalists in Honduras, and this intimidation persists as no one has yet to be punished for the crime.⁹⁷

88. *Id.* ¶¶ 135-139.

89. *Id.* ¶ 137.

90. *Id.* ¶ 136.

91. *Id.* "Declares" ¶ 4.

92. *Id.* ¶ 145.

93. *Id.* ¶ 150.

94. *Id.* ¶ 151.

95. *Id.*

96. *Id.* ¶ 152.

97. *Id.* ¶ 153.

*Five other Honduran environmentalists were murdered within a decade of Ms. Kawas Fernández's death.*⁹⁸

The Court found unanimously that Honduras had not violated:

Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the Convention,⁹⁹ because:

*The Court considered that the Commission had not elaborated sufficiently on its argument that when the State was processing the murder "every deficiency. . . resulted from the fact that the procedural framework in force at the time of the events. . . [gave] rise to limitations in their investigation."*¹⁰⁰

C. Dissenting and Concurring Opinions

1. Separate Opinion of Judge Sergio García Ramírez

In a separate opinion, Judge García Ramírez agreed that the state violated Ms. Kawas Fernández's right to life, but explained that his reasoning was different than that of the majority.¹⁰¹ Judge García Ramírez reasoned that since Ms. Kawas Fernández was an environmentalist and killed because of it, all environmentalists were damaged by the State's violation of her right to life, as acts against one human rights activist adversely affect all human rights activists.¹⁰²

With regard to the issue of what a reasonable amount of time for the State to investigate should be, Judge García Ramírez noted that there are three elements to determine reasonable time; the first element being how complex the matter is, the second element being the procedural activity of the interested party, and the third element being the conduct of the state officials and courts.¹⁰³ The Court must also consider the negative affect of lengthy judicial procedures, taking into

98. *Id.* ¶ 154.

99. *Id.* "Declares" ¶ 5.

100. *Id.* ¶ 121.

101. Kawas Fernández v. Honduras, Separate Opinion of Judge Sergio García Ramírez, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 196, ¶ 1 (Apr. 3, 2009).

102. *Id.* ¶¶ 11-12.

103. *Id.* ¶ 16.

consideration the matter in dispute.¹⁰⁴ He then suggested that the Court consider analyzing and formally adding in the negative affect of lengthy judicial procedures as a fourth element, as he has mentioned in other separate opinions, that it is a critical element in making a determination of reasonable time.¹⁰⁵

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 Ms. Kawas Fernández's Death

The Court ordered the State to conduct a thorough investigation into Ms. Kawas Fernández's death and to prosecute the individuals responsible for her death.¹⁰⁶ Additionally, the State must conduct an investigation into the obstructions and delays in justice that occurred during the investigation and proceeding with regards to Ms. Kawas Fernández's murder.¹⁰⁷

The Court also ordered the State to appraise the Court of the status of the currently open criminal files in relation to Ms. Kawas Fernández's death, the measures taken by the State to provide the agents carrying out the investigation with the proper resources, the measures taken to protect the witnesses, and any progress made in the investigations and proceedings.¹⁰⁸

2. Publish the Judgment

The Court ordered the State to publish a copy of its judgment in the State's official gazette and at least once in one newspaper of major circulation in Honduras.¹⁰⁹

104. *Id.*

105. *Id.* ¶¶ 16-24.

106. *Kawas Fernández v. Honduras, Merits, Reparations, and Costs*, ¶ 187.

107. *Id.* ¶¶ 187-188.

108. *Id.* ¶ 195.

109. *Id.* ¶¶ 197, 199.

3. Publically Acknowledge International Responsibility

The Court ordered the State to formally and publicly apologize, in a public ceremony, to Ms. Kawas Fernández's next of kin.¹¹⁰ The State must also acknowledge international responsibility for the repercussions and damages caused by its violations.¹¹¹ The State must reference the precise human rights that were violated.¹¹²

4. Construct a Monument and Signs in Honor of Ms. Kawas Fernández at the National Park

The Court, in order to keep the memory of Ms. Kawas Fernández alive, ordered the State to build a monument and mount signs at the national park named after Ms. Kawas Fernández.¹¹³ The Court additionally ordered that State authorities attend the monument unveiling ceremony and that the State guarantee the participation of Ms. Kawas Fernández's next of kin who wish to be included in the ceremony.¹¹⁴

5. Provide Psychological Care for the Next of Kin

The Court ordered the State to provide the necessary psychological care and treatment to Ms. Kawas Fernández's next of kin, including the cost of any necessary medications, to begin upon the request of the next of kin within two years of the judgment and provided for as long as necessary.¹¹⁵

6. Create a National Campaign for Environmental Awareness

The Court ordered the state to launch a national campaign geared towards the general population, security officials, and agents of the justice system that will bring awareness and sensitivity to the importance of the work of Honduran environmentalists and how much they contribute to and fight for Honduran human rights.¹¹⁶

110. *Id.* ¶ 201.

111. *Id.* ¶ 200.

112. *Id.* ¶ 202.

113. *Id.* ¶ 206.

114. *Id.*

115. *Id.* ¶ 209.

116. *Id.* ¶ 214.

B. Compensation

The Court awarded the following amounts to be paid by the State to the respective recipients within one year from the date of service of the judgment:¹¹⁷

1. Pecuniary Damages

The Court awarded the following amounts:

\$70,000 to be split evenly between Ms. Kawas Fernández's children, for loss of earnings.¹¹⁸

\$600 to each Ms. Kawas Fernández's mother, Blanca Fernández, and sister, Carmen Marilena Kawas Fernández, for travel expenses to attend Ms. Kawas Fernández's funeral.¹¹⁹

\$800 to each of Ms. Kawas Fernández's two children, Selsa Damaris Kawas Fernández and Jamie Alejandro Kawas Fernández, for travel expenses to attend their mother's funeral.¹²⁰

\$300 to Ms. Kawas Fernández's father, Jacobo Kawas Cury, for Ms. Kawas Fernández's funeral's expenses, which are to be distributed to Ms. Kawas Fernández's brother, Jacobo Kawas Fernández, as Ms. Kawas Fernández's father has passed away.¹²¹

\$1,000 to Ms. Kawas Fernández's brother, Jacobo Kawas Fernández, for the expenses he incurred for the investigation of Ms. Kawas Fernández's death.¹²²

2. Non-Pecuniary Damages

The Court awarded the following amounts for the pain and suffering caused by the death of Ms. Kawas Fernández:

117. *Id.* ¶ 186.

118. *Id.* ¶¶ 174-178.

119. *Id.* ¶ 171.

120. *Id.* ¶ 172.

121. *Id.*

122. *Id.* ¶ 173.

\$20,000 to each of Ms. Kawas Fernández's two children, Selsa Damaris Kawas Fernández and Jamie Alejandro Kawas Fernández.¹²³

\$20,000 each to Ms. Kawas Fernández's parents, Blanca Fernández and Jacobo Kawas Cury, with her father's share being split equally between Ms. Kawas Fernández's children as he is deceased.¹²⁴

\$10,000 to Ms. Kawas Fernández's brother, Jacobo Kawas Fernández.¹²⁵

\$5,000 each to Ms. Kawas Fernández's brother, Jorge Jesús Kawas Fernández, and her sister, Carmen Marilena Kawas Fernández.¹²⁶

In addition, the Court awarded \$50,000 to Ms. Kawas Fernández for the moral damage she sustained, which is to be split evenly between her two children.¹²⁷

3. Costs and Expenses

The Court awarded the following amounts:

\$15,695 to the representatives of Ms. Kawas Fernández for travel and commuting expenses to the Inter-American Commission, Honduras, and Mexico.¹²⁸

\$19,000 to Ms. Kawas Fernández's brother, Jacobo Kawas Fernández, who will in turn pay back the appropriate representatives, for the expenses incurred by processing the case through the IACHR system, including monitoring the State's compliance.¹²⁹

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

\$258,795

123. *Id.* ¶ 184.

124. *Id.*

125. *Id.*

126. *Id.*

127. *Id.* ¶ 185.

128. *Id.* ¶ 219.

129. *Id.* ¶ 220.

C. Deadlines

The Court ordered that all compensation be paid by the State to the respective recipients within one year from the date of service of the judgment.¹³⁰ The State was given six months to publish the Court's judgment;¹³¹ one year to publicly acknowledge its international responsibility and apologize to Ms. Kawas Fernández's next of kin;¹³² and two years to dedicate the National Park to Ms. Kawas Fernández, provide psychological care to Ms. Kawas Fernández's next of kin, and launch a national campaign of environmental awareness.¹³³

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

June 10, 2010: The State organized a public act acknowledging its international responsibility for the human rights violations suffered by Ms. Kawas Fernández and to commemorate her work.¹³⁴

February 27, 2012: The State paid the beneficiaries of Ms. Kawas Fernández.¹³⁵ The Court found that the State had complied with its order to pay all compensation to Ms. Kawas Fernández's representatives.¹³⁶

The Court found that the State complied with publishing the judgment in the Official Gazette and an official newspaper¹³⁷ and organizing a public ceremony of acknowledgement of international responsibility.¹³⁸

The State, however, did not provide any evidence of compliance with the Court's order to conduct a thorough investigation into Ms. Kawas Fernández's death and to prosecute the individuals responsible for her death, nor did the State conduct an investigation with respect to

130. *Id.* ¶ 186.

131. *Id.* ¶ 199.

132. *Id.* ¶ 202.

133. *Id.* ¶ 214.

134. Kawas Fernández v. Honduras, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., "Considering that," ¶ 17, (Feb. 27, 2012).

135. *Id.* "Considering that" ¶¶ 4-6.

136. *Id.* "Considering that" ¶ 7.

137. *Id.* "Considering that" ¶ 16.

138. *Id.* "Considering that" ¶ 17.

the “obstructions of justice that took place in the proceeding,” concerning Ms. Kawas Fernández’s murder.¹³⁹

The State has yet to construct a monument and name a national park after Ms. Kawas Fernández and to launch an environmental awareness campaign.¹⁴⁰ In addition, neither the State nor any of the representatives provided any information regarding the psychological treatment of Ms. Kawas Fernández’s next of kin.¹⁴¹

October 23, 2012: The Court relieved the State of its obligation to provide psychological care to the next of kin of Ms. Kawas Fernández.¹⁴² The family members certified that they did not require psychological care and that they wished to waive this measure of reparation.¹⁴³ Accordingly, the Court decided to conclude monitoring this particular measure, but to continue monitoring those outstanding obligations contained within the Judgment.¹⁴⁴

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations and Costs

[Kawas Fernández v. Honduras, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 196 \(Apr. 3, 2009\).](#)

[Kawas Fernández v. Honduras, Separate Opinion of Judge Sergio García Ramírez, Inter-Am. Ct. H.R. \(ser. C\) No. 196 \(Apr. 3, 2009\).](#)

139. *Id.* “Considering that” ¶ B.9.

140. *Id.* “Considering that” ¶ B.25.

141. *Id.* “Considering that” ¶ F.27.

142. *Kawas Fernández v. Honduras, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., “Declares that,”* ¶ 1, (Oct. 23, 2012).

143. *Id.* “Considering that” ¶ 4.

144. *Id.* “And decides” ¶¶ 1- 3.

3. Provisional Measures

[Kawas Fernández v. Honduras, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(July 5, 2011\).](#)

[Kawas Fernández v. Honduras, Provisional Measures, Order of the Court, Dissenting Opinion of Judge Eduardo Vio Grossi, Inter-Am. Ct. H.R. \(ser. E\) \(July 5, 2011\).](#)

[Kawas Fernández v. Honduras, Provisional Measures, Order of the Court, Concurring Opinion of Judges Diego García-Sayán, Leonardo A. Franco, Manuel Ventura Robles, Margarete May Macaulay, and Rhadys Abreu Blondet, Inter-Am. Ct. H.R. \(ser. E\) \(July 5, 2011\).](#)

[Kawas Fernández v. Honduras, Request for Provisional Measures with regard to Honduras, Order of the Court, Inter-Am. Ct. H.R. \(ser. E\) \(Nov. 29, 2008\).](#)

4. Compliance Monitoring

[Kawas Fernández v. Honduras, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Oct. 23, 2012\).](#)

[Kawas Fernández v. Honduras, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Feb. 27, 2012\).](#)

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

Kawas Fernández v. Honduras, Petition No. 61/03, Inter-Am. Comm'n H.R., (Jan. 13, 2003).

2. Report on Admissibility

Kawas Fernández v. Honduras, Admissibility Report, Report No. 67/05, Inter-Am. Comm'n H.R., Case No. 12.507 (Oct. 13, 2005).

3. Provisional Measures

[None]

4. Report on Merits

Kawas Fernández v. Honduras, Report on Merits, Report No. 63/06, Inter-Am. Comm'n H.R., Case No. 12.507 (July 20, 2006).

5. Application to the Court

Kawas Fernández v. Honduras, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.507 (Feb. 4, 2008).

VIII. BIBLIOGRAPHY

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Lauri R. Tanner, *Kawas v. Honduras- Protecting Environmental Rights Defenders*, 3 J. HUM. RTS. PRACTICE 309-326 (2011).

JO M. PASQUALUCCI, *THE PRACTICE AND PROCEDURE OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS* (2nd ed. 2013).