

La Cantuta et al. v. Peru

ABSTRACT¹

The facts of La Cantuta et al. v. Peru occurred in the context of Peruvian President Alberto Fujimori's anti-terrorism campaign. After Universidad Nacional de Educación Enrique Guzmán y Valle students protested against President Fujimori, Peruvian military forces, including members of the Colina Group, a paramilitary death squad, disappeared and extrajudicially executed nine students and a professor. Though several individuals were found guilty of human rights abuses against these victims, the State pardoned them under human rights amnesty laws. The Court's decision dealt with both the State's responsibility for the victims' disappearance and murder, and its failure to hold those responsible accountable for their human rights violations.

I. FACTS

A. Chronology of Events

September 24, 1943: Mr. Hugo Muñoz-Sánchez is born in Huanta, Peru.² He later becomes a professor at the National University of Education Enrique Guzmán y Valle (*Universidad Nacional de Educación Enrique Guzmán y Valle*, "La Cantuta") in Lima's La Cantuta neighborhood.³ Mr. Muñoz-Sánchez lives in a campus residence with his wife, Ms. Antonia Pérez-Velásquez de Muñoz, a primary school teacher.⁴ They have seven children.⁵

March 20, 1963: Mr. Juan Gabriel Mariños-Figueroa is born in the District of Magdalena del Mar, Peru.⁶ He later attends La Cantuta

1. Justine Schneeweis, Author; Monica Rodriguez, Editor; Elise Cossart-Daly, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. *La Cantuta v. Peru*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 162 ¶ 80(93) (Nov. 29, 2006).

3. *Id.*

4. *Id.*; *see id.* ¶ 80(94).

5. *Id.*

6. *Id.* ¶ 80(106).

University, where he studies Electromechanics.⁷

October 30, 1963: Mr. Marcelino Rosales-Cardenas is born in Lima, Peru.⁸ He eventually studies Arts and Humanities at La Cantuta University.⁹

December 2, 1966: Mr. Armando Richard Amaro-Cóndor is born in Lima, Peru.¹⁰ He eventually attends La Cantuta University to study Electromechanics.¹¹

May 12, 1967: Mr. Felipe Flores-Chipana is born in Huaiquipa, Peru.¹² He eventually enrolls at La Cantuta University to study Electromechanics.¹³

June 28, 1968: Mr. Heráclides Pablo-Meza is born in Ancash, Peru.¹⁴ He later studies Mathematics and Natural Sciences at La Cantuta University.¹⁵

1970: Mr. Robert Edgar Teodoro-Espinoza is born.¹⁶ He eventually attends La Cantuta University to study Mathematics and Natural Sciences.¹⁷

March 1, 1970: Ms. Bertila Lozano-Torres is born in Cuñumbuque, Peru.¹⁸ She later attends La Cantuta University, where she studies Arts, Humanities, Mathematics, and Natural Sciences.¹⁹

October 25, 1970: Mr. Luis Enrique Ortiz-Perea is born in Chachapoyas, Peru.²⁰ He eventually studies Physical and Sports Culture at La Cantuta University.²¹

7. *Id.*

8. *Id.* ¶ 80(107).

9. *Id.*

10. *Id.* ¶ 80(102).

11. *Id.*

12. *Id.* ¶ 80(107).

13. *Id.*

14. *Id.* ¶ 80(100).

15. *Id.*

16. *Id.* ¶ 80(105).

17. *Id.*

18. *Id.* ¶ 80(104).

19. *Id.*

20. *Id.* ¶ 80(98).

21. *Id.*

November 4, 1970: Ms. Dora Oyague-Fierro is born.²² She later attends La Cantuta University to become a kindergarten teacher.²³

January 1991: State television releases footage of a La Cantuta University event during which university officials allege that political ideologies of the *Sendero Luminoso* (“Shining Path”), a militant guerrilla group that seeks to overthrow the State government, have gained popularity among University students.²⁴

May 21, 1991: President Alberto Fujimori visits La Cantuta to the dismay of students, who protest his visit.²⁵ Students respond with forceful resistance, prompting Fujimori to leave the campus.²⁶ The Army establishes a military post inside the university.²⁷ La Cantuta is now under military control.²⁸

May 22, 1991: State military officials impose a curfew for university students and control students’ exit and entry.²⁹ The military also takes control of the Universidad Mayor de San Marcos.³⁰ Military personnel arrest fifty-six students between the two campuses.³¹

May 24, 1992: Around twenty and twenty-five intoxicated soldiers arrive outside student dormitories and try to enter the students’ residences.³² As per students’ demands, the soldiers return to student dormitories accompanied by a university official.³³ The students allow the soldiers to enter and military personnel confiscate allegedly subversive, anti-government materials inside the students’ rooms.³⁴

May 29, 1992: La Cantuta student representatives report the May 24 events to the University Chancellor.³⁵

22. *Id.* ¶ 80(96).

23. *Id.*

24. *Id.* ¶ 80(10).

25. *Id.*

26. *Id.*

27. *Id.*

28. *Id.*

29. *Id.*

30. *Id.*

31. *Id.*

32. *Id.* ¶ 80(11).

33. *Id.*

34. *Id.*

35. *Id.*

July 7-9, 1992: La Cantuta students celebrate “Teacher’s Day” on campus.³⁶ According to students, State military forces interrupt both a “Teacher’s Day” celebration and the university restaurant by displaying their firearms and threatening to shoot students.³⁷

July 16, 1992: The Shining Path bombs La Tarata Street in one of Lima’s metropolitan areas, killing forty people and injuring over two hundred people.³⁸ This is one of the Shining Path’s deadliest attacks during its conflict with the State.³⁹

July 18, 1992: Armed State military and Colina Group forces invade La Cantuta University campus and break into student and professor residences.⁴⁰ They force students to exit their bedrooms and lie face down on the floor.⁴¹ They detain Ms. Lozano Torres, Ms. Dora Oyague Fierro, Mr. Ortiz Perea, Mr. Amaro Córdor, Mr. Teodoro Espinoza, Mr. Pablo Meza, Mr. Flores Chipana, Mr. Rosales Cárdenas, and Mr. Mariños Figueroa.⁴²

Another group of State forces invades and searches through Professor Muñoz Sánchez’s bedroom.⁴³ They blindfold him, gag him, and drag him out of his residence.⁴⁴ State forces subsequently leave the La Cantuta campus, taking Professor Muñoz-Sánchez and the captured students with them.⁴⁵

July 21, 1992: Mr. Muñoz Sánchez’s wife, Ms. Pérez Velásquez de Muñoz, reports her husband’s disappearance to the Tenth Criminal Prosecutor’s Office.⁴⁶ Ms. Pérez Velásquez de Muñoz quits her position as a primary school teacher and dedicates all of her time to investigate her husband’s whereabouts.⁴⁷

36. *Id.*

37. *Id.*

38. *El Atentado de Tarata, 21 Años Después*, LA REPUBLICA (July 16, 2013), <http://www.larepublica.pe/16-07-2013/el-atentado-de-tarata-21-anos-despues>.

39. *Id.*

40. *La Cantuta v. Peru*, Merits, Reparations, and Costs, ¶ 80(12). See Gómez-Palomino v. Peru, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 136 (Nov. 22, 2005) for additional analysis of the Colina Group’s human rights violations.

41. *La Cantuta v. Peru*, Merits, Reparations, and Costs, ¶ 80(13).

42. *Id.*

43. *Id.* ¶ 80(14).

44. *Id.*

45. *Id.* ¶ 80(15).

46. *Id.* ¶ 80(21).

47. *Id.* ¶ 80(94).

July 23, 1992: Mr. Jaime Oyague Velazco files a *habeas corpus* claim for his niece, Ms. Oyague Fierro, in Lima's Ninth Criminal Court.⁴⁸

July 24, 1992: The La Cantuta University Chancellor files a *habeas corpus* petition with the Ninth Criminal Court on behalf of Mr. Muñoz Sánchez and the nine student victims of the July 18 events.⁴⁹ Various family members of the nine student victims eventually quit their jobs in order to search for their relatives.⁵⁰

July 31, 1992: The Association for Human Rights in Peru (*Asociación Pro Derechos Humanos*, "APRODEH") files a complaint with the Attorney General's Office regarding the disappearances of Ms. Lozano Torres, Mr. Ortiz Perea, Ms. Oyague Fierro, Mr. Flores Chipana, Mr. Rosales Cárdenas, Mr. Amaro Córdor, Mr. Teodoro Espinoza, Mr. Pablo Meza, Mr. Mariños Figueroa, and Mr. Muñoz Sánchez.⁵¹

August 6, 1992: The Attorney General's Office instructs Lima's Eighth Provincial Criminal Prosecutor's Office to investigate the La Cantuta disappearances.⁵²

August 5, 1992: Lima's Ninth Criminal Court declares the *habeas corpus* petition on behalf of Ms. Oyague Fierro groundless.⁵³ The Eleventh Criminal Court declares the petitions on behalf of Mr. Muñoz Sánchez and the nine student victims groundless.⁵⁴ The Ninth Criminal Court denies that military forces arrested and detained Ms. Oyague Fierro, and both courts deny that any military operation occurred at La Cantuta University on July 18.⁵⁵ Appellate courts later affirm both holdings.⁵⁶

August 20, 1992: Ms. Raida Córdor de Amar files a *habeas corpus* petition with the Fourteenth Criminal Court on behalf of the ten La Cantuta University victims.⁵⁷ The court denies it as groundless and that

48. *Id.* ¶ 80(20).

49. *Id.* ¶ 80(20)(ii).

50. *See id.* ¶¶ 80(97-109).

51. *Id.* ¶ 80(22).

52. *Id.* ¶ 80(23).

53. *Id.*

54. *Id.* ¶ 80(20).

55. *Id.*

56. *Id.* ¶¶ 80(20)(i)-(ii).

57. *Id.* ¶ 80(20)(iii).

ruling is affirmed on appeal.⁵⁸

April 15, 1993: The Supreme Council of Military Justice (“SCMJ”) initiates proceedings to determine which State Army members to hold responsible for the La Cantuta events.⁵⁹

July 8, 1993: A team of journalists for *Si* magazine discovers unmarked shallow graves containing human remains in the Chavicla gorge in Cieneguilla, Peru.⁶⁰ The journalists find charred bones, human hair, articles of clothing, and two sets of keys.⁶¹

July 12, 1993: *Si* publishes a sketch of the graves and gives the sketch to the Sixteenth Provincial Prosecutor’s Office in Lima.⁶²

July-August, 1993: The Prosecuting Office begins an investigation to identify the human remains found in the shallow graves.⁶³ The investigation eventually leads to another site of unmarked graves that contain clothed full and partial skeletons, human hair, human bones, pieces of human scalp, a human jawbone, and spent bullets.⁶⁴

With the assistance of forensic experts and La Cantuta victims’ relatives, the investigators determine that the human remains and other articles found in the graves belong to the ten La Cantuta victims.⁶⁵

August 9, 1993: Lima’s Eighth Provincial Criminal Prosecutor’s Office refuses the Attorney General’s instructions to investigate the La Cantuta events.⁶⁶ Since military proceedings regarding the same events began earlier that year, the Prosecutor’s Office declines jurisdiction over the case.⁶⁷

For the next seven months, a dispute ensues between criminal and military court officials as to which court should have jurisdiction over the La Cantuta investigation.⁶⁸

58. *Id.*

59. *Id.* ¶ 80(42).

60. *Id.* ¶ 80(30).

61. *Id.* ¶ 80(31).

62. *Id.* ¶ 80(30).

63. *Id.* ¶ 80(31).

64. *Id.* ¶ 80(37).

65. *Id.* ¶¶ 80(36)-(41).

66. *Id.* ¶ 80(23).

67. *Id.* ¶ 80(42).

68. *See id.* ¶¶ 80(44)-(53).

February 3, 1994: The five-member Criminal Chamber of the Supreme Court passes a divided decision as to whether the military or criminal courts should have jurisdiction over the complaints filed against military members for their responsibility in the La Cantuta events.⁶⁹ Three hold in favor of the military court and two in favor of the ordinary criminal court, which does not constitute a majority decision.⁷⁰

February 8, 1994: Mr. Julio Chu Meriz, a Congressman, proposes a bill stating that the Criminal Chamber of the Supreme Court shall solve jurisdictional conflicts with a three-vote majority.⁷¹ The Democratic Constituent Congress approves the bill the same day.⁷²

February 9, 1994: President Fujimori enacts Law No. 26.291, which changes the required number of votes from the Criminal Chambers of the Supreme Court from an absolute majority to a simple majority only with regard to jurisdictional conflicts.⁷³

February 11, 1994: The Criminal Chambers of the Supreme Court orders the military court system to take jurisdiction over the investigation into the La Cantuta massacre.⁷⁴

May 3, 1994: The Supreme Council of Military Justice issues its final judgment on the State Army members' guilt as to the human rights violations against the La Cantuta victims.⁷⁵ It acquits five Army members, and convicts Major General Juan Rivero Lazo, Cavalry Colonel Federico Augusto Navarro Pérez, Infantry Captain José Adolfo Velarde Astete, Engineering Corps Majors Santiago Enrique Martín Rivas and Carlos Eliseo Pichilingue Guevara, and Technicians Julio Chuqui Aguirre, Nelson Rogelio Carbajal García, and Jesús Antonio Sosa Saavedra, of various crimes related to the disappearance and murders of the La Cantuta victims.⁷⁶ The court also orders the convicted Army members and the State government to pay reparations to the victims' relatives.⁷⁷

69. *Id.* ¶ 80(50).

70. *Id.*; *see id.* ¶ 80(51).

71. *Id.* ¶ 80(51).

72. *Id.*

73. *Id.*

74. *Id.* ¶ 80(52).

75. *Id.* ¶ 80(54).

76. *Id.*

77. *Id.* ¶ 80(55).

June 14-16, 1995: Congress grants amnesty to all military members, law enforcement personnel, and civilians involved in human rights violations from May 1980 to the present.⁷⁸ It demands the release of all individuals who are detained for human rights violations, terminates all current proceedings or investigations into human rights violations, and bars any future investigations into human rights violations that occurred during this period.⁷⁹ The congressional order and the Supreme Council of Military Justice release all State Army members convicted for the disappearance and murders of the ten La Cantuta victims.⁸⁰

2000: The Fujimori Administration falls.⁸¹ Former President Fujimori flees to Chile.⁸²

2000-2003: Human rights organizations and State prosecuting offices initiate various criminal proceedings against State military members for crimes that concern the La Cantuta events.⁸³ Those proceedings include claims against Mr. Vladimiro Montesinos-Torres,⁸⁴ leader of the State's Army Intelligence Service⁸⁵ and one of the alleged primary intellectual architects of the La Cantuta massacre.⁸⁶ These proceedings are still in progress when the Inter-American Court of Human Rights inquires into statuses of the proceedings in 2006.⁸⁷

March 14, 2001: In its judgment in *Barrios Altos v. Peru*, the Inter-American Court of Human Rights declares that the State's June 1995 amnesty laws violate the American Convention.⁸⁸ The Supreme Council of Military Justice reverses its June 1995 amnesty judgment in order to enforce its original judgment convicting and punishing the State Army members,⁸⁹ but there are no records that the judgment is ever enforced.⁹⁰

78. *Id.* ¶ 80(58).

79. *Id.* ¶ 80(59).

80. *Id.* ¶ 80(60).

81. *Id.* ¶¶ 80(67)-(68).

82. Juan Forero, *Fujimori's Detention in Chile Was Just Part of His Plan, Allies Say*, N.Y. TIMES (Nov. 10, 2005),

<http://www.nytimes.com/2005/11/10/international/americas/10fujimori.html>.

83. *La Cantuta v. Peru, Merits, Reparations, and Costs*, ¶¶ 80(67)-(92).

84. *Id.* ¶ 80(68).

85. *Id.* ¶ 80(17).

86. *Id.* ¶ 80(57).

87. *See id.* ¶¶ 80(70), (74), (81), (85).

88. *Id.* ¶ 80(62). *See Barrios Altos v. Peru, Merits, Judgment*, Inter-Am. Ct. H.R. (ser. C) No. 75 (Mar. 14, 2001).

89. *La Cantuta v. Peru, Merits, Reparations, and Costs*, ¶ 80(63).

90. *Id.* ¶ 80(64).

September 21, 2001: The State's Supreme Court Investigation Board files criminal claims against former President Fujimori in the State's Special Criminal Chamber.⁹¹ The claims stem from his alleged ties to numerous murders, kidnappings, and forced disappearances, including the La Cantuta events.⁹²

December 16, 2005: The State's Special Criminal Chamber requests former President Fujimori's extradition.⁹³ The State's extradition commission agrees to extradite Fujimori.⁹⁴

September 21, 2007: The Supreme Court of Chile agrees to extradite former President Fujimori from Chile so that he may face criminal charges in Peru.⁹⁵

April 7, 2009: The State's Special Criminal Chamber finds Fujimori guilty of voluntary manslaughter, serious injury, and aggravated kidnapping.⁹⁶ Fujimori is sentenced to twenty-five years in prison.⁹⁷ He appeals the judgment.⁹⁸

January 3, 2010: The State Supreme Court upholds Fujimori's conviction and twenty-five year sentence.⁹⁹

B. Other Relevant Facts

1983-1992: The State faces an ongoing and violent internal conflict with the Shining Path, a guerilla group determined to overthrow the government.¹⁰⁰ The State employs counterinsurgency tactics in efforts to suppress the Shining Path's power within the country.¹⁰¹

The *Grupo Colina* ("Colina Group"), a satellite of the State's

91. *Id.* ¶¶ 80(86)-(87).

92. *Id.*

93. *Id.* ¶ 80(88).

94. *Id.* ¶ 80(89).

95. Simon Romero, *Court Approves Extradition of Fujimori*, N.Y. TIMES (Sept. 21, 2007), <http://www.nytimes.com/2007/09/21/world/americas/22chile.html>.

96. *Peru's Supreme Court Turns down Fujimori's Appeal on 25 Years*, PERUVIAN TIMES (Jan. 5, 2010), <http://www.peruviantimes.com/05/peru's-supreme-court-turns-down-fujimori's-appeal-on-25-year-sentence/4378/>.

97. *Id.*

98. *Id.*

99. *Id.*

100. *La Cantuta v. Peru, Merits, Reparations, and Costs*, ¶ 80(1).

101. *Id.* ¶¶ 80(1)-(2).

National Intelligence Service, helps implement State counterinsurgency policy by systematically killing potential Shining Path affiliates.¹⁰² Once the State identifies individuals who are potentially involved with the Shining Path, State officials detain individuals on State premises, whether within public, law enforcement, or military spaces.¹⁰³ State officials interrogate and torture their victims to try to retrieve specific information.¹⁰⁴ State officials then release their victims, arbitrarily execute them, or keep them in custody and report the victims as “missing” persons.¹⁰⁵

II. PROCEDURAL HISTORY

A. Before the Commission

July 30, 1992: Ms. Andrea Gisela Ortiz-Perea, Ms. Rosario Muñoz Sánchez, Ms. Raida Córdor, Mr. José Oyague and Ms. Bitalia Barrueta de Pablo file a petition with the Inter-American Commission of Human Rights (“Commission”) for the alleged detention and disappearance of their relatives, Mr. Muñoz Sánchez, Ms. Lozano Torres, Ms. Oyague Fierro, Mr. Enrique Ortiz Perea, Mr. Amaro Córdor, Mr. Teodoro Espinoza, Mr. Pablo Meza, Mr. Flores Chipana, Mr. Rosales Cárdenas, and Mr. Mariños Figueroa.¹⁰⁶

August 4, 1992: The Commission forwards the petition to the State.¹⁰⁷

February 4, 1993: APRODEH also files a petition with the Commission based on the La Cantuta victims’ alleged detention and disappearance at the hands of the State.¹⁰⁸

October 22, 1993: The Center for the Study and Action for Peace (*Centro de Estudios y Acción para la Paz*, “CEAPAZ”) becomes a co-petitioner with APRODEH.¹⁰⁹

March 11, 1999: The Commission adopts Report on Admissibility No.

102. *Id.* ¶ 80(18)

103. *Id.* ¶ 80(3).

104. *Id.*

105. *Id.*

106. *Id.* ¶ 5.

107. *Id.*

108. *Id.* ¶ 6.

109. *Id.* ¶ 7.

42/99, declaring the petition admissible.¹¹⁰

February 22, 2001: The State and the Commission publish a joint press release that discusses their meeting with the State's Minister of Justice and a Permanent Representative of the Organization of American States ("OAS").¹¹¹ The press release indicates that the State will accept liability with regard to violations alleged in the petition, and will take measures to rectify the injury it caused.¹¹²

October 24, 2005: The Commission issues its Report on Merits No. 95/05, and concludes that the State violated Articles 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to Judicial Guarantees), and 25 (Right to Judicial Protection) to the detriment of the La Cantuta victims and their relatives.¹¹³ The Commission recommends that the State adopt measures to repair the damage its violations caused.¹¹⁴

B. Before the Court

February 14, 2006: The Commission submits the case to the Court after the State failed to issue a report to specify how the State plans to adopt the Commission's recommendations.¹¹⁵

1. Violations Alleged by Commission¹¹⁶

Article 2 (Obligation to Give Domestic Legal Effect to Rights)

Article 3 (Right to Juridical Personality)

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 7 (Right to Personal Liberty)

Article 8 (Right to a Fair Trial)

Article 25 (Right to Juridical Protection)

all in relation to:

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

2. Violations Alleged by Representatives of the Victims¹¹⁷

110. *Id.* ¶ 8.

111. *Id.* ¶ 9.

112. *Id.*

113. *Id.* ¶ 10.

114. *Id.*

115. *Id.* ¶ 15.

116. *Id.* ¶ 1.

Same Violations Alleged by Commission.

Since the State acknowledged its responsibility, it did not submit any preliminary objections to the admissibility of the petition or to the jurisdiction of the court.¹¹⁸

April 28, 2006: The Court appoints a judge *ad-hoc*, Judge Fernando Vidal-Ramírez.¹¹⁹

May 17 and 23, 2006: Petitioners' representatives file briefs with the Court that present their arguments, requests, and offer expert and testimonial witnesses.¹²⁰

July 21, 2006: The State in its answer to the petitioners' application to the Court accedes to the petitioners' claims, and partially recognizes international liability for certain violations the Commission alleges.¹²¹

October 27, 2006: The Peruvian Legal Defense Institute (*Instituto de Defensa Legal de Perú*) files an *amicus curiae* on behalf of petitioners.¹²²

November 24, 2006: The State files objections to the Peruvian Legal Defense Institute's *amicus curiae*.¹²³

III. MERITS

A. *Composition of the Court*¹²⁴

Sergio García Ramírez, President
Alirio Abreu Burelli, Vice-President
Antônio A. Cançado Trindade, Judge
Cecilia Medina Quiroga, Judge

117. *Id.*

118. *See generally* La Cantuta v. Peru, Merits, Reparations, and Costs.

119. *Id.* ¶ 20.

120. *Id.* ¶ 21.

121. *Id.*

122. *Id.* ¶ 34.

123. *Id.* ¶ 34.

124. Judge Oliver Jackman did not participate in the judgment. *Id.* n.1. Judge Diego García Sayán recused himself because he is a Peruvian national, and was the Minister of Justice in Peru in 2001. *Id.*

Manuel E. Ventura Robles, Judge
Fernando Vidal Ramírez, Judge *ad hoc*

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

B. Decision on the Merits

November 29, 2006: The Court issues its Judgment on the Merits, Reparations and Costs.¹²⁵

The Court found unanimously that the State had violated:

Articles 4(1) (Prohibition of Arbitrary Deprivation of Life), 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), and 7 (Right to Personal Liberty) in relation to Article 1(1) of the Convention, to the detriment of the La Cantuta victims,¹²⁶ because:

The State arbitrarily and illegally detained the La Cantuta victims in violation of Articles 7(1) (Right to Personal Liberty and Security) and 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law).¹²⁷ Article 7(1) guarantees individuals the right to the security and liberty of their physical person, and Article 7(2) prohibits that liberty from being deprived except for when established law permits it.¹²⁸ No competent State authority ever ordered the military to detain the La Cantuta students or professor, and military personnel did not detain the victims for the purpose of bringing them before a judicial body.¹²⁹ Rather, the State violated the victims' physical freedom by illegally detaining them in order to later execute them.¹³⁰ The State thus abused its power in violation of Articles 7(1) (Right to Personal Liberty and Security) and 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law), so it is unnecessary to consider whether the State adhered to correct detention protocol in accordance with subsections (3) (Prohibition of Arbitrary Arrest or Imprisonment), (4) (Right to Be

125. La Cantuta v. Peru, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 162 (Nov. 29, 2006).

126. *See id.* ¶¶ 105-29.

127. *Id.* ¶ 109.

128. *Id.* ¶ 108.

129. *Id.* ¶ 109.

130. *Id.*

*Informed of Reasons of Arrest and Charges), and (5) (Right to Be Promptly Before a Judge and Right to a Trial Within Reasonable Time) of Article 7 (Right to Personal Liberty).*¹³¹

*The State violated Article 7(6) (Right to Have Recourse Before a Competent Court) where it failed to investigate the two habeas corpus petitions brought by the La Cantuta victims' family members.*¹³² *Because the La Cantuta victims had been missing, habeas corpus was the most appropriate legal recourse for the victims' relatives in order to determine the victims' whereabouts.*¹³³ *The court ruling on the habeas corpus petition requested information from military authorities about the June 18, 1992 events at La Cantuta.*¹³⁴ *The military claimed in its response that it could not provide the court with any such information due to "national security" reasons.*¹³⁵ *The court then failed to investigate the habeas corpus petitions any further.*¹³⁶ *However, this Court has held that State authorities cannot use general national security or public interest reasons to withhold information that is relevant to ongoing investigations into human rights abuses.*¹³⁷ *Furthermore, this Court has held that a State body that is potentially responsible for committing the human rights abuses at issue may not be the sole State entity that determines whether or not to release relevant information because of national security or public interest concerns.*¹³⁸ *As a result, the State violated the Right to Recourse Before a Competent Court to the detriment of La Cantuta victims and their families in violation of Article 7(6) (Right to Have Recourse Before a Competent Court).*¹³⁹

*The State also violated Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment).*¹⁴⁰ *By detaining the La Cantuta victims in an unknown location for an indefinite period of time before executing them, the State placed the victims in a vulnerable state that compromised their*

131. *Id.*

132. *Id.* ¶ 112.

133. *Id.* ¶ 111.

134. *Id.*

135. *Id.*

136. *See id.* ¶ 112.

137. *Id.* ¶ 111.

138. *Id.*

139. *Id.*

140. *Id.* ¶ 113.

physical, mental, and moral integrity.¹⁴¹ No direct evidence exists to prove the victims' states of mind while they were detained.¹⁴² However, it may be inferred that because the victims witnessed State actors kill other victims in the same location, and thus had time to anticipate their own imminent executions, the State subjected the victims to cruel, degrading, and inhumane treatment in violation of Article 5 (Right to Humane Treatment).¹⁴³

Based on the foregoing reasons, the State violated Article 4(1) (Prohibition of Arbitrary Deprivation of Life) to the detriment of the La Cantuta victims by virtue of also violating the victims' rights to Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment).¹⁴⁴

Article 5(1) (Right to Physical, Mental, and Moral Integrity), in relation to Article 1(1) of the Convention, to the detriment of the La Cantuta victims' next of kin,¹⁴⁵ because:

*In cases involving forced disappearances, violating the moral and mental integrity of victims' next of kin can be a direct consequence of the forced disappearances of the victims themselves.*¹⁴⁶ *The impact of the La Cantuta victims' disappearances had various effects on the victims' next of kin.*¹⁴⁷ *Some of the relatives were present to watch their family members' corpses be examined.*¹⁴⁸ *Examiners gave the victims' remains to those relatives in milk cartons.*¹⁴⁹ *Additionally, several family members sacrificed their jobs in order to search for their relatives full-time.*¹⁵⁰ *Some victims' relatives have also received death threats and have been accused of being terrorists.*¹⁵¹ *Moreover, that the State failed to provide the victims' families with legal remedies and has still failed to recover and confirm the remains of some victims further compound the victims' families' suffering and therefore constitute a*

141. *Id.*

142. *See id.*

143. *Id.*

144. *Id.* ¶ 116.

145. *Id.* "Declares" ¶ 5, ¶ 126.

146. *See id.* ¶ 126.

147. *See id.* ¶ 125.

148. *Id.*

149. *Id.*

150. *Id.*

151. *Id.*

violation of Article 5(1) (Right to Physical, Mental, and Moral Integrity).¹⁵²

Articles 8 (Right to a Fair Trial) and 25(2) (Right of Recourse Before a Competent Court) in relation to Article 1(1) of the Convention, to the detriment of the La Cantuta victims' next of kin,¹⁵³ because:

The State improperly allowed the military, as opposed to criminal, court system to take jurisdiction over the investigation into the La Cantuta events,¹⁵⁴ and failed to hold responsible the military members who engaged in human rights abuses against the La Cantuta victims in later criminal proceedings.¹⁵⁵ Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) guarantees the right to a timely hearing by an independent, impartial tribunal.¹⁵⁶ The State violated that Article in two main ways.¹⁵⁷

First, the State, through its three branches of government, manipulated its legal system in order to grant military jurisdiction over the La Cantuta investigation.¹⁵⁸ The Attorney General instructed the Eighth Provincial Criminal Court to investigate the events in August 1992.¹⁵⁹ However, that criminal court waited until a year later, in August 1993, to decline to investigate the events.¹⁶⁰ The criminal court claimed that the military courts already had jurisdiction over the matter¹⁶¹ since earlier that year, in April 1993, the Supreme Council of Military Justice began to investigate the La Cantuta events.¹⁶² As a result, a conflict arose as to whether the military courts should assume jurisdiction over the Eighth Provincial Criminal Court's investigation, as well as the Sixteenth Provisional Criminal Court's December 1992 investigation that ensued after journalists found the victims' remains in shallow graves in July of that year.¹⁶³ After the State's Criminal Chamber of the Supreme Court decided in a 3-2 vote that the criminal courts should

152. *See id.* ¶ 125(f).

153. *See id.* ¶¶ 133-61.

154. *Id.* ¶ 143.

155. *See id.* ¶¶ 146-50.

156. *Id.* ¶ 133.

157. *See generally id.* ¶¶ 135-45.

158. *Id.* ¶¶ 135-37.

159. *Id.* ¶ 80(23).

160. *Id.* ¶¶ 80(23), 80(42).

161. *Id.*

162. *Id.* ¶ 80(42).

163. *See id.* ¶¶ 80(31), 135-37.

have jurisdiction,¹⁶⁴ the State's Democratic Constitutional Congress, in a bill quickly signed into law by President Fujimori, changed the number of votes required for such jurisdictional conflicts from four to three, blatantly manipulating the legal system to favor military jurisdiction over the La Cantuta massacre.¹⁶⁵ Furthermore, this Court has held that in a democracy, military courts should only have jurisdiction over military matters.¹⁶⁶ Military jurisdiction over cases that ordinary courts should hear automatically violates due process.¹⁶⁷ The State therefore violated the right to a fair and impartial trial to the detriment of the La Cantuta victims' relatives in violation of Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) by conferring military jurisdiction over the La Cantuta investigation.¹⁶⁸

Second, with regard to the investigations that commenced in the ordinary criminal courts after the Fujimori Administration collapsed, such proceedings have been inefficient and untimely.¹⁶⁹ Although those investigations aim to hold responsible high-ranking government officials, they have not been comprehensive in terms of identifying and convicting the military members directly responsible for the events that took place at the La Cantuta University campus.¹⁷⁰ In addition, such proceedings have lasted for over fourteen years, which far exceeds a reasonable time frame through which to complete an investigation.¹⁷¹ Moreover, there is no evidence that the sentences and punishments have been implemented for the convictions of high-ranking government officials that the courts did achieve.¹⁷² The State is thus in violation of Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) to the detriment of the La Cantuta victims and their families.¹⁷³

Similarly, the State violated Article 25(2) (Right of Recourse Before a Competent Court) where it failed to undertake proceedings to promptly and efficiently prosecute those responsible for the La Cantuta

164. *Id.* ¶ 137.

165. *Id.*

166. *Id.* ¶ 142.

167. *Id.*

168. *Id.* ¶ 145.

169. *Id.* ¶¶ 146, 149.

170. *Id.* ¶ 147.

171. *Id.* ¶ 149.

172. *Id.* ¶ 150.

173. *Id.* ¶ 161.

massacre.¹⁷⁴ Article 25(2) guarantees the right to prompt and effective recourse for protection against acts that violate an individual's constitutional or convention rights, even when individuals acting within the scope of their official duties commit those violations.¹⁷⁵ Thus, for the same reasons for the State's violation of Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), the State accordingly violated Article 25(2) (Right to Recourse Before a Competent Court) to the detriment of the victims of the La Cantuta massacre, as well as to their next-of-kin.¹⁷⁶

Article 2 (Obligation to Give Domestic Legal Effect to Rights), in relation to Articles 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 25 (Right to Judicial Protection), and 1 (Obligation to Respect Rights) of the Convention, to the detriment of the La Cantuta victims' next of kin,¹⁷⁷ because:

*The State avoided enforcing punishments for the individuals the State's criminal court found responsible for the La Cantuta massacre by granting amnesty to every individual the criminal court convicted.¹⁷⁸ Article 2 (Obligation to Give Domestic Legal Effect to Rights) requires a State to adopt legislative or other necessary measures in order to give effect to individuals' rights and freedoms guaranteed in Article 1 (Obligation to Respect Rights) if those rights and freedoms are not already legislatively or otherwise codified.¹⁷⁹ Amnesty Laws No. 26,479 and No. 26,492, which granted amnesty for individuals convicted of human rights abuses against the ten La Cantuta victims, are the same amnesty laws that the Court considered in *Barrios Altos v. Peru* in 2001.¹⁸⁰ In that case, the Court found Amnesty Laws No. 26,479 and No. 26,492 to be *per se* contrary to the American Convention.¹⁸¹ That judgment became immediately binding on the State's domestic law.¹⁸² Therefore, the State violated Article 2 (Obligation to Give Domestic Legal Effect to Rights) where it failed to take legislative measures to adapt – in this case, reverse Amnesty Laws Nos. 26,479 and 26,492 and*

174. *See id.* ¶¶ 134-45.

175. *Id.* ¶ 134(1).

176. *Id.* ¶ 161.

177. *Id.* ¶ 189.

178. *Id.* ¶ 188.

179. *Id.* ¶ 166.

180. *Id.* ¶ 174.

181. *Id.* ¶ 187.

182. *Id.*

punish those it originally convicted - its domestic law to ensure legal rights guaranteed in Article 1 (Obligation to Respect Rights), as the State has failed to show that it has reopened the Supreme Council of Military Justice's 1994 decision convicting and punishing individuals responsible for the La Cantuta events since the Barrios Altos decision in 2001.¹⁸³ The State thus violated Article 2 (Obligation to Give Domestic Legal Effect to Rights) to the detriment of the La Cantuta victims' family members.¹⁸⁴

The Court found that the State did not violate:

Article (3) (Right to Juridical Personality), in relation to Article 1(1) of the Convention, to the detriment of the La Cantuta victims,¹⁸⁵ because:

The ten La Cantuta victims, once deceased, were not entitled to rights under the American Convention.¹⁸⁶ The Commission argued that because the victims were either forcibly disappeared or murdered, they were excluded from the State's legal and institutional functions.¹⁸⁷ However, Article 3 (Right to Judicial Personality) guarantees rights, obligations, and basic civil rights to individuals who are implied to have the capacity to hold and exercise those rights and obligations.¹⁸⁸ Thus, because the deceased La Cantuta victims did not literally have the human capacity to hold such rights, they effectively were not denied such rights either, and the State is therefore not in violation of Article 3 (Right to Juridical Personality) to the La Cantuta victims.¹⁸⁹

C. Dissenting and Concurring Opinions

1. Separate Opinion of Judge Sergio García Ramírez

In a separate opinion, Judge Sergio García Ramírez elaborated on legal concepts relevant to many cases the Court has considered, including the present case.¹⁹⁰ He discussed self-amnesty laws, res

183. *See id.* ¶¶ 186, 188-89.

184. *Id.* ¶ 189.

185. *Id.* ¶ 121.

186. *See id.* ¶ 120.

187. *Id.* ¶ 118.

188. *Id.* ¶ 120.

189. *See id.* ¶¶ 120-21.

190. *See generally* La Cantuta v. Peru, Judgment, Separate Opinion of Judge Sergio García Ramírez, Inter-Am. Ct. H.R. (ser. C) No. 162 (Nov. 29, 2006).

judicata, conflict of rights, context, assessment of seriousness, and reparations and acknowledging liability.¹⁹¹

Judge García Ramírez noted that the Court has established what he calls an “Inter-American view on self-amnesty.”¹⁹² This view on self-amnesty has arisen as a result of the issue as to what actions a state should take when it contains a domestic law that is incompatible with the American Convention.¹⁹³ However, because the American Convention requires that states’ laws conform to the baseline rights and duties that the American Convention guarantees, the ruling in *Barrios Altos* that the State’s amnesty laws also at issue in the present case violate the American Convention automatically deem those amnesty laws invalid.¹⁹⁴ It is therefore unnecessary for the State to pass a new law or order declaring those laws invalid.¹⁹⁵

Judge García Ramírez then discussed *res judicata*.¹⁹⁶ Due process is the base of a judgment in the same way that a foundation is the base of a building.¹⁹⁷ If a building collapses because its foundation was improper, the building must be built again with a legitimate foundation.¹⁹⁸ The same is true with due process of law.¹⁹⁹ Where a judgment was made without a fair trial, the judgment is invalid, thus circumventing any multiple-judgment *res judicata* issue.²⁰⁰

Judge García Ramírez also discussed the issue that arises when procedural rights, such as the right to a reasonably timely legal proceeding, conflicts with substantive rights, such as the right to a proper defense.²⁰¹ In some cases, it is necessary to prioritize one right over another in order to provide a more comprehensive and substantial protection to the affected individual seeking protection.²⁰² Because the importance of securing a fair judgment ultimately prevails over a timely legal proceeding, the right to a reasonable or timely term in the present case must be sacrificed in the interest of justice.²⁰³

He then discussed the idea of context, noting that that in the present case, as well as in *Goiburú*, *Almonacid*, and *Castro-Castro*, the

191. *See id.*

192. *Id.* ¶ 2.

193. *Id.* ¶ 4.

194. *Id.* ¶¶ 6, 8.

195. *Id.* ¶ 7.

196. *Id.* ¶ 9.

197. *Id.* ¶ 11.

198. *Id.*

199. *Id.*

200. *Id.*

201. *Id.* ¶¶ 14-16.

202. *Id.*

203. *Id.*

Court permitted itself to consider, in addition to the violations themselves, the context in which the violations occurred,²⁰⁴ even though such context is not the formal subject matter of the case.²⁰⁵ These contextual considerations bring meaning to the case's facts and help inform the case's resolution,²⁰⁶ thus aiding the Court's example-setting role as adjudicator of human rights abuses.²⁰⁷

Judge García Ramírez clarified the Court's use of the term "aggravated liability."²⁰⁸ A state's liability for violations it commits does not vary by degrees, and thus does not technically rise to a level of "aggravated" liability; the term is not a legal term of art.²⁰⁹ Rather, the term refers to the Court's role when it assesses the seriousness of a violation; a violation's severity impacts how the Court determines reparations.²¹⁰ The Court's use of the term merely indicates its strong disapproval with a State's conduct.²¹¹

Finally, Judge García Ramírez clarified that for purposes of reparations, it does not matter whether a State concedes to the human rights violations it committed.²¹² Rather, once the Court decides that a state indeed committed such violations, the Court only requires that the state fulfill the duties the Court imposes on it.²¹³ A state may, however, make its own decisions as to the details of how it chooses to fulfill the obligations the Court imposed upon it.²¹⁴

2. Separate Opinion of Judge Antônio Augusto Cançado Trindade

In a separate opinion, Judge Cançado Trindade offered his opinion on four issues in the present case.²¹⁵

Judge Cançado Trindade first discussed the La Cantuta massacre in the context of recurring State criminal practice.²¹⁶ He noted that the evidence in the present case reveals that the massacre was a premeditated scheme orchestrated by the State's highest-ranking

204. *Id.* ¶ 17.

205. *Id.* ¶ 21.

206. *Id.* ¶ 17.

207. *Id.* ¶ 21.

208. *Id.* ¶ 22.

209. *See id.*

210. *Id.* ¶ 22.

211. *Id.* ¶ 23.

212. *Id.* ¶ 25.

213. *Id.*

214. *Id.*

215. *See La Cantuta v. Peru*, Judgment, Separate Opinion of Judge Antônio Augusto Cançado Trindade, Inter-Am. Ct. H.R. (ser. C) No. 162, ¶ 1 (Nov. 29, 2006).

216. *See id.*

government officials and executed by the Colina Group paramilitary death squad.²¹⁷

He then noted that states' self-amnesty laws have become prevalent, referring to numerous past cases in which the Court declared that self-amnesty laws are automatically invalid upon passage because they violate the American Convention.²¹⁸

Next, Judge Cançado Trindade condemned the fact that the State directed its human rights violations towards a university.²¹⁹ A university campus is meant to be a place for learning, growth, and freedom of thought.²²⁰ It cannot fulfill this function if it is preoccupied with defending itself or its students against unlawful State forces.²²¹ It is particularly abhorrent for the State to undermine La Cantuta University's values of education, growth, and freedom of thought.²²²

Last, Judge Cançado Trindade asserted that the State violated the universal legal principal of *jus cogens* because it subjected the La Cantuta victims to torture, a crime that is universally prohibited.²²³

3. Concurring Opinion of Judge *ad hoc* Fernando Vidal Ramirez

In a concurring opinion, Judge Vidal Ramirez noted that the State's acknowledgement of its human rights violations positively contributes to the principles that underlie the American Convention, but does not exempt it from international liability.²²⁴

IV. REPARATIONS

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

217. *Id.* ¶¶ 2-5.

218. *See id.* ¶¶ 23-35.

219. *Id.* ¶ 36.

220. *Id.* ¶ 39.

221. *Id.* ¶ 44.

222. *Id.* ¶¶ 46-48.

223. *See id.* ¶¶ 49-62.

224. *See* La Cantuta v. Peru, Judgment, Concurrence of Judge *ad hoc* Fernando Vidal Ramirez, Inter-Am. Ct. H.R. (ser. C) No. 162, ¶¶ 1-4 (Nov. 29, 2006).

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

1. Conduct and Complete Ongoing Domestic Criminal Investigations

The Court indicated that the State must use all available means to investigate and punish the individuals who are responsible for the La Cantuta massacre.²²⁵ Although the Court commends the State for establishing the Truth and Reconciliation Commission (*Comisión de la Verdad y Reconciliación*, “CVR”) to investigate human rights abuses during the 1980’s and 1990’s, the CVR is only a first step of attaining justice for the La Cantuta victims.²²⁶ It must complete, within a reasonable period, the various pending domestic criminal proceedings against the perpetrators of human right abuses to the detriment of the La Cantuta victims.²²⁷

2. Investigate, Locate, and Deliver the Victims’ Remains

The remains of Mr. Muñoz Sánchez, Ms. Oyague Fierro, Mr. Rosales Cárdenas, Mr. Amaro Córdor, Mr. Teodoro Espinoza, Mr. Pablo-Meza, Mr. Mariños Figueroa, and Mr. Flores Chipana were never found.²²⁸ Because proper reparations to the victims’ relatives include the right to know the location of their relatives’ remains, the Court indicated that the State must continue to search for and confirm the remains of those victims.²²⁹

3. Publicly Acknowledge Liability

The Court indicated that the State must publicly acknowledge its liability for the forced disappearance and killings of the La Cantuta victims.²³⁰ The victims’ relatives must be present at this public acknowledgment, and the State’s highest-ranking officials must participate in the announcement.²³¹ The State must fulfill this obligation within six months after notice is given of the Court’s November 29,

225. *La Cantuta v. Peru*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 162, ¶ 222 (Nov. 29, 2006).

226. *Id.* ¶¶ 223-24.

227. *Id.*

228. *Id.* ¶ 230.

229. *Id.* ¶ 231.

230. *Id.* ¶ 235.

231. *Id.*

2006 judgment.²³²

The State must also represent each La Cantuta victim in “The Crying Eye,” a memorial the State plans to build to honor victims of human rights abuses.²³³

4. Publish Proven Facts and Apology in National Newspapers

The Court indicated that the State must publish the Proven Facts and Partial Acknowledgement sections from the Court’s November 29, 2006 Judgment in the State’s Official Gazette, as well as one additional daily national newspaper.²³⁴

5. Implement Human Rights Programs Within Armed Forces

The Court indicated that the State must provide human rights trainings to law enforcement, armed forces, and criminal and military judicial bodies.²³⁵ In particular, the State must educate law enforcement and military officers on use of force restrictions and legal issues that relate to terrorism and armed conflict.²³⁶ The State must also train and educate judges, prosecutors, and criminal and military court officers on international standards for the judicial protection of human rights.²³⁷

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court awarded \$20,000 each to Ms. Alejandrina Raida Córdor Saez, mother of Mr. Amaro Córdor,²³⁸ and Ms. Dina Flormelania Pablo Mateo, aunt of Mr. Pablo Meza,²³⁹ as well as \$25,000 each to Ms. Andrea Gisela Ortiz Perea, sister of Mr. Ortiz Perea,²⁴⁰ and Ms. Antonia Pérez Velásquez, wife of Mr. Muñoz Sánchez,²⁴¹ who all

232. *Id.*

233. *Id.* ¶ 236.

234. *Id.* ¶ 237.

235. *See id.* ¶¶ 240-41.

236. *Id.* ¶ 240.

237. *Id.* ¶ 241.

238. *Id.* ¶¶ 206(f), 214.

239. *Id.* ¶¶ 206(h), 214.

240. *Id.* ¶¶ 206(e), 214.

241. *Id.* ¶¶ 206(a), 214.

quit their jobs in order to pursue justice for their family members who were killed or forcibly disappeared in the La Cantuta massacre, and incurred significant expenses as a result of that pursuit.²⁴²

The Court also awarded \$5,000 each to the victims' relatives who incurred expenses pursuing legal remedies for their next of kin.²⁴³ Those relatives are Ms. Rosario Muñoz Sánchez, sister of Mr. Muñoz Sánchez,²⁴⁴ Mr. Fedor Muñoz Sánchez, brother of Mr. Muñoz Sánchez,²⁴⁵ Mr. Hilario Jaime Amaro Ancco, father of Mr. Amaro Córdor,²⁴⁶ Ms. Magna Rosa Perea de Ortiz, mother of Mr. Ortiz Perea,²⁴⁷ Mr. Víctor Andrés Ortiz-Torres, father of Mr. Ortiz Perea,²⁴⁸ Mr. José Ariol Teodoro León, father of Mr. Espinoza,²⁴⁹ Ms. Bertila Bravo Trujillo, stepmother of Mr. Espinoza,²⁵⁰ and Mr. José Esteban Oyague Velazco, father of Ms. Oyague Fierro.²⁵¹

2. Non-Pecuniary Damages

The State must provide the victims' relatives with lifetime physical and psychological healthcare costs.²⁵²

In addition, the State must compensate certain family members of each La Cantuta victim.²⁵³ The State must pay \$58,000 each to Ms. Margarita Liliana Muñoz Pérez and Mr. Hugo Alcibiades Muñoz Pérez, daughter and son, respectively, of Mr. Muñoz Sánchez.²⁵⁴ It must pay \$50,000 to Mr. Muñoz Sánchez's wife, Ms. Pérez Velásquez.²⁵⁵ The State must pay \$20,000 each to Mr. Muñoz Sánchez's siblings, Ms. Rosario Muñoz Sánchez and Mr. Fedor Muñoz Sánchez.²⁵⁶ It also must pay \$50,000 each to Mr. Muñoz Sánchez's remaining children, Mr. Vladimir Ilich Muñoz Sarria, Ms. Zorka Muñoz Rodríguez, Ms. Carol Muñoz Atanasio, Mr. Hugo Fedor Muñoz Atanasio, and Ms. Mayte Yu yin Muñoz Atanasio.²⁵⁷

242. *Id.* ¶ 214.

243. *Id.* ¶ 206.

244. *Id.* ¶ 206(a).

245. *Id.*

246. *Id.* ¶ 206(f).

247. *Id.* ¶ 206(e).

248. *Id.*

249. *Id.* ¶ 206(g).

250. *Id.*

251. *Id.* ¶ 206(b).

252. *Id.* ¶ 238.

253. *See id.* ¶ 220.

254. *Id.*

255. *Id.*

256. *Id.*

257. *Id.*

Regarding Ms. Dora Oyague Fierro's next of kin, the State must pay \$50,000 each to Ms. Pilar Sara Fierro Huamán, Mr. José Esteban Oyague Velazco, Ms. Carmen Oyague Velazco, and Mr. Jaime Oyague Velazco, Ms. Oyague Fierro's mother, father, aunt, and uncle, respectively.²⁵⁸

The State must pay \$50,000 to Ms. Marcelino Rosales Cárdenas, Mr. Cárdenas Gutiérrez's mother.²⁵⁹

The State must pay \$50,000 each to Ms. Lozano Torres's mother and father, Ms. Juana Torres de Lozano and Mr. Augusto Lozano Lozano.²⁶⁰

Regarding Mr. Ortiz Perea's next of kin, the State must pay \$20,000 each to his sisters, Ms. Edith Luzmila Ortiz Perea, Ms. Gaby Lorena Ortiz Perea, Ms. Natalia Milagros Ortiz Perea, and Ms. Haydee Ortiz Chunga; \$30,000 to his sister Ms. Andrea Gisela Ortiz Perea; and \$50,000 to each of his parents, Ms. Magna Rosa Perea de Ortiz and Mr. Víctor Andrés Ortiz Torres.²⁶¹

Regarding the next of kin of Mr. Amaro Cóndor, the State must pay \$60,000 to his mother, Ms. Alejandrina Raida Cóndor Saez; \$50,000 to his father, Mr. Hilario Jaime Amaro Ancco; and \$20,000 to each of his siblings, Ms. María Amaro Cóndor, Ms. Susana Amaro Cóndor, Mr. Carlos Alberto Amaro Cóndor, Ms. Carmen Rosa Amaro Cóndor, Mr. Juan Luis Amaro Cóndor, Mr. Martín Hilario Amaro Cóndor, and Mr. Francisco Manuel Amaro Cóndor.²⁶²

The State must also pay \$50,000 each to Mr. Pablo Meza's mother, father, and aunt, Ms. Serafina Meza Aranda, Mr. José Faustino Pablo Mateo, and Ms. Dina Flormelania Pablo Mateo, respectively.²⁶³

The State must pay \$50,000 each to Mr. Teodoro Espinoza's mother, father, and stepmother, respectively, Ms. Edelmira Espinoza-Mory, Mr. José Ariol Teodoro León, and Ms. Bertila Bravo Trujillo.²⁶⁴

The State must pay \$50,000 each to the mother and father of Mr. Flores Chipana, Ms. Carmen Chipana de Flores and Mr. Celso Flores Quispe.²⁶⁵

Finally, with regard to the next of kin of Mr. Mariños Figueroa, the State must pay \$50,000 to his mother and father, Ms. Isabel Figueroa Aguilar and Mr. Román Mariños Eusebio; \$23,000 to his brother,

258. *Id.*

259. *Id.*

260. *Id.*

261. *Id.*

262. *Id.*

263. *Id.*

264. *Id.*

265. *Id.*

Mr. Rosario Carpio Cardoso Figueroa; \$29,000 and \$20,000, respectively, to his sisters, Ms. Viviana Mariños Figueroa and Ms. Margarita Mariños Figueroa de Padilla.²⁶⁶

3. Costs and Expenses

The State must pay \$40,000, to compensate for costs and expenses incurred in the domestic jurisdiction and during the Court proceedings.²⁶⁷ The State will pay this amount to Ms. Andrea Gisela Ortiz Perea, sister of Mr. Ortiz Perea and Ms. Alejandrina Raida Córdor Saez, mother of Mr. Amaro Córdor, who will in turn distribute said amount among their legal representatives as appropriate.²⁶⁸

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

\$ 1,878,000²⁶⁹

C. Deadlines

The State must pay the pecuniary and non-pecuniary damages, and reimburse costs and expenses, within one year of notice of the Court's November 29, 2006 Judgment.²⁷⁰

The State must publish the Court's 2006 Judgment, publicly acknowledge its liability, and apologize to the La Cantuta victims and their families within six months of the notice of the 2006 Judgment.²⁷¹

The State must provide health care treatment as needed to the victims' next of kin from the time of the Court's November 29, 2006 Judgment and continue this treatment for as long as necessary.²⁷²

Regarding its obligation to investigate and hold accountable the individuals responsible for the La Cantuta massacre, the State must effectively conduct and complete these obligations in its domestic criminal courts within a reasonable time.²⁷³

The State must also, within a reasonable time, continue to search for, identify, and deliver to the appropriate next of kin the remains of Mr. Muñoz Sánchez, Ms. Oyague Fierro, Mr. Rosales Cárdenas,

266. *Id.*

267. *Id.* ¶ 245.

268. *Id.* ¶¶ 220, 245.

269. *See id.* ¶¶ 214, 220, 245.

270. *Id.* ¶ 246.

271. *Id.*

272. *Id.*

273. *Id.*

Mr. Amaro-Cóndor, Mr. Teodoro Espinoza, Mr. Pablo Meza, Mr. Mariños Figueroa, and Mr. Flores Chipana.²⁷⁴

V. INTERPRETATION AND REVISION OF JUDGMENT

The representatives of the victims and victims' next of kin requested that the Court interpret its November 29, 2006 Judgment on Merits, Reparations, and Costs with regard to the beneficiaries it named in that judgment.²⁷⁵

In paragraphs 129 and 161, but not in paragraph 220, the Court named Ms. Marcia Claudina Mariños Figueroa, Mr. Mariños Figueroa's sister, as a beneficiary for non-pecuniary compensation, as the State violated her rights with regard to Articles 5(1), 8(1), and 25 of the American Convention.²⁷⁶ The Court determined that the omission of her name in the latter paragraph does not materially affect her status as a beneficiary, and clarifies its original judgment that Ms. Mariños Figueroa shall receive \$20,000 in non-pecuniary damages.²⁷⁷

Next, the Court clarified that the full name of Ms. Oyague Fierro's aunt, to which the representatives referred in their pleadings as Ms. "Carmen Oyague Velasco," is actually "Ms. Carmen Oyague Velasco de Huaman."²⁷⁸

Last, the representatives requested that the Court clarify why Mrs. Carmen Juana Mariños Figueroa and Mr. Marcelino Marcos Pablo Meza, who the Court named as the sister and brother of Mr. Mariños Figueroa and Mr. Pablo Meza, respectively, in the "Proven Facts" section of the Court's November 29, 2006 Judgment, were not included as victims of Article 5(1), 8(1), and 25 violations or reparations beneficiaries.²⁷⁹ The Court clarified that there was not sufficient evidence to support a finding that those relatives' rights were violated, but that these relatives may seek to domestic resources to assert those rights.²⁸⁰

274. *Id.*

275. *See* La Cantuta v. Peru, Interpretation of Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 173 ¶¶ 11, 20, 24. (Nov. 30, 2007).

276. *Id.* ¶¶ 13-14.

277. *Id.* ¶ 18.

278. *Id.* ¶ 20.

279. *Id.* ¶ 24.

280. *Id.* ¶ 31.

VI. COMPLIANCE AND FOLLOW-UP

November 20, 2009: The Court found that the State fully complied with its obligations to publicly acknowledge its liability and represent victims in “The Crying Eye.”²⁸¹

The State partially complied with its obligation to conduct and complete investigations within its domestic criminal proceedings, investigate and locate the remains of the La Cantuta victims, publish proven facts and an apology in national newspapers, implement human rights training programs within the State military, and pay pecuniary damages.²⁸² The Court will continue to monitor the State’s progress on these duties.²⁸³

VII. LIST OF DOCUMENTS

A. Inter-American Court

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations and Costs

[La Cantuta v. Peru, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 162 \(Nov. 29, 2006\).](#)

[La Cantuta v. Peru, Judgment, Separate Opinion of Judge Sergio García Ramírez, Inter-Am. Ct. H.R. \(ser. C\) No. 162 \(Nov. 29, 2006\).](#)

[La Cantuta v. Peru, Judgment, Separate Opinion of Judge Antônio Augusto Cançado Trindade, Inter-Am. Ct. H.R. \(ser. C\) No. 162 \(Nov. 29, 2006\).](#)

[La Cantuta v. Peru, Judgment, Concurrence of Judge ad hoc Fernando Vidal Ramírez, Inter-Am. Ct. H.R. \(ser. C\) No. 162 \(Nov. 29, 2006\).](#)

281. *La Cantuta v. Peru, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. “Declares,”* ¶ 1 (Nov. 20, 2009).

282. *Id.* “Declares,” ¶ 2-3.

283. *Id.* As of the time of publication, the Court has not published additional compliance documents.

3. Provisional Measures

[None]

4. Compliance Monitoring

[La Cantuta v. Peru, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Nov. 20, 2009\).](#)

5. Review and Interpretation of Judgment

[La Cantuta v. Peru, Interpretation of Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 173 \(Nov. 30, 2007\).](#)

B. Inter-American Commission

1. Petition to the Commission

[None]

2. Report on Admissibility

[La Cantuta v. Peru, Admissibility Report, Report No. 42.99 \(Mar. 11, 1999\).](#)

3. Provisional Measures

[None]

4. Report on Merits

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