

Osorio Rivera and Family v. Peru

ABSTRACT¹

This case is about the arrest and forcible disappearance of a civilian by the Peruvian Armed Forces who mistook him for a member of Sendero Luminoso. The Court found the State had violated the American Convention on Human Rights as well as the Inter-American Convention on Forced Disappearance of Persons.

I. FACTS

A. Chronology of Events

December 4, 1962: Mr. Jeremías Osorio Rivera is born in the Gorgor district of the Cajatambo province, in Lima, Peru.² His parents are Mr. Faustino Osorio de Salas and Ms. Juana Rivera Lozano.³ He is one of seven children.⁴

1985: Mr. Osorio Rivera takes up residence with Ms. Santa Fe Gaytán Calderón.⁵ They have four children together.⁶ Mr. Osorio Rivera participates in community activities against Shining Path.⁷

Between 1989 and 1992: The State National Civil Police and Army begin a lengthy operation to combat Shining Path.⁸ This counteroffensive operation includes arrests and forcible disappearances of people believed to have ties with Shining Path.⁹

1. Nazanin Farahdel, Author; Alyssa Rutherford, Editor; Hayley Garscia, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Osorio Rivera and Family v. Peru, Report on Merits, Report No. 140/11, Inter-Am. Comm'n H.R., Case No. 11.845, ¶ 48 (Oct. 31, 2011).

3. *Id.* ¶ 48.

4. *Id.*

5. *Id.* ¶ 48.

6. *Id.*

7. Osorio Rivera and Family v. Peru, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 274, ¶ 65 (Nov. 26, 2013).

8. *Id.* ¶ 47.

9. *Id.*

April 22, 1991: A State Army patrol run by Lieutenant Juan Carlos César Tello Delgado sets up a base in a schoolhouse in Nunumia.¹⁰ The patrol, known as the “Palimira Operating Plan,” plans to capture and arrest members of armed groups such as Shining Path.¹¹

April 28, 1991: Mr. Osorio Rivera attends a sporting event in Nunumia with his cousin, Mr. Gudmer Tulio Zárate Osorio.¹² Once the event concludes, there is a celebration in the Nunumia community hall.¹³ Mr. Osorio Rivera and Mr. Zárate Osorio drink too much and get into a fight.¹⁴ Sounds of explosions or shots are heard, and members of Lt. Tello Delgado’s military patrol surround the building.¹⁵ Lt. Tello Delgado’s patrol detains Mr. Osorio Rivera and Mr. Zárate Osorio and takes them to the schoolhouse in Nunumia.¹⁶ According to Lt. Tello Delgado, Mr. Osorio Rivera carried firecrackers and a revolver and Mr. Gudmer Tulio Zárate Osorio wore an Army camouflage jacket.¹⁷

April 29, 1991: Lt. Tello Delgado sends a radio message to Lieutenant Colonel Arnulfo Roncal Vargas to report Mr. Osorio Rivera’s arrest.¹⁸ In the radio message, Mr. Osorio Rivera is referred to as a “Comrade Gashpao,” who was carrying explosives, dynamite capsules, and a National Police service revolver.¹⁹ Lt. Tello tells Mr. Acquiles Román Atencio, a resident of Cochasoaca, that Mr. Osorio Rivera was arrested because he is a terrorist and was carrying a police officer’s weapon.²⁰ Mr. Osorio Rivera’s mother, Ms. Juana Rivera Lozano, and his brother, Mr. Porfirio Osorio Rivera, go to the schoolhouse to retrieve Mr. Osorio Rivera.²¹ Lt. Tello refuses to let them see Mr. Osorio Rivera.²²

10. Lt. Juan Carlos César Tello Delgado is also known as Andrés López Cárdenas and Conan. Osorio Rivera and Family v. Peru, Report on Merits, ¶ 50.

11. *Id.*

12. *Id.*

13. Osorio Rivera and Family v. Peru, Preliminary Objections, Merits, Reparations and Costs, ¶ 66.

14. *Id.* ¶ 67.

15. *Id.* ¶ 66.

16. *Id.*

17. *Id.* ¶ 67.

18. Osorio Rivera and Family v. Peru, Report on Merits, ¶ 51.

19. Osorio Rivera and Family v. Peru, Preliminary Objections, Merits, Reparations and Costs, ¶ 68.

20. *Id.* ¶ 69.

21. Osorio Rivera v. Peru, Report on Merits, ¶ 52.

22. *Id.*

April 30, 1991: Mr. Zárate Osorio is released.²³ Mr. Osorio Rivera's brother and wife, Mr. Porfirio Osorio Rivera and Ms. Gaytán Calderón, are refused by the soldiers when they try to bring Mr. Osorio Rivera breakfast.²⁴ The soldiers withdraw from the schoolhouse in Nunumia, and take Mr. Osorio Rivera with them to the Cajatambo Countersubversive Base.²⁵ During this journey, Mr. Osorio Rivera's hands are tied and his head is covered with a hood.²⁶ Mr. Porfirio Osorio Rivera and Ms. Gaytán Calderón see Mr. Osorio Rivera for the last time.²⁷ As the patrol takes Mr. Osorio Rivera away, Ms. Rivero Lozano breaks down and faints.²⁸ When the patrol takes off Mr. Osorio Rivera's hood so that some villagers may speak to him, they reveal the bruises covering his face.²⁹ Furthermore, civilians see Mr. Osorio Rivera limping as he is forced to walk the journey from Nunumia toward Astobamba, and that he receives no food.³⁰

May 1, 1991: Mr. Porfirio Osorio and Ms. Silvia Osorio Rivera, Mr. Osorio Rivera's siblings, go to the Cajatambo Countersubversive Base.³¹ A soldier tells them that Lt. Tello Delgado is not there and that no one has been brought to the base.³² Additionally, Lt. Tello Delgado alleges that a document titled "certificate of release" which is signed and contains Mr. Osorio Rivera's fingerprint, as proof of Mr. Osorio Rivera's release.³³

May 2, 1991: Mr. Porfirio Osorio Rivera returns to the Cajatambo Countersubversive Base, where Lt. Tello Delgado tells him that Mr. Osorio Rivera was released the day before.³⁴ Mr. Porfirio Osorio Rivera asks more questions about his brother and he is shown a radio report of the release.³⁵ Mr. Porfirio Osorio Rivera goes to his brother's house in Cochaspaca, where Mr. Osorio Rivera's family tells him that they have

23. *Id.* ¶ 53.

24. *Id.*

25. *Id.* ¶ 54.

26. *Id.*

27. *Id.*

28. *Id.* ¶ 55.

29. *Osorio Rivera and Family v. Peru*, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 274, ¶ 72 (Nov. 26, 2013).

30. *Osorio Rivera and Family v. Peru*, Report on Merits, ¶ 56.

31. *Id.* ¶ 57.

32. *Id.*

33. *Id.* ¶ 61.

34. *Id.*

35. *Id.*

not seen Mr. Osorio Rivera.³⁶

May 3, 1991: Mr. Osorio Rivera's family search for him in places where they would be likely to find him.³⁷

May 9, 1991: Mr. Porfirio Osorio Rivera files a criminal complaint against Lt. Tello Delgado before the Provincial Prosecution Service for Civil and Criminal Matters for the disappearance of Mr. Osorio Rivera.³⁸ On May 17, 1991, Mr. Profirio expanded the complaint to include offenses of abduction and murder.³⁹

May 24, 1991: The Provincial Prosecution Service for Civil and Criminal Matters forwards Mr. Porfirio Osorio Rivera's complaint to the military jurisdiction because the accused was an Army officer on active duty at the time of the facts.⁴⁰ Mr. Profirio Osorio Rivera appeals this decision on May 28, 1991, which is decided in his favor on June 20, 1991, ordering that investigations continue in the ordinary jurisdiction.⁴¹

June 5, 1991: The Army's 18th Armored Division issued a report recommending that the complaint filed against Lt. Tello Delgado by the Provincial Prosecution Service for Civil and Criminal Matters be submitted to the Army's Second Judicial Zone.⁴²

June 13, 1991: The complaint against Lt. Tello Delgado is filed before the Permanent War Council of the Second Judicial Zone for the offenses of disappearance, abduction, and murder of Mr. Osorio Rivera.⁴³

August 13, 1991: Mr. Porfirio Osorio Rivera submits a brief to the Cajatambo Investigating Court, requesting an on-side inspection of the place his brother had been detained.⁴⁴ The Provincial Prosecution Service for Civil and Criminal Matters requests a special time frame of thirty days to execute measures requested and the Cajatambo Investigating Judge grants the request, setting the date of the inspection for October 30, 1991, on the condition that Mr. Profirio Osorio Rivera provide

36. *Id.* ¶ 58.

37. *Id.*

38. *Id.* ¶ 78.

39. *Id.*

40. *Id.* ¶ 78.

41. *Id.*

42. *Id.* ¶ 85.

43. *Id.*

44. *Id.* ¶ 80.

the transport.⁴⁵ Mr. Profirio Osorio Rivera provided twenty horses.⁴⁶ The inspection does not take place on the set date.⁴⁷ Mr. Profirio Osorio Rivera requests a new date, but there is no record that the inspection ever takes place.⁴⁸

November 6, 1991: The Catajambo Investigating Judge orders expert appraisals to be carried out to determine if the signature and fingerprint on Mr. Osorio Rivera's record of release actually belong to him.⁴⁹ The appraisals show that the signature on the release is consistent with Mr. Osorio Rivera's signature on the electoral roll.⁵⁰

December 16, 1991: Expert analysis of the "Certificate of Release" alleged that the fingerprint on the Certificate did not correspond to Mr. Osorio Rivera's right index finger, but that it could have corresponded to another finger.⁵¹ Additionally, the experts will ultimately be unable to confirm whether the signature that appeared on the Certificate of Release belonged to Mr. Osorio Rivera.⁵²

January 13, 1992: The Catajambo Investigating Judge absented himself without leaving a replacement.⁵³

February 3, 1992: Mr. Porforio Osorio Rivera requests to expand the complaint to include the crime of enforced disappearance under Article 323 of the Criminal Code, which is granted on March 6, 1992.⁵⁴

June 8, 1992: The Military Judge-Advocate opens an investigation against Lt. Tello Delgado for abuse of authority and violation of personal liberty, giving jurisdiction to the competent military court and indicating that a dispute of competence be filed before the Catajambo Investigating Judge.⁵⁵

June 11, 1992: The Provincial Prosecution Service for Civil and Crimi-

45. *Id.*

46. *Id.*

47. *Id.*

48. *Id.*

49. *Id.* ¶ 81.

50. *Id.*

51. *Id.* ¶ 62.

52. *Id.*

53. *Id.* ¶ 82.

54. *Id.*

55. *Id.* ¶ 85.

nal Matters issues a ruling stating that Article 323 of the Criminal Code is revoked by Article 22 of Decree Law No. 25,475 of May 5, 1992, which established the penalties for terrorism offenses and the procedures for the investigation, preliminary proceeding, and prosecution of such offenses.⁵⁶

On the same day, the Permanent War Council of the Army's Second Judicial Zone opens a criminal investigation against Lt. Tello Delgado for abuse of authority and violation of personal liberty, giving jurisdiction to the Third Permanent Military Court of Lima, and challenges the competence of the Cajatambo Investigating Court, arguing the case should be heard by the military jurisdiction.⁵⁷

The following day, the Catajambo Investigating Court archives the preliminary investigation for enforced disappearance definitively.⁵⁸

June 30, 1992: The Cajatambo Investigating Court concludes that it is not appropriate to open an investigation against Lt. Tello Delgado for murder due to lack of evidence, and orders the investigations to continue against those who might be responsible.⁵⁹ The Cajatambo Provincial Prosecutor appealed.⁶⁰

July 22, 1992: The Cajatambo Investigating Court disqualifies itself from hearing the case due to the dispute of its competence.⁶¹ The file is forwarded to join the file opened in the military jurisdiction on November 25, 1992.⁶²

October 5, 1992: The Third Permanent Military Court of Lima begins to consider the case.⁶³

November 30, 1993: The Third Permanent Military Court of Lima issues a Final Report finding no responsibility for Lt. Tello Delgado for abuse of authority or deprivation of liberty to the detriment of Mr. Osorio Rivera because he had acted within his functions in an emergency zone.⁶⁴

56. *Id.* ¶ 83.

57. *Id.* ¶¶ 84, 85.

58. *Id.* ¶ 83.

59. *Id.*

60. *Id.*

61. *Id.* ¶ 84.

62. *Id.* ¶¶ 84, 86.

63. *Id.* ¶ 86.

64. *Id.* ¶ 87.

June 7, 1994: After expanding the time frame for investigation, the Third Permanent Military Court of Lima issues an Expanded Final Report ratifying the previous Final Report, again finding no responsibility.⁶⁵

February 7, 1995: After the Judge-Advocate indicates that since the offenses alleged were not proved, the case against Lt. Tello Delgado should be dismissed, the Permanent War Council dismisses the case.⁶⁶ The dismissal is forwarded to the Military Prosecutor who rules that neither alleged offense had been proved.⁶⁷ Finally, the proceedings are forwarded to the Supreme Council of Military Justice, which confirms the dismissal and orders the “definitive archiving” of the case.⁶⁸ The Judge Advocate of the Permanent War Council of the Army’s Second Judicial Zone confirms the “definitive archiving.”⁶⁹

June 15, 1995: Law No. 26,479 is published, granting a general amnesty to all military, police, civilian, or any other type of personnel who was denounced, or who is being investigated, accused, prosecuted, or convicted of ordinary or military offenses in the ordinary or military jurisdiction for any acts arising out of the fight against terrorism from May 1980 to the date on which this law is promulgated.⁷⁰

July 2, 1995: Law No. 26, 492, which is known as the interpretive law, is published, stating that no jurisdictional review of the amnesty of any kind is admissible.⁷¹ The Inter-American Court of Human Rights declares that Law Nos. 26,479 and 26, 492 are incompatible with the American Convention in its judgment of March 14, 2001.⁷²

August 27, 2003: The Inter-American Court of Human Rights prepares a Final Report of the Truth and Reconciliation Commission (“CVR”).⁷³ The CVR highlights the fact that the State’s police and military were involved in human rights violations while they fought against Shining Path and MRTA.⁷⁴ These human rights violations included arbitrary ar-

65. *Id.* ¶ 88.

66. *Id.*

67. *Id.*

68. *Id.*

69. *Id.*

70. *Id.* ¶ 90.

71. *Id.*

72. *Id.*

73. *Id.* ¶ 32.

74. *Id.* ¶ 38.

rests, rapes, killings, and disappearances.⁷⁵ The CVR explains that the reason behind these forced disappearances included: (a) obtaining information; (b) going against sympathizers of MRTA and Shining Path; (c) intimidating the population into taking the side of the State's security forces.⁷⁶

June 14, 2004: Mr. Porfirio Osorio Rivera files another criminal complaint before the Special Prosecutor on Enforced Disappearances, Extrajudicial Executions, and Exhumation of Clandestine Graves of Lima, requesting an investigation of the abduction and enforced disappearance of his brother.⁷⁷

October 26, 2005: The Provincial Prosecution Service for Civil and Criminal Matters brings charges against Lt. Tello Delgado and those who might be found responsible for the crime against humanity by enforced disappearance and against personal liberty by abduction to the detriment of Mr. Osorio Rivera.⁷⁸

October 30, 2007: The Second National Superior Criminal Prosecutor determines that the case can proceed to an oral trial, charges Lt. Tello Delgado with the crime against humanity of enforced disappearance of Mr. Osorio Rivera, considering the offense of abduction to be subsumed in this, and requests Lt. Tello Delgado to be deprived of liberty for twenty years and ineligible to exercise certain civil rights for five years, and that the civil reparation of 50,000 nuevo soles (approximately \$16,613.77 USD) be ordered.⁷⁹

April 29, 2008: The National Criminal Chamber declares that there are grounds to proceed to the trial to commence on May 19, 2008.⁸⁰

May 19, 2008 – December 17, 2008: The trial takes place.⁸¹ On December 17, 2008, the National Criminal Chamber decides to acquit Lt. Tello Delgado because while it was proved that the accused detained the victim and took him away, there are serious doubts regarding his responsi-

75. *Id.* ¶ 37.

76. *Id.* ¶ 39.

77. *Id.* ¶ 91.

78. *Id.* ¶ 92.

79. *Id.* ¶ 94. USD amounts are based on the exchange rate of Nuevo Soles to USD on October 30, 2007.

80. *Id.*

81. *Id.* ¶ 95.

bility for the acts he is charged with.⁸² The representative of the Public Prosecution Service filed an application to annul this judgment.⁸³

June 24, 2010: The Transitory Criminal Chamber of the Supreme Court of Justice of the Republic declares the judgment of December 17, 2008 null, considering that the evidence was not properly assessed, and orders a new proceedings.⁸⁴

November 16, 2010 – November 4, 2011: The new proceeding is held.⁸⁵ Once again, Lt. Tello Delgado is acquitted because there is reasonable doubt regarding his responsibility for the offenses.⁸⁶ The representative of the Public Prosecution Service and the civil party file appeals for the declaration of nullity.⁸⁷

November 21, 2011: The National Criminal Chamber grants the appeal and forwards the proceedings to the Criminal Chamber of the Supreme Court of Justice of the Republic.⁸⁸

April 17, 2013: The first session of the case is held before the Transitory Criminal Chamber of the Supreme Court of Justice of the Republic and the chamber affirms the acquittal.⁸⁹ This decision is published on August 27, 2014, the day before the public hearing before the Inter-American Court of Human Rights.⁹⁰

B. Other Relevant Facts

On May 1980, Mr. Abimael Guzmán forms Shining Path (*Sendero Luminoso*), a self-proclaimed Communist party within Peru geared towards overthrowing the democratic government of the State and implementing an alternate form of government.⁹¹ Shining Path's mission includes the destruction of the State's community leaders and authority.⁹² In order to achieve its political goals, Shining Path executes blatant acts

82. *Id.*

83. *Id.*

84. *Id.* ¶ 96.

85. *Id.* ¶ 97.

86. *Id.*

87. *Id.*

88. *Id.* ¶ 98.

89. *Id.* ¶ 99.

90. *Id.* ¶ 100.

91. *Id.* ¶ 34.

92. *Id.*

of terror in direct violation of international humanitarian law.⁹³ Ultimately, Shining Path's acts cause 31,000 deaths.⁹⁴

Towards the end of 1982, the State's armed forces and police begin a counterinsurgency campaign in which they have flexible discretion to fight against Shining Path.⁹⁵

In March 1993, the Court publishes a report entitled, "The Situation of Human Rights in Peru."⁹⁶ The Report reveals that the State has the highest number of disappearances in the world.⁹⁷ The State police and armed forces would often try to hide their crimes by showing forged certificates of release.⁹⁸ Specifically, the authorities typically insist that the victim has been released, even though they were aware that no such release has occurred.⁹⁹ The armed forces would use the State's resources to murder and eliminate all remnants of a victim.¹⁰⁰

Furthermore, in 1984 the Túpac Amaru Revolutionary Movement ("MRTA") starts the "people's revolutionary war," which furthers the terror and deaths of the Peruvian people.¹⁰¹

II. PROCEDURAL HISTORY

A. Before the Commission

November 20, 1997: Mr. Porfirio Osorio and the Association of Human Rights present an initial petition on behalf of Mr. Osorio Rivera to the Commission.¹⁰²

July 12, 2010: The Commission approves Admissibility Report No. 76/10.¹⁰³

October 31, 2011: The Commission approves Merits Report No. 140/11, concluding that the State is responsible for violations of rights recognized in Article 3 (Right to Judicial Personality), Article 4 (Right to

93. *Id.*

94. *Id.*

95. *Id.* ¶ 35.

96. *Id.* ¶ 43.

97. *Id.* ¶ 44.

98. *Id.*

99. *Id.*

100. Osorio Rivera and Family v. Peru, Preliminary Objections, Merits, Reparations and Costs, Inter-Am. Ct. H.R. (ser. C) No. 274, ¶ 56 (Nov. 26, 2013).

101. Osorio Rivera and Family v. Peru, Report on Merits, ¶ 35.

102. Osorio Rivera and Family v. Peru, Preliminary Objections, Merits, Reparations and Costs, ¶ 2(a).

103. *Id.* ¶ 2(b).

Life), Article 5(1) (Right to Physical, Mental, and Moral Integrity, Article 7, (Right to Personal Liberty), Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and Article 25(1) (Right of Recourse Before a Competent Court) of the American Convention to the detriment of Mr. Osorio Rivera.¹⁰⁴ The Commission also concludes that the State violated Articles 5(1) (Right to Physical, Mental, and Moral Integrity), 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), and 25 (Right to Judicial Protection), in relation to Articles 1(1) and 2 of the American Convention to the detriment of Mr. Osorio Rivera's family members.¹⁰⁵ Additionally, the Commission concludes that the State violated Articles 1 (Obligation to Adopt Measures) and 3 (Obligation to Adopt Legislative Measures) of the Inter-American Convention on Forced Disappearance of Persons.¹⁰⁶

Furthermore, the Commission makes the following recommendations to the State: (1) institute a complete investigation on Mr. Osorio Rivera's whereabouts and if he is dead, ensure that his body is returned to his family; (2) in a fair and effective manner, apply the domestic procedures of human rights violations to the criminal proceedings for Mr. Osorio Rivera's disappearance, and punish the responsible parties; (3) accordingly compensate the victim's family; (4) ensure the non-repetition of similar situations in the future, specifically, by training the Armed Forces in human rights and international humanitarian law; (5) publicly apologize for and acknowledge the human rights violations committed against Mr. Osorio Rivera.¹⁰⁷

January 11, 2012: The State presents the first report on compliance.¹⁰⁸

March 21, 2012: The State presents a second report on compliance.¹⁰⁹

May 24, 2012: The State presents the Commission with its third report on compliance and requests an extension.¹¹⁰ Because the State has not demonstrated significant progress, the Commission does not grant the extension.¹¹¹ Instead, the Commission submits the case to the Court.¹¹²

104. *Id.* ¶ 2(c)(a)(i).

105. *Id.* ¶ 2(c)(a)(iii).

106. *Id.* ¶ 2(c)(a)(ii).

107. *Id.* ¶ 2(c)(b).

108. *Id.* ¶ 2(d).

109. *Id.* ¶ 2(e).

110. *Id.*

111. *Id.*

112. *Id.*

B. Before the Court

June 10, 2012: The Commission submits the case to the Court after the State failed to adopt its recommendations.¹¹³

February 20, 2013: The State submits preliminary objections to the Court.¹¹⁴

1. Violations Alleged by Commission¹¹⁵

To the detriment of Mr. Osorio Rivera:

Article 3 (Right to Judicial Personality)

Article 4 (Right to Life)

Article 5(1) (Right to Physical, Mental, and Moral Integrity)

Article 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment)

Article 7 (Right to Personal Liberty)

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

Article 25(1) (Right of Recourse Before a Competent Court)

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.

Article 1 (Obligation to Adopt Measures)

Article 3 (Obligation to Adopt Legislative Measures) of the Inter-American Convention on Forced Disappearance of Persons.

To the detriment of Mr. Osorio Rivera's family members:

Article 5(1) (Right to Physical, Mental, and Moral Integrity)

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

Article 25(1) (Right to Recourse Before a Competent Court)

all in relation to:

Article 1(1) (Obligation to Respect Rights)

113. *Id.* ¶ 2(g).

114. *Id.* ¶ 6.

115. *Id.* ¶ 3.

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

2. Violations Alleged by Representatives of the Victims¹¹⁶

Same Violations Alleged by the Commission.

III. MERITS

A. *Composition of the Court*¹¹⁷

Manuel E. Ventura Robles, Acting President
Alberto Pérez Pérez, Judge
Eduardo Vio Grossi, Judge
Roberto de Figueiredo Caldas, Judge
Humberto Antonio Sierra Porto, Judge
Eduardo Ferrer Mac-Gregor Poisot, Judge

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

B. *Decision on the Merits*

November 26, 2013: The Court issues its Judgment on Preliminary Objections, Merits, Reparations and Costs.¹¹⁸

The Court dismissed unanimously:

The State's preliminary objections regarding the alleged failure to comply with the six-month period for the presentation of the initial petition and the alleged lack of competence *ratione temporis* of the Court, in relation to the Inter-American Convention on Forced Disappearance of Persons¹¹⁹ because:

The Court determined that the State did not demonstrate that any serious error occurred with respect to the admission of the victim's petition

116. *Id.* ¶ 5.

117. The President of the Court, Judge Diego Garcia-Sayan, did not take part in the Judgment because he is a Peruvian national. *Id.* at n.*. Thus, Manuel E. Ventura Robles, who was the Vice-President of the Court, became the acting President for this case. *Id.*

118. Osorio Rivera and Family v. Peru, Preliminary Objections, Merits, Reparations and Costs.

119. *Id.* ¶¶ 19, 23, 27, 34.

in violation of the State's right of defense.¹²⁰ Specifically, the exceptions created in Article 46(2)¹²¹ do not require the "exhaustion of domestic remedies" and the six-month statute of limitations did not apply to these cases; thus the Court decided to assess the case by analyzing if the petition had been filed within a reasonable time.¹²² Considering the "continuing nature" of the supposed forced disappearance of Mr. Osorio Rivera, the State's failure to determine his whereabouts, and the "alleged denial of justice in the proceedings that were dismissed and in the one that is still underway," the Court determined that the petition was presented within a reasonable time.¹²³ Accordingly, the Court rejected the State's preliminary objections.¹²⁴

The Court found unanimously that the State had violated:

Article 7 (Right to Personal Liberty), Article 5(1) (Right to Physical, Mental, and Moral Integrity), Article 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), Article, 4(1) (Prohibition of Arbitrary Deprivation of Life), and Article 3 (Right to Juridical Personality) of the American Convention, in relation to Article 1(a) of the Convention on Forced Disappearance of Persons,¹²⁵ because:

There are three elements of forced disappearance: (1) the deprivation of liberty; (2) the direct intervention of State agents or their acquiescence; and (3) the refusal to acknowledge the detention and to reveal the fate or the whereabouts of the person concerned.¹²⁶ A forced disappearance comes to fruition through any deprivation of liberty, whether it be from an illegal detention or an initially legal arrest or detention.¹²⁷ Furthermore, a presumption of forced disappearance is prolonged until the victim's whereabouts are discovered.¹²⁸ The State had

120. *Id.* ¶ 19.

121. *Id.* ¶ 23 Article 46(2) of the American Convention indicates that: the provisions of paragraph 1(a) and 1(b) of the this article shall not be applicable when (a) the domestic legislation of the state concerned does not afford due process of law for the protection of the right or rights that have allegedly been violated; (b) the party alleging violation of his rights has been denied access to the remedies under domestic law or has been prevented from exhausting them, or (c) there has been unwarranted delay in rendering a final judgment under the aforementioned remedies. Organization of American States, American Convention on Human Rights, Art. 46, Nov.22, 1969, O.A.S.T.S No. 36, 1144 U.N.T.S 123, 155-56.

122. *Osorio Rivera and Family v. Peru, Merits*, ¶ 23.

123. *Id.*

124. *Id.*

125. *See id.* ¶¶ 111-159.

126. *Id.* ¶ 113.

127. *Id.* ¶ 125.

128. *Id.* ¶ 124.

*the responsibility to prevent human rights violations and to investigate effectively any violations committed within its jurisdiction with the means available, in order to identify those responsible, impose punishment on them, and ensure adequate reparation to the victim.*¹²⁹ *Judicial guarantees such as this cannot be suspended.*¹³⁰

*Article 7 (Right to Personal Liberty) is of key concern to the international community.*¹³¹ *Accordingly, when Armed Forces are allowed to restrict someone's personal liberty, they must follow strict criteria of exceptionality and due diligence to safeguard those guarantees.*¹³²

*Articles 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) of the American Convention are taken into consideration when there is a forced disappearance.*¹³³ *When a State refuses to explain victim's whereabouts, to his or her family, the mental and moral integrity of the family is severely affected.*¹³⁴ *This emotional torture affects the victim's mothers, fathers, children, spouses, and permanent companions.*¹³⁵

*The Court considered Article 4 (Right to Life) of the American Convention when discussing Mr. Osorio Rivera's disappearance. With a forced disappearance, comes a heightened sense of vulnerability.*¹³⁶ *This vulnerability is highlighted when the victim is secretly executed, and his body concealed, without any proper retribution.*¹³⁷

*On the night of Mr. Osorio Rivera's disappearance, there was an explosion and/or a shot fired from Nunumia's community hall.*¹³⁸ *It is possible that due to these explosions and the state of emergency, Mr. Osorio Rivera and his cousin were blamed and arrested by members of the army.*¹³⁹ *However, there was never any evidence to suggest that Mr. Osorio Rivera and his cousin were in possession of any firearms or explosives.*¹⁴⁰ *Once they were arrested, Mr. Osorio Rivera and his cousin*

129. *Id.* ¶ 114.

130. *Id.* ¶ 120.

131. *Id.*

132. *Id.* ¶ 122.

133. *Id.* ¶ 227.

134. *Id.*

135. *Id.*

136. *Id.* ¶ 169.

137. *Id.*

138. *Id.* ¶ 123.

139. *Id.*

140. *Id.*

were taken the Army Patrol base where they were deprived of their freedom and forbidden to leave.¹⁴¹

The correct protocol for Mr. Osorio Rivera's situation would have been to release him, or to have brought him to a legitimate authority, such as the Police Station in the Gorgor district, or the office of the Prosecution Services nearby.¹⁴² However, the only action taken was the delivery of a radiogram to a Commander General in lieu of a competent authority.¹⁴³ Thus, the Court concluded that there was a deprivation of liberty by the State agents, which translates to a disappearance.¹⁴⁴

In relation to the record of release alleging Mr. Osorio Rivera's release on May 1, 1991, the Court noted that the document was handwritten and lacked formality, such as a stamp or signature of a patrol member.¹⁴⁵ Furthermore, the State had a known practice of developing records of release with signatures that were either forged or obtained through torture.¹⁴⁶ Moreover, there were contradicting statements in the testimonies of people who had allegedly seen Mr. Osorio Rivera walking out of the Cajatambo Counter-subversive Base on May 1, 1991.¹⁴⁷ The Court discussed that it is improbable that Mr. Osorio Rivera would have disappeared voluntarily once he was released.¹⁴⁸ It was also telling that Mr. Osorio Rivera was identified as "comrade," or a possible member of Shining Path, which established that his disappearance was within the context of a systematic and selective practice of forced disappearances, as part of the State's counterinsurgency.¹⁴⁹ Consequently, the Court concluded that the evidence given by the State was inadequate to establish the release of Mr. Osorio Rivera on May 1, 1991.¹⁵⁰ Accordingly, the Court found the State responsible for the forced disappearance of Mr. Osorio Rivera.¹⁵¹

The State also violated Article 7 (Right to Personal Liberty) because Mr. Osorio Rivera was transferred to the Cajatambo Counter-

141. *Id.*

142. *Id.* ¶ 124.

143. *Id.*

144. *Id.* ¶ 126.

145. *Id.* ¶ 136.

146. *Id.* ¶ 137.

147. *Id.* ¶ 140.

148. *Id.*

149. *Id.* ¶ 155.

150. *Id.* ¶ 141.

151. *Id.* ¶ 159.

*subversive base without being presented to a legitimate authority.*¹⁵² Additionally, Mr. Osorio Rivera was not allowed to eat the food that was brought for him and his head was covered by a hood during the transfer. The actions of the Army stepped beyond the realm of maintaining national security and public order, and stepped into violation of Mr. Osorio Rivera's right to personal liberty.¹⁵³

*The State violated Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) of the American Convention by placing Mr. Osorio Rivera in a state of vulnerability and risk of severe harm to his personal integrity and his life.*¹⁵⁴

*The State violated Article 4 (Right to Life) through the practice of forced disappearances.*¹⁵⁵ Particularly, forced disappearances included secret execution, without any opportunity for the individual to go to trial.¹⁵⁶ Furthermore, these bodies were usually concealed and left without any trace of the killing.¹⁵⁷ Through these harsh acts, the State violated Article 4 (Right to Life) to the detriment of Mr. Osorio Rivera.¹⁵⁸

*Through the practice of forced disappearances, the State violated Article 3 (Right to Juridical Personality) by removing Mr. Osorio Rivera from the protection of the law.*¹⁵⁹ This removal of legal protection prevented Mr. Osorio Rivera from the recognition of juridical personality.¹⁶⁰ The enforced disappearance denied Mr. Osorio Rivera of his existence, leaving him in a blurry and unspecified legal situation.¹⁶¹

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court), in relation to Articles 1(1) and 2 of the Convention, in addition to Articles 1(b) (Duty to Punish Forced Disappearances) and 3 (Obligation to Adopt Legislative Measures) of the Inter-American Convention on Forced Disappearance of Persons, to the det-

152. *See id.* ¶ 167.

153. *Id.* ¶ 167.

154. *Id.* ¶ 168.

155. *Id.* ¶ 169.

156. *Id.*

157. *Id.*

158. *Id.*

159. *Id.* ¶ 170.

160. *Id.*

161. *Id.*

riment of Mr. Osorio Rivera, Ms. Santa Fe Gaitán Calderón, Ms. Edith Laritza Osorio Gaytán, Ms. Juana Rivera Lozano, Ms. Epifanía Alejandra Osorio Rivera, Ms. Elena Máxima Osorio Rivera, Mr. Porfirio Osorio Rivera, Ms. Adelaida Osorio Rivera, Ms. Silvia Osorio Rivera, Ms. Maria Osorio Rivera, and Mr. Efraín Osorio Rivera,¹⁶² because:

When human rights violations occur, competent State authorities must uphold the expectations set forth in the Article 8 (Right to a Fair Trial) of the Convention.¹⁶³ The investigation of human rights violations is an essential component of State duties.¹⁶⁴ It was the State's duty to investigate and punish human rights violations.¹⁶⁵ When a forced disappearance occurs, the State must begin a criminal investigation to discover the truth regarding the crimes and the fate of the victim, and determine the punishment.¹⁶⁶ The State should do this by providing the essential resources and by releasing documentation and information that pertains to the facts of the case.¹⁶⁷

To determine whether the State violated Article 8 (Right to a Fair Trial), the Court evaluated the State's three separate investigations.¹⁶⁸ Specifically, the Court looked at the first investigation conducted in the ordinary jurisdiction between May 1991 and July 1992, the investigation conducted by the Third Permanent Military Court of Lima from July 1992 to October 1996, and the new investigation before the special jurisdiction from 2004 to 2013.¹⁶⁹ The Court concluded that the first criminal investigation in the ordinary jurisdiction was not conducted efficiently and thoroughly because the Court did not take eyewitness statements and failed to make any on-site inspections or conduct any research on the military personnel that were at the Cajatambo Counter-subversive Military Base.¹⁷⁰

In relation to the Third Military Court of Lima, the Court held that the military criminal jurisdiction was not the appropriate tribunal to hear the case of Mr. Osorio Rivera.¹⁷¹ Instead, the case should have been

162. *Id.* ¶¶ 219-221.

163. *Id.* ¶ 180.

164. *Id.* ¶ 176.

165. *Id.* ¶ 177.

166. *See id.* ¶¶ 178-179.

167. *Id.* ¶ 168.

168. *Id.* ¶ 183.

169. *Id.*

170. *Id.* ¶¶ 184-186.

171. *Id.* ¶ 187.

heard in front of a natural, independent, and impartial judge.¹⁷² Thus, the intervention of the military system of justice to investigate Mr. Osorio Rivera's forced disappearance violated the guarantee of an ordinary judge, and accordingly violated Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) of the Convention, in relation to Article 1(1).¹⁷³

Finally the Court decided that the third investigation, which was the second criminal investigation in the ordinary jurisdiction, was not effectively or diligently executed.¹⁷⁴ Specifically, there was a lack of action for over twelve years, and the State failed to properly go into detail regarding the various components of Mr. Osorio Rivera's forced disappearance.¹⁷⁵ Accordingly, the Court held that the State violated the right to judicial guarantees and to judicial protection, recognized in Articles 8(1) and 25(1) of the American Convention, in relation to Articles 1(1) of this instrument and 1(b) of the Convention on Forced Disappearances of Persons, to the detriment of Mr. Osorio Rivera and his family.¹⁷⁶

Furthermore, the State's domestic law did not conform with the Convention; thus the State is still in non-compliance with Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention and Article 3 (Obligation to Adopt Legislative Measures) of the Convention on Forced Disappearance of Persons.¹⁷⁷

Article 5(1) (Right to Physical, Mental, and Moral Integrity) in relation to Article 1(1) of the American Convention, to the detriment of Ms. Santa Fe Gaitán Calderón, Ms. Edith Laritza Osorio Gaytán, Ms. Neida Rocío Osorio Gaitán, Ms. Vannesa Judith Osorio Gaitán, Mr. Jersey Jeremías Osorio Gaitán, Ms. Juana Rivera Lozano, Ms. Epifanía Alejandrina Osorio Rivera, Ms. Elena Máxima Osorio Rivera, Mr. Porfirio Osorio Rivera, Ms. Adelaida Osorio Rivera, Ms. Silvia Osorio Rivera, Ms. Maria Osorio Rivera, and Mr. Efraín Osorio Rivera,¹⁷⁸ because:

*When Mr. Osorio Rivera disappeared, his family truly suffered.*¹⁷⁹ *The*

172. *Id.* ¶¶ 187-188.

173. *Id.* ¶¶ 190-191.

174. *Id.* ¶ 199.

175. *Id.* ¶¶ 192-199.

176. *Id.* ¶ 219.

177. *Id.* ¶ 221.

178. *Id.* ¶ 222.

179. *See id.* ¶ 227.

disappearance of a family member plays a significant role in the mental and moral integrity of close family and friends.¹⁸⁰ This suffering was only intensified by the continuous refusal of State authorities to reveal Mr. Osorio Rivera's whereabouts, or to take concrete steps towards an investigation.¹⁸¹ The State's actions caused Mr. Osorio Rivera's family members to suffer frustration, confusion, depression, and physical ailments.¹⁸² Accordingly, the Court concluded that the State violated the right to personal integrity, established in Article 5(1) (Right to Physical, Mental, and Moral Integrity) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) of the Convention, because the members of his family endured significant "suffering, anxiety, and anguish" as a direct result of Mr. Osorio Rivera's disappearance, which harmed both the mental and moral integrity of the family.¹⁸³

C. Dissenting and Concurring Opinions

[None]

IV. REPARATIONS

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

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

1. Investigate, Identify, and Prosecute Those Responsible

The Court ordered the State to conduct effective investigations and identify those responsible for the disappearance of Mr. Osorio Rivera.¹⁸⁴ Furthermore, the Court ordered the State to establish legal penalties and consequences of all the "perpetrators and masterminds" of Mr. Osorio Rivera's forced disappearance.¹⁸⁵ The Court asked the State to use competent authorities and the necessary logistic and scientific resources to gather the required evidence.¹⁸⁶ Furthermore, the Court forbade the State from raising claims such as a statute of limitations, amnesty, or non-

180. *See id.*

181. *See id.*

182. *Id.* ¶ 230.

183. *Id.* ¶¶ 231, 234.

184. *Id.* ¶ 244.

185. *Id.*

186. *Id.* ¶ 244(d).

retroactivity, in order to benefit the guilty.¹⁸⁷ Finally, the Court required the proceedings to be publicized to expose the facts and those responsible to the civilian community.¹⁸⁸

2. Locate Victim's Whereabouts

The Court ordered the State to conduct a thorough search to discover the whereabouts of Mr. Osorio Rivera.¹⁸⁹ If the State found Mr. Osorio Rivera to be dead and discovered his remains, it must return those remains to the family and pay the funeral costs.¹⁹⁰

3. Provide Medical Treatment

Mr. Osorio Rivera's forced disappearance caused his family to suffer greatly.¹⁹¹ The State must provide immediate and adequate medical, psychological, and psychiatric treatment to Mr. Osorio Rivera's family members.¹⁹²

4. Publish the Judgment

The Court ordered the State to publish the official summary of the Court's Judgment, once in the State's official gazette, once in a national newspaper with widespread circulation, and, in its entirety, on an official website to be available for one year.¹⁹³

5. Public Act of Acknowledgement

The Court held that, at a peak time, the State must publicly acknowledge its international responsibility for the disappearance of Mr. Osorio Rivera. The President must preside over the announcement in front of the State's most senior authorities and the State must include the relevant parts of the Court's Judgment.¹⁹⁴

187. *Id.* ¶ 244(e).

188. *Id.* ¶ 245.

189. *Id.* ¶ 251.

190. *Id.* ¶ 252.

191. *Id.* ¶ 256.

192. *Id.*

193. *Id.* ¶ 260.

194. *Id.* ¶ 264.

6. Provide Education

The Court required the State to offer Ms. Edith Laritza Osorio Gaytán, Ms. Neida Rocío Osorio Gaitán, Ms. Vannesa Judith Osorio Gaitán and Mr. Jersy Jeremías Osorio Gaitán, a scholarship to any State public establishment.¹⁹⁵ The scholarship must cover all expenses including, academic, educational, and living expenses.¹⁹⁶

7. Change Definition of Offense in Domestic Law

The Court required the State to change the definition of the offense of forced disappearance to a definition compatible with the international parameters for the forced disappearance of persons.¹⁹⁷

8. Train State Officials in Human Rights

To protect against future tragedies similar to that of Mr. Osorio Rivera, the Court ordered the State to include permanent programs on human rights and international human law when training Armed Forces.¹⁹⁸

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

For Mr. Osorio Rivera's loss of earnings, the Court awarded \$28,750 to Ms. Santa Fe Gaitán Calderón, and \$7,187.50 to each of Mr. Osorio Rivera's children, Ms. Edith Laritza Osorio Gaytán, Ms. Neida Rocío Osorio Gaitán, Ms. Vannesa Judith Osorio Gaitán and Mr. Jersy Jeremías Osorio Gaitán.¹⁹⁹ Furthermore, the Court awarded Ms. Santa Fe Gaitán Calderón, and Mr. Porfirio Osorio \$10,000 in compensation for the expenses associated with searching for Mr. Osorio Rivera.²⁰⁰ This money was to be divided between the two family members.²⁰¹

195. *Id.* ¶ 267.

196. *Id.*

197. *Id.* ¶ 271.

198. *Id.* ¶ 274.

199. *Id.* ¶ 280.

200. *Id.* ¶ 283.

201. *Id.*

2. Non-Pecuniary Damages

The Court ordered that Mr. Osorio Rivera be compensated \$80,000 for non-pecuniary damage.²⁰² Ms. Santa Fe Gaitán Calderón was entitled to half the amount, and the other half was to be shared equally amongst Mr. Osorio Rivera's children: Ms. Edith Laritza Osorio Gaytán, Ms. Neida Rocío Osorio Gaitán, Ms. Vannesa Judith Osorio Gaitán, and Mr. Jersy Jeremías Osorio Gaitán.²⁰³

Additionally, the State must compensate Mr. Osorio Rivera's family members \$45,000 for the suffering and repercussions they experienced.²⁰⁴ Specifically, the \$45,000 must be split between Ms. Santa Fe Gaitán Calderón and Mr. Osorio Rivera's children: Ms. Edith Laritza Osorio Gaytán, Ms. Neida Rocío Osorio Gaitán, Ms. Vannesa Judith Osorio Gaitán, and Mr. Jersy Jeremías Osorio Gaitán.²⁰⁵

Finally, in regards to the effects on their personal integrity, the State owed \$20,000 to Mr. Juan Rivera Lozona and \$10,000 to each of Mr. Osorio Rivera's siblings: Ms. Epifanía Alejandrina Osorio Rivera, Ms. Elena Máxima Osorio Rivera, Ms. Adelaida Osorio Rivera, Ms. Silvia Osorio Rivera, Mr. Mario Osorio Rivera, and Mr. Efraín Osorio Rivera.²⁰⁶ Additionally, the State owed \$45,000 to Mr. Porfirio Osorio Rivera.²⁰⁷

3. Costs and Expenses

The State must pay the Association of Human Rights (*Asociación Pro Derechos Humanos*, "APRODEH") \$10,000 for its work in the litigation of Mr. Osorio Rivera.²⁰⁸

Additionally, the Court ordered the State to reimburse the Legal Assistance Fund \$3,306.86 for the expenses of the appearance of deponents at the public hearing.²⁰⁹

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

\$330,806.86

202. *Id.* ¶ 288.

203. *Id.*

204. *Id.* ¶ 289.

205. *Id.*

206. *Id.* ¶ 290.

207. *Id.*

208. *Id.* ¶ 296.

209. *Id.*

C. Deadlines

The State must investigate, prosecute, and punish those responsible for the disappearance of Mr. Osorio Rivera within a reasonable time of the date of notification of the Judgment.²¹⁰

Should the State find that Mr. Osorio Rivera has died, his remains must be returned to his family, as quickly as possible.²¹¹

The State must immediately provide the appropriate care for the physical and mental problems suffered by Mr. Osorio Rivera's family.²¹²

Within six months of notification of the Judgment, the State must publish the Judgment according to the specifications ordered.²¹³

The State has one year from the notification of the Judgment to publicly acknowledge its responsibility for the forced disappearance of Mr. Osorio Rivera.²¹⁴

The scholarships to Ms. Edith Laritza Osorio Gaytán, Ms. Neida Rocío Osorio Gaitán, Ms. Vannesa Judith Osorio Gaitán, and Mr. Jersey Jeremías Osorio Gaitán must be made effective promptly after the notification of the Judgment.²¹⁵

The State must take the key steps to amend its criminal legislation, within a reasonable time of the date of notification of the Judgment.²¹⁶

Within a reasonable time of the Judgment, the State must train the Armed Forces in human rights, international human law, and issues relating to forced disappearances.²¹⁷

The State must reimburse the Legal Assistance Fund within ninety days of notification of the Judgment.²¹⁸

The State must pay the compensation for pecuniary and non-pecuniary damage and to reimburse costs and expenses established in the Judgment within one year of notification of the Judgment.²¹⁹

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

210. *Id.* ¶ 244.

211. *Id.* ¶ 252.

212. *Id.* ¶ 256.

213. *Id.* ¶ 260.

214. *Id.* ¶ 264.

215. *Id.* ¶ 267.

216. *Id.* ¶ 271.

217. *Id.* ¶ 274.

218. *Id.* ¶ 299.

219. *Id.* ¶ 300.

VI. COMPLIANCE AND FOLLOW-UP

[None]

VII. LIST OF DOCUMENTS

A. Inter-American Court

1. Preliminary Objections

[Osorio Rivera and Family v. Peru, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 274 \(Nov. 26, 2013\).](#)

2. Decisions on Merits, Reparations and Costs

[Osorio Rivera and Family v. Peru, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 274 \(Nov. 26, 2013\).](#)

3. Provisional Measures

[None]

4. Compliance Monitoring

[None]

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

[None]

2. Report on Admissibility

[Osorio Rivera and Family v. Peru, Admissibility Report, Report No. 76/10, Inter-Am. Comm'n H.R., Case No 11.845 \(July 12, 2010\).](#)

3. Provisional Measures

[None]

4. Report on Merits

[Osorio Rivera and Family v. Peru, Report on Merits, Report No. 140/11, Inter-Am. Comm'n H.R., Case No. 11.845 \(Oct. 31, 2011\).](#)

5. Application to the Court

[None]

VIII. BIBLIOGRAPHY

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