

Rodríguez Vera et al. (The Disappeared from the Palace of Justice) v. Colombia

ABSTRACT¹

This case is about the famous attack of the Palace of Justice, the home of Colombia's Supreme Court, carried out in 1985 by terrorists of the M-19 organization. The specific issue that is the object of this case is the forced disappearance of some suspected M-19 members of the team that attacked the building, as well as personnel of the cafeteria who were mistakenly suspected for having aided and abetted the attack. The Court found the State in violation of several articles of the American Convention, as well as the Inter-American Convention on Forced Disappearances of Persons and of the Inter-American Convention to Prevent and Punish Torture.

I. FACTS

A. Chronology of Events

Mid-1985: Justices of the Supreme Court begin to receive death threats after declaring their intent to enforce an extradition treaty between the United States and Colombia that would allow Colombia to send indicted criminals to the United States. This would open the door for prosecution of Colombian drug traffickers.² The Government strengthens security around the Palace of Justice, the seat of Colombia's Supreme Court, and even provides additional security to some of the justices.³ The Palace of Justice is located in the center of the national capital, Bogotá, in the same square of the Congress and one block away from the Presidential Palace.⁴

1. Erin Gonzalez, Author; Diane Chang, Editor; Megan Venanzi, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Case of Rodríguez Vera et. al. (The Disappeared from the Palace of Justice) v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R., (ser. C) No. 287, ¶ 91 (Nov. 14, 2014).; Christopher Woody, *The Palace Siege: 30 Years Since Rebel Fighters Launched a Devastating Attack on Colombia's Highest Court*, BUSINESS INSIDER, Nov. 7, 2015 (12:30 P.M.), <http://www.businessinsider.com/colombia-palace-of-justice-siege-2015.11>.

3. Rodríguez Vera et. al. (The Disappeared from the Palace of Justice) v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 91.

4. Woody, *supra* note 2.

October 23, 1985: The M-19 guerrilla group attempts to assassinate General Samudio Molina and then sends a message to a radio station suggesting that their next attack would be of “such significance that the world will be amazed.”⁵ That same day, the police intelligence service finds plans to storm the Palace of Justice during a raid of M-19.⁶

November 6, 1985: Armed members of the M-19 enter various locations in the Palace of Justice.⁷ One of the first places M-19 seizes is the cafeteria.⁸ During the attack, gunfire is exchanged with the justices’ bodyguards,⁹ and hostages are taken.¹⁰

Colombia’s President Belisario Betancur refuses to negotiate and orders a military operation to force M-19’s surrender and rescue the hostages.¹¹ During the evening, the security forces infiltrate in the Palace of Justice and reach access the fourth floor. A long fight commences between the soldiers and M-19.¹²

November 7, 1985: Fighting on the fourth floor continues until 2:00 AM.¹³ Three fires erupt in the Palace of Justice; these fires kill anyone who may have survived the gunfire and explosions, and make it impossible to determine how the hostages or members of M-19 died or how many people were on the floor.¹⁴

Right after, President Bentacur announces via radio that the military is carrying out Operation Rake (*Rastrillo*) to retake the Palace.¹⁵ Upon hearing this radio transmission, hostages hiding in a bathroom send an emissary so that the military would know some civilians were left in the building.¹⁶ However, one guerrilla stronghold remained and the emissary’s exit prompts an explosion, which leads the guerillas to fire upon

5. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 90.

6. *Id.*

7. *Id.* ¶ 93.

8. *Id.* ¶ 94.

9. *Id.*

10. *Id.*

11. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 95.

12. *Id.* ¶ 98.

13. *Id.*

14. *Id.* ¶ 99.

15. *Id.* ¶ 98.

16. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 98.

the hostages in the bathroom.¹⁷ The remaining survivors stay in the bathroom until M-19 permits them to leave.¹⁸

The military uses the nearby House of the Florist (*Casa del Florero*) as headquarters to coordinate the operation and identify everyone who exits the Palace of Justice.¹⁹ When escapees arrive, the military intelligence officers search, interrogate, and separate survivors from any suspected M-19 members.²⁰ The military permits the majority of survivors to go home or takes them to hospitals,²¹ but takes “special” survivors to the second floor of the *Casa del Florero*.²² Subsequently, some of these survivors are transferred to various military facilities, including the Cavalry School of the Colombian National Army and the General Ricardo Charry Solano Intelligence and Counter-Intelligence Battalion.²³

Once the Colombian military successfully retakes the Palace of Justice, the military is ordered to begin removing bodies and to seize any leftover weapons or war materials.²⁴ The military first moves the bodies to the first floor and officials wash some of the bodies.²⁵ This inevitably deprives investigators of some details to aid them in identifying them.²⁶ In total, 94 bodies are recovered.²⁷ Bodies are transferred to the Institute of Forensic Medicine.²⁸ However, the Institute is ill-prepared to handle the large influx of bodies.²⁹ This results in numerous insufficient autopsies and an inability to establish the causes of death and identities.³⁰ The Institute errs numerous times in returning bodies to families.³¹ In addition, although 94 bodies are recovered, records are proper and complete for only 22 of the victims.³² Another 38 bodies are buried in a mass grave.³³

November 1985: Multiple family members of the missing persons file

17. *Id.* ¶ 102.

18. *Id.*

19. *Id.* ¶ 103.

20. *Id.*

21. *Id.*

22. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 103.

23. *Id.*

24. *Id.* ¶ 145.

25. *Id.*

26. *Id.*

27. *Id.* ¶ 151.

28. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 146.

29. *Id.* ¶ 151.

30. *Id.*

31. *Id.*

32. *Id.* ¶ 149.

33. *Id.* ¶ 155.

complaints and approach different law officers to clarify what happened.³⁴ A Special Investigative Court is created to investigate the offenses committed during the taking of the Palace of Justice,³⁵ the Sixth Military Criminal Investigation Court begins a preliminary investigation,³⁶ and the Attorney General opens an investigation into the disappearances from the Palace of Justice.³⁷

May 31, 1986: The Special Investigative Court concludes that M-19 members were the sole perpetrators of the attack, but the investigation identifies “irregular actions”.³⁸ These include Ms. Irma Franco Pineda’s disappearance, Mr. Orlando Quijano’s detention, and Ms. Yolanda Santodomingo Albericci and Mr. Eduardo Matson Ospino’s detention and ill-treatment.³⁹

The Court also considers the following persons, who were in the Palace of Justice during the attack and likely died on the fourth floor after being taken as hostages, “disappeared”: Mr. Carlos Augusto Rodríguez Vera, Ms. Cristina del Pilar Guarín Cortés, Mr. David Suspes Celis, Ms. Luz Mary Portela León, Mr. Bernardo Beltrán Hernández, Mr. Héctor Jaime Beltrán Fuentes, Ms. Gloria Stella Lizarazo Figueroa, Ms. Norma Constanza Esguerra Forero, Ms. Gloria Anzola de Lanao, Ms. Lucy Amparo Oviedo Bonilla and Ms. Ana Rosa Castiblanco.⁴⁰ However, the Court emphasizes the investigation stage has not concluded and further proceedings to determine facts are needed.⁴¹

October 23, 1986: The Commander of the Army’s 13th Brigade assumes responsibility for the death of Mr. José Eduardo Medina Gravita and for the investigations of Ms. Clara Helena Enciso and Ms. Irma Franco Pineda.⁴²

June 26, 1988: The Office of the Special Attorney opens a disciplinary investigation into Colonel Edilberto Sánchez, the Head of B-2, and the

34. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, n.194.

35. *Id.* ¶ 156.

36. *Id.* ¶ 157.

37. *Id.* ¶ 169.

38. *Id.* ¶ 158.

39. *Id.*

40. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 159.

41. *Id.* ¶ 160.

42. *Id.* ¶ 163.

Commander of the 13th Brigade, General Jesús Armando Arias Cabrales.⁴³

September 15, 1988: The Attorney General concludes that of all those taken to the *Casa del Florero*, only Ms. Franco Pineda is “disappeared.”⁴⁴ Further, the Attorney General determines there is insufficient evidence to consider the missing cafeteria workers “disappeared” and, therefore, the evidence is insufficient to bring charges against the Colombian Armed Forces.⁴⁵

January 31, 1989: The 30th Itinerant Criminal Investigation Court of Bogotá indicts the M-19 members who “planned the attack on the Palace of Justice.”⁴⁶ The Court also includes a section called “Presumed Responsibility of the Armed Forces” and discusses the military and police personnel who are possibly involved in disappearances, torture, and the events in the bathroom and fourth floor of the Palace of Justice.⁴⁷ The Court determines that ordinary criminal jurisdiction should investigate these matters and, in particular, examine whether the order to suspend any action on the fourth floor were disobeyed by the Commander Cabrales, Colonel Sánchez, and the Director of National Police.⁴⁸

June 27, 1989: The Special Attorney holds Colonel Sánchez responsible for Ms. Franco Pineda’s disappearance and for Ms. Santodomingo Albericci and Mr. Matson Ospino’s detention and ill treatment.⁴⁹ Meanwhile, the Special Attorney also determines that the Commander of the 13th Brigade may have violated Decree 1776 of 1979 that creates a duty to protect hostages.⁵⁰

September 28, 1990: The Special Attorney orders a disciplinary sanction removing the Commander Cabrales and Colonel Sánchez.⁵¹

May 12, 1992: The Commander of the Colombian Air Force ends proceedings against the Commander of the Army’s 13th Brigade as to the

43. *Id.* ¶ 210.

44. *Id.* ¶ 169.

45. *Id.*

46. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 161.

47. *Id.* ¶ 162.

48. *Id.*

49. *Id.* ¶ 210.

50. *Id.*

51. *Id.* ¶ 211.

incidents on the fourth floor and the bathroom and determines that no disappearance of three guerrilla members occurred.⁵² The Commander of the Air Force also determines that the Colonel was not responsible for the ill treatment of Ms. Santodomingo Albericci and Mr. Matson Ospino, nor did he contribute to Ms. Franco Pineda's disappearance.⁵³ The Air Force Commander concludes that the investigation into Ms. Franco Pineda's disappearance should remain open since she had not been found.⁵⁴

May 18, 1992: The Attorney General appeals the May 12, 1992, decision.⁵⁵

October 22, 1993: The Military Superior Court affirms the May 12, 1992 findings in favor of the Colonel Sánchez since Ms. Enciso was not disappeared and the statute of limitations for a criminal torture offense has run for Ms. Santodomingo Albericci and Mr. Matson Ospino.⁵⁶ However, the Court reopens the investigation into the Commander Cabrales and continues the investigation into Ms. Franco Pineda's whereabouts.⁵⁷

June 27, 1994: The Special First Instance Court of the General Command of the Military Forces determines there is no ground to convene a court-martial to try the Commander Cabrales accused of homicide and personal injury, or to convene a court-martial against Colonel Sánchez for Ms. Franco Pineda's disappearance.⁵⁸ The Court therefore closes the proceedings against them and thus ends the military criminal jurisdiction investigation.⁵⁹

August 20, 1996: The Second Criminal Court of the Bogotá Special Circuit orders the exhumation of the mass grave in the South Cemetery.⁶⁰ The exhumations begin in February 1998.⁶¹

2001: At the request of the next of kin, the Prosecutor General opens an investigation into the forced disappearances of the following persons: Mr.

52. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 165.

53. *Id.*

54. *Id.*

55. *Id.* ¶ 167.

56. *Id.*

57. *Id.*

58. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 168.

59. *Id.*

60. *Id.* ¶ 192.

61. *Id.*

Carlos Augusto Rodríguez Vera, Ms. Cristina del Pilar Guarín Cortés, Mr. Bernardo Beltrán Hernández, Mr. Héctor Jaime Beltrán Fuentes, Mr. David Suspes Celis, Ms. Luz Mary Portela León and Ms. Ana Rosa Castiblanco Torres.⁶² The bodies exhumed from the South Cemetery correlate with the disappeared victims.⁶³

November 5, 2004: The disappeared persons' next of kin request the members of the security forces and agencies that participated in the re-taking of the Palace of Justice be made available for questioning.⁶⁴ The Prosecution argues the request is inadmissible.⁶⁵

October 5, 2005: The investigation is reopened.

February 1 and 2, 2007: The investigation inspects the Army's 13th Brigade facilities and the Cavalry School.⁶⁶ During these inspections, investigators find personal documents of Mr. Carlos Horacio Urán Rojas and a note referring to Mr. Matson Ospino and Ms. Santodomingo Albericci.⁶⁷

September 28, 2007: During the investigation, five members of the B-2 of the Army's 13th Brigade are indicted because of the aggravated abduction and forced disappearance of the victims in this case, but not including Ms. Castiblanco Torres and Mr. Urán Rojas.⁶⁸

February 2008 – March 2009: The Commander of the Cavalry School, Commander Cabrales, and three members of the Intelligence and Counterintelligence Command ("COICI") are indicted.⁶⁹ Commander Cabrales and the members of the COICI appeal their charges, which are upheld regarding aggravated forced disappearances.⁷⁰ The 51st Criminal Court of the Bogotá Circuit assumes proceedings and hears the case against members of B-2 of the 13th Brigade, and the Third Criminal Court of the Special Circuit of Bogotá ("Third Criminal Court") assumes the charges for abduction aggravated by forced disappearance.⁷¹

62. *Id.* ¶ 170.

63. *Id.* ¶ 193.

64. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 171.

65. *Id.*

66. *Id.*

67. *Id.*

68. *Id.* ¶ 174.

69. *Id.*

70. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 174.

71. *Id.* ¶¶ 174, 189.

June 9, 2010: The Third Criminal Court delivers a guilty verdict against the Commander of the Cavalry School as an indirect author of the eleven victim's forced disappearances and sentences him to thirty years in prison.⁷² The court also orders investigations into the following: (1) any prior knowledge the security forces had of M-19's intent to attack the Palace of Justice; (2) potential extrajudicial killings of hostages and M-19 members during the siege; and (3) President Bentacur and other high ranking Armed Forces officials who participated in the operation and the intervention of the National Police and State Security agencies.⁷³ The Court also orders investigations into potential co-authors (indirect and direct) and other participants in these forced disappearances.⁷⁴ The Public Prosecution Service and the Commander of the Cavalry School appeal.⁷⁵

September 8, 2010: The Criminal Chamber of the Superior Court of Bogotá partially revokes the pardon of some M-19 members and considers that the homicide and attempted homicide charges constitute crimes against humanity.⁷⁶

April 28, 2011: The 51st Criminal Court delivers a guilty verdict against the Commander of the 13th Brigade.⁷⁷ The Court determines that the Army believed the cafeteria employees were members of M-19.⁷⁸ The Court sentences the Commander to 35 years in prison.⁷⁹ The Public Prosecution Service and the defense file an appeal.⁸⁰

December 15, 2011: The 51st Criminal Court acquits the accused members of the COICI for lack of direct evidence to indicate their involvement in the forced disappearances.⁸¹ The civil parties file an appeal.⁸²

January 30, 2012: The Superior Court of Bogotá affirms the sentence of 30 years in prison but only as to Mr. Rodríguez Vera and Ms. Franco

72. *Id.* ¶ 175.

73. *Id.* ¶ 176.

74. *Id.*

75. *Id.* ¶ 177.

76. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 206.

77. *Id.* ¶ 185.

78. *Id.* ¶ 186.

79. *Id.* ¶ 187.

80. *Id.*

81. *Id.* ¶ 183.

82. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 184.

Pineda and partially annuls as to the other victims' forced disappearances because of insufficient evidence.⁸³ The Court orders reparation measures to honor the victims and continues the investigation to determine other perpetrators.⁸⁴ The Court believes this will show the international community that Colombia is taking serious steps "to avoid the impunity of crimes against humanity committed by State agents."⁸⁵ The Public Prosecution Service and defense file cassation remedies.⁸⁶

April 2, 2013: The Second Criminal Court returns with a guilty verdict for the crimes of aggravated homicide in the siege of the Palace of Justice against eight M-19 members, including Ms. Franco Pineda.⁸⁷

October 18, 2013: The Prosecutor General's office joins all the investigations into a single prosecution.⁸⁸

October 24, 2014: The Superior Court of Bogotá affirms the Commander's prison sentence for five of the victims because these victims left the Palace alive in the Army's custody and then were forcibly disappeared.⁸⁹ However, the Court determines there is insufficient evidence as to the other victims.⁹⁰

1. Events pertaining to Carlos Augusto Rodríguez Vera

November 6, 1985: Mr. Rodríguez Vera is a law student and works as manager of the Palace of Justice's cafeteria.⁹¹ At least one person sees him working in the cafeteria before the takeover.⁹²

November 7, 1985: Mr. Rodríguez Vera survives the siege.⁹³ However, Colombian authorities suspect he is a M-19 member because he is the cafeteria manager and M-19 members first took hostages in the cafeteria.⁹⁴ Individuals who saw Mr. Rodríguez Vera in the *Casa de Florero*

83. *Id.* ¶¶ 178-79.

84. *Id.* ¶ 181.

85. *Id.*

86. *Id.* ¶ 182.

87. *Id.* ¶ 207.

88. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 208.

89. *Id.* ¶ 188.

90. *Id.*

91. *Id.* ¶ 108.

92. *Id.*

93. *Id.* ¶ 109.

94. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and

tell his family that he is transferred to the North Canton, and military officials confirm his transfer to the Cavalry School.⁹⁵ Although his family consults numerous government agencies and his whereabouts are still unknown, some information from the Cavalry School details that he may have died from being tortured while detained.⁹⁶

2. Events pertaining to Irma Franco Pineda

November 6, 1985: Ms. Franco Pineda is a law student and member of M-19 who assists in the takeover of the Palace of Justice.⁹⁷

November 7, 1985: Once it was evident that the Colombian military would successfully retake the Palace of Justice, Ms. Franco Pineda changes clothes with a deceased victim and attempts to disguise herself among a group of hostages exiting the building.⁹⁸ However, other survivors identify her as a M-19 member and the military takes her to the second floor of the *Casa de Florero*.⁹⁹ Around 7:00 p.m. or 8:00 p.m., the military places her in a vehicle and transfers her to an unknown location.¹⁰⁰ Although her family has consulted numerous government agencies, her whereabouts are unknown.¹⁰¹

May 1987: Ms. Franco Pineda's next of kin file a request to bring a civil suit.¹⁰² This request is denied because under military law, civil suits cannot be brought for military-related offences.¹⁰³

3. Events pertaining to Cristina del Pilar Guarín Córtes

November 6, 1985: Ms. Guarín Córtes attends work as a cashier in the Palace of Justice cafeteria where she is covering for Mr. Rodríguez Vera's wife who is on maternity leave.¹⁰⁴

November 7, 1985: Her father searches for her, but discovers she was

Costs, ¶ 109.

95. *Id.*

96. *Id.*

97. *Id.* ¶ 111.

98. *Id.*

99. *Id.*

100. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 111.

101. *Id.*

102. *Id.* ¶ 164.

103. *Id.*

104. *Id.* ¶ 114.

transferred to a military facility on suspicion that she had a university degree in social science yet worked as a cashier.¹⁰⁵ Her family has consulted numerous government agencies, but her whereabouts are still unknown.¹⁰⁶

4. Events pertaining to David Suspes Celis

November 6, 1985: Mr. Suspes Celis leaves the home he shares with his girlfriend and daughter and arrives to the Palace of Justice for his job as a chef in the cafeteria.¹⁰⁷

November 7, 1985: His family searches for him and requests information from numerous government agencies, but his whereabouts are still unknown.¹⁰⁸

5. Events pertaining to Bernardo Beltrán Hernández

November 6, 1985: Mr. Beltrán Hernández leaves for the Palace of Justice to work as a waiter in the cafeteria.¹⁰⁹

November 7, 1985: Mr. Beltrán Hernández's family attempts to identify his body, but cannot find him.¹¹⁰ After requesting information from numerous government agencies, his whereabouts are still unknown.¹¹¹

6. Events pertaining to Hector Jaime Beltrán Fuentes

November 6, 1985: Mr. Beltrán Fuentes leaves for the Palace of Justice to work as a cafeteria waiter.¹¹² That evening, his brother, a DAS employee, looks for Mr. Beltrán Fuentes at the *Casa de Florero* and their father inquires about the location of cafeteria employees; he is told that the employees are being held in the *Casa de Florero*.¹¹³

105. *Id.* ¶ 115.

106. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 115.

107. *Id.* ¶ 116.

108. *Id.* ¶ 117.

109. *Id.* ¶ 118.

110. *Id.* ¶ 119.

111. *Id.*

112. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 120.

113. *Id.* ¶ 121.

November 7, 1985: Mr. Beltrán Fuentes's family searches for him in morgues, hospitals, and even the military facilities such as the Cavalry School; his brother goes to the *Casa de Florero* to look for him again.¹¹⁴ However, Mr. Beltrán Fuentes's whereabouts are still unknown.¹¹⁵

7. Events pertaining to Gloria Stella Lizarazo Figueroa

November 6, 1985: Ms. Lizarazo Figueroa opens the Palace of Justice cafeteria where she works in the self-service section.¹¹⁶

November 7, 1985: Her family requests information on her location from numerous government agencies and searches for her in hospitals, clinics, and military facilities, but cannot find her.¹¹⁷

Following the Siege: A soldier from the Cavalry School tells her husband, Mr. Luis Carlos Ospina, that the military brought people to the Cavalry School from the Palace of Justice, but the soldier could not tell Mr. Ospina whether Ms. Lizarazo Figueroa was there.¹¹⁸

8. Events pertaining to Luz Mary Portela León

November 6, 1985: Ms. Portela León leaves for the Palace of Justice to replace her ill mother as a dishwasher in the cafeteria.¹¹⁹

November 7, 1985: Her family looks for her and requests her whereabouts from numerous government agencies, but receives no information.¹²⁰

9. Events pertaining to Norma Constanza Esguerra Forero

November 6, 1985: Ms. Constanza Esguerra Forero enters the building to deliver pastries shortly before M-19 attacked.¹²¹ Her sister accompanies her on the delivery, but sits in the car outside.¹²²

114. *Id.*

115. *Id.*

116. *Id.* ¶ 122.

117. *Id.* ¶ 123.

118. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 123.

119. *Id.* ¶ 124.

120. *Id.* ¶ 125.

121. *Id.* ¶ 126.

122. *Id.*

November 9, 1985: Her family finds her belongings in the Palace of Justice, but cannot determine her whereabouts after searching hospitals and North Canton.¹²³

10. Events pertaining to Lucy Amparo Oveida Bonilla

November 6, 1985: Ms. Oveida Bonilla, a law student, leaves to interview near the Palace of Justice with Justice Raúl Trujillo.¹²⁴ According to her family, she likely goes to the Palace of Justice to meet with him or his secretary for help securing this job.¹²⁵ However, the secretary left prior to the attack and did not see Ms. Oveida Bonilla.¹²⁶

Following the Siege: Her family searches for her in cemeteries, hospitals, and the Charry Solano Battalion and requests help from the media and senators, but cannot determine her location.¹²⁷

11. Events pertaining to Gloria Anzola de Lanao

November 6, 1985: Ms. Anzola de Lanao leaves her son's kindergarten to go to work and parks in her usual spot in the basement of the Palace of Justice.¹²⁸

Following the Siege: Her family finds her car unscathed in the Palace of Justice parking lot, but after searching through the destroyed building and the recovered corpses, Ms. Anzola de Lanao's whereabouts are unknown.¹²⁹ Her family searches for her at the 13th Brigade and the Cavalry School but still cannot find her.¹³⁰

12. Events pertaining to Ana Rosa Castiblanco Torres

November 6, 1985: Ms. Castiblanco Torres, who is seven months pregnant, leaves for the Palace of Justice where she works as an assistant chef

123. *Id.* ¶ 127.

124. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 128.

125. *Id.*

126. *Id.*

127. *Id.* ¶ 129.

128. *Id.* ¶ 130.

129. *Id.* ¶¶ 130-31.

130. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 131.

in the cafeteria.¹³¹

Following the Siege: Her family searches hospitals, morgues, and police stations but does not find her.¹³² Next, her family looks for her at women's prisons and the 13th Brigade, but is told no one from the Palace of Justice is detained there.¹³³

November 2001: Ms. Castiblanco Torres's body is exhumed from a mass grave at South Cemetery and is returned to her family following DNA testing and identification.¹³⁴

13. Events pertaining to Carlos Horacio Urán Rojas

November 6, 1985: Mr. Urán Rojas is an Auxiliary Justice of the Council of State and a doctoral student at the University of Paris.¹³⁵ He speaks with his wife on the phone and tells her there is smoke, but he is unharmed.¹³⁶

November 7, 1985: Military officials tell Mr. Urán Rojas's family he survived the attack, but is injured.¹³⁷ His family and friends search for him in the Military Hospital and the Vice Minister of Health inquires as to his whereabouts, but cannot find him.¹³⁸ His wife meets with a general to see the videotape of her husband leaving the Palace of Justice.¹³⁹

November 8, 1985: A friend identifies Mr. Urán Rojas's body in the room reserved for M-19 members.¹⁴⁰ The State claims Mr. Urán Rojas died in the Palace of Justice.¹⁴¹

February 1, 2007: His family reopens its inquiries after personal documents are recovered in the B-2 of the Army's 13th Brigade's security

131. *Id.* ¶ 132.

132. *Id.* ¶ 133.

133. *Id.*

134. *Id.*

135. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 134.

136. *Id.*

137. *Id.* ¶ 135.

138. *Id.*

139. *Id.*

140. *Id.* ¶ 136.

141. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 136.

vault.¹⁴²

January 2010: An official investigation opens into Mr. Urán Rojas's death, and the Court orders the exhumation and autopsy of his body.¹⁴³

August 27, 2010: The Prosecution Services implicates three generals and requests their resignations.¹⁴⁴

April 2, 2013: The Court holds M-19 members responsible for Mr. Urán Rojas's murder.¹⁴⁵ In response, his next of kin files an *amparo* application with the Criminal Chamber of the Superior Court of Bogotá to exclude Mr. Urán Rojas in the judgment's operative paragraphs.¹⁴⁶

May 21, 2013: The Criminal Chamber denies the *amparo* application.¹⁴⁷

May 29, 2013: The next of kin appeal this decision.¹⁴⁸

14. Events pertaining to Yolanda Santodomingo Albericci and Eduardo Matson Ospino

November 6, 1985: Ms. Santodomingo Albericci and Mr. Matson Ospino, both law students, go to the Palace of Justice together so Ms. Santodomingo can take her criminal practice exam and Mr. Matson Ospino can research an assignment.¹⁴⁹ The students are walking to the cafeteria when the attack begins.¹⁵⁰ The two survive the attack and security forces escort them out of the Palace of Justice.¹⁵¹ Colombian authorities believe they were involved in the attack, and take them to the second floor of the *Casa de Florero*.¹⁵² Military officials interrogate them for long periods of time, beat them, and subject them to ill treatment.¹⁵³ The

142. *Id.* ¶ 196.

143. *Id.* ¶ 197.

144. *Id.*

145. *Id.* ¶ 199.

146. *Id.* ¶ 200.

147. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 200.

148. *Id.*

149. *Id.* ¶ 137.

150. *Id.*

151. *Id.* ¶ 138.

152. *Id.*

153. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 138.

officials also do not place them on any type of survivor list.¹⁵⁴

The officials take the students to the Directorate of the Judicial and Investigative Police (“DIJIN”) offices and perform a gunshot residue test to determine whether they fired any weapons.¹⁵⁵ The officials transfer them blindfolded and handcuffed to the Charry Solano Battalion and interrogate them separately while subjecting them to physical and mental abuse.¹⁵⁶ Mr. Matson Ospino desperately informs the officials that he has family friends and relatives in politically powerful offices, including his uncle, the governor of Bolivar.¹⁵⁷ After this, the officials apologize, saying this was a misunderstanding and that there is no problem.¹⁵⁸ Similarly, Ms. Santodomingo Albericci receives an apology and the officials reiterate that she was retained and not detained.¹⁵⁹

November 7, 1985: The officials release the students in the San Victorino sector of Bogotá and Marlio Quintero Pastrana, a Charry Solano Battalion intelligence officer, picks them up in a taxi.¹⁶⁰

November 8, 1985: The students attempt to pick up their documents from North Canton, but no one would receive them.¹⁶¹

Week of November 15, 1985: The students attend a meeting in the Ministry of Defense offices that is coordinated by Mr. Matson Ospino and his father through his uncle.¹⁶² Two generals attend the meeting and return their documents.¹⁶³

July 30, 2012: The Court determines Ms. Santodomingo Albericci and Mr. Matson Ospino were tortured at the hands of the State’s security forces.¹⁶⁴

15. Events pertaining to Orlando Quijano

November 6, 1985: Mr. Quijano is in the Secretariat of the Criminal

154. *Id.*

155. *Id.* ¶ 139.

156. *Id.*

157. *Id.* ¶ 140.

158. *Id.*

159. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 140.

160. *Id.*

161. *Id.* ¶ 141.

162. *Id.*

163. *Id.*

164. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 203.

Chamber of the Palace of Justice when the attack occurs because he is an attorney who writes and edits a journal on high courts' jurisprudence.¹⁶⁵ After surviving the attack, military officials take Mr. Quijano to the second floor of the *Casa de Florero* where security forced interrogate him and subject him to poor treatment.¹⁶⁶ Officials transfer him to North Canton where officials search him and further interrogate him while subjecting him to poor treatment.¹⁶⁷ Officials then take him to SIJIN.¹⁶⁸

November 8, 1985: Mr. Quijano is released from SIJIN.¹⁶⁹

16. Events pertaining to José Vicente Rubiano Galvis

November 7, 1985: While Mr. Rubiano Galvis is riding a bus with a friend, military officials stop the bus at a military checkpoint in Zipaquirá.¹⁷⁰ The soldiers find three weapons on the bus and detain three individuals, including Mr. Rubiano Galvis, and accuse them of being M-19 members involved with the attack on the Palace of Justice.¹⁷¹ The officials take the men to the Zipaquirá base where they beat them and give them electric shocks.¹⁷² The officials transfer them to Usaqué in Bogotá where the officials torture them to try to illicit a confession.¹⁷³

November 8, 1985: The officials transfer the men to the Number 13 Police Battalion in Puente Aranda and then to the model prison in Bogotá.¹⁷⁴

November 23, 1985: The men are released from the model prison.¹⁷⁵

B. Other Relevant Facts

Following the 1970 presidential elections, a guerrilla movement entitled the 19th of April Movement (“M-19”) emerges.¹⁷⁶ M-19 already

165. *Id.* ¶ 142.

166. *Id.*

167. *Id.*

168. *Id.*

169. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 142.

170. *Id.* ¶ 143.

171. *Id.*

172. *Id.* ¶ 144.

173. *Id.*

174. *Id.*

175. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 144.

176. *Id.* ¶ 89.

intends to make a political statement because the President and his defense minister violated a peace agreement with the M-19s and the M-19s hope to force the Supreme Court to bring a case against the President¹⁷⁷ However, the Medellín drug cartel finds common ground over the government's position of enforcing the US-Colombia extradition treaty.¹⁷⁸ Pablo Escobar, the leader of the Medellín cartel, allegedly pays the M-19 group \$1,000,000.00 to attack the Palace of Justice.¹⁷⁹ In addition to the attack causing political uproar, the fires destroy over 6,000 criminal case files, including the case against Pablo Escobar.¹⁸⁰

In the 1970s and 1980s, an average of twenty-five judges and lawyers are victims of assassination attempts annually.¹⁸¹ During this time, the Supreme Court continually makes rulings asserting its independence from the executive branch.¹⁸²

It is unclear exactly how many people die during the siege on the Palace of Justice.¹⁸³ The Colombian Institute of Forensic Medicine recover 94 bodies; however, since three separate fires raze the building, forensic specialists struggle to identify the victims.¹⁸⁴

II. PROCEDURAL HISTORY

A. *Before the Commission*

December 1990: Enrique Rodríguez Hernández lodges a petition before the Commission on the basis of the alleged disappearances of Mr. Carlos Augusto Rodríguez Vera, Ms. Cristina del Pilar Guarín Cortés, Mr. David Suspes Celis, Mr. Bernardo Beltrán Hernández, Mr. Héctor Jaime Beltrán Fuentes, Ms. Gloria Stella Lizarazo Figueroa, Ms. Luz Mary Portela León, Ms. Ana Rosa Castiblanco Torres, Ms. Norma Costanza Esguero Forero, Ms. Lucy Amparo Oveido Bonilla, Ms. Gloria Anzola de Lanao, and Ms. Irma Franco Pineda (Hereinafter, “the disappeared victims”).¹⁸⁵

March 31, 2010: The Colombian Association of Retired Military

177. Woody, *supra* note 2.

178. *Id.*

179. *Id.*

180. *Id.*

181. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 92.

182. *Id.*

183. *Id.* ¶ 104.

184. *Id.*

185. *Id.* fn. 1.

(“ACORE”) submits an *amicus curiae* brief.¹⁸⁶

April 13, 2010: The Association of Victims of the Colombian Guerrilla/Visible Heroes Foundation submits an *amicus curiae* brief.¹⁸⁷

October 31, 2011: The Commission issues Admissibility and Merits Report No. 137/11.¹⁸⁸ The Commission finds that Colombia violated the recognition of juridical personality and the rights to life, humane treatment, and personal liberty under Articles 3, 4, 5, and 7, in relation to Article 1(1) (Obligation of Non-Discrimination) of the American Convention and in relation to Articles 1(a) (Prohibition of Practicing, Tolerating or Permitting Forced Disappearances) and 11 (Right to Officially Recognized Detention Location and to Be Promptly Brought Before Competent Judicial Authority) of the Inter-American Convention on Forced Disappearances to the detriment of the disappeared victims.¹⁸⁹

The Commission also finds that Colombia violated the rights to humane treatment and personal liberty under Articles 5 and 7 in relation to Article 1(1) of the American Convention to the detriment of Ms. Santodomingo Albericci, Mr. Quijano, Mr. Rubiano Galvis and Mr. Matson Ospino.¹⁹⁰

Additionally, the Commission finds that Colombia violated the rights to judicial protection and judicial guarantees under Articles 1(1), 8(1), and 25(1) in relation to Articles 1 (Obligation to Prevent and Punish Torture), 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment), and 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent Torture to the detriment of Ms. Santodomingo Albericci, Mr. Quijano, Mr. Rubiano Galvis and Mr. Matson Ospino.¹⁹¹

The Commission also finds that Colombia violated the rights to judicial protection and judicial guarantees under Articles 1(1), 8(1), and 25(1) in relation to Article 1(b) (Duty to Punish Forced Disappearances) of the Inter-American Convention of Forced Disappearances to the detriment of the disappeared victims, their next of kin, and the next of kin of Mr. Urán Rojas.¹⁹²

Finally, the Commission determines that Colombia violated the

186. *Id.* ¶ 10.

187. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 10.

188. *Id.* ¶ 2.

189. *Id.*

190. *Id.*

191. *Id.*

192. *Id.*

right to personal integrity under Article 5(1) in relation to Article 1(1) of the American Convention to the detriment of the next of kin of the victims forcibly disappeared, tortured, and executed.¹⁹³

B. Before the Court

February 9, 2012: The Commission submits the case to the Court because Colombia has not made substantial progress to comply with the recommendations in the Admissibility and Merits Report.¹⁹⁴

1. Violations Alleged by Commission¹⁹⁵

Article 3 (Right to Juridical Personality)

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

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

Article 7 (Right to Personal Liberty)

all in relation to:

Article 1(1) (Obligation of Non-Discrimination) of the American Convention

Article 1(a) (Prohibition of Practicing, Tolerating, or Permitting Forced Disappearances)

Article 11 (Right to Officially Recognized Detention Location and Be Promptly Brought Before Competent Judicial Authority) of the Inter-American Convention on Forced Disappearances of Persons

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

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(b) (Duty to Punish Forced Disappearances) of the Inter-American Convention on Forced Disappearances of Persons

Article 1 (Obligation to Prevent and Punish Torture),

Article 6 (Obligation to Take Effective Measures to Punish Torture and Cruel, Inhuman, Degrading Treatment)

193. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 2.

194. *Id.* ¶ 3.

195. Case of Rodríguez Vera et. al. (The Disappeared from the Palace of Justice) v. Colombia, Petition to the Court, Inter-Am. Comm'n H.R., Case. No. 10.738, pg. 4-5 (Feb. 9, 2012).

Article 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture

2. Violations Alleged by Representatives of the Victims¹⁹⁶

Article 8 (Right to a Fair Trial)

Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) (Obligation of Non Discrimination)

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

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

November 24-25, 2012: The State submits six preliminary objections and contests the statement of facts and violations provided by the Commission and the legal representatives of the victims.¹⁹⁷

October 17, 2013: The State submits a brief partially acknowledging responsibility of the violations alleged by the victims and the Commission.¹⁹⁸ Additionally, Pax Romana International Catholic Movement for Intellectual and Cultural Affairs (“ICMICA”) submits an *amicus curiae* brief.¹⁹⁹

November 10, 2013: The State submits a second brief partially acknowledging responsibility for the violations alleged by the victims and the Commission,²⁰⁰ thus narrowing their preliminary objections to a lack of material competence and a lack of temporal competence.²⁰¹

November 11 and 12, 2013: ACORE submits an *amicus curiae* brief.²⁰²

196. Rodríguez Vera et. al. (The Disappeared from the Palace of Justice) v. Colombia, Admissibility Report, ¶ 3. The *Colectivo de Abogados José Alvear Restrepo* (“CAJAR”), the Center for Justice and International Law (“CEJIL”), Mr. Jorge Eliecer Molano Rodríguez, Mr. Germán Romero Sánchez, and the *Comisión Intereclesial de Justicia y Paz* serve as representatives of the victims. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 6.

197. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 7.

198. *Id.* ¶ 12.

199. *Id.* ¶ 14.

200. *Id.* ¶ 12.

201. *Id.* ¶¶ 36, 37.

202. *Id.* ¶ 14.

November 14, 2013: The German Association of Judges submits an *amicus curiae* brief.²⁰³

November 28, 2013: The American Bar Association²⁰⁴ and Human Rights in Practice submits *amicus curiae* briefs.²⁰⁵

November 14, 2014: The Court rejects the first preliminary objection that the Court lacks material competence because the application of international humanitarian law in the case would be more of a reference point since neither the Commission nor the victims asserted any specific violations of international humanitarian law.²⁰⁶ In addition, the Court rejects the lack of competence to examine violations of the Inter-American Convention on Forced Disappearance with regard to Ms. Castiblanco because Article XIII of the Inter-American Convention of Forced Disappearance establishes that the Court has the authority to process petitions of alleged forced disappearances.²⁰⁷ Therefore, the mere allegation that Ms. Castiblanco Torres was a victim of forced disappearance allows the Court to have jurisdiction.²⁰⁸

III. MERITS

A. *Composition of the Court*²⁰⁹

Roberto F. Caldas, President
Eduaro Ferrer MacGregor Poisot, Judge
Diego García-Sayán, Judge
Manuel E. Ventura Robles, Judge
Eduardo Vio Grossi, Judge

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

203. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 14.

204. See Brief for the American Bar Association as Amici Curiae Supporting Petitioners, Case of Rodríguez Vera, et. al. (The Disappeared from the Palace of Justice) v. Colombia, Inter-Am. Ct. H.R., (ser. C), No. 287 (Oct. 8, 2013).

205. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 14.

206. *Id.* ¶ 39.

207. *Id.* ¶ 43.

208. *Id.* ¶ 44.

209. As a Colombian national, the President of the Court, Judge Humberto Antonio Sierra Porto, did not participate in the proceedings. *Id.* n*. Judge Alberto Pérez Pérez did not participate for reasons beyond his control. *Id.*

B. Decision on the Merits

November 14, 2014: The Court issues its judgment on preliminary objections, merits, reparations, and costs.²¹⁰

The Court unanimously found that the State violated:

Articles 3 (Right to Juridical Personality), 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) (Obligation of Non-Discrimination) and Article 1(a) (Prohibition of Practicing, Tolerating or Permitting Forced Disappearances) of the Inter-American Convention on Forced Disappearances, to the detriment of the disappeared victims²¹¹ because:

*The Court first determined that these victims were forcibly disappeared and therefore had their rights violated because the context of these actions inherently violate the rights of the Convention; as in its previous cases, the Court held that enforced disappearances violate multiple international human rights norms.*²¹²

*The three elements of enforced disappearance are the State: (1) deprives an individual of their liberty; (2) directly intervenes or acquiesces; and (3) refuses to acknowledge or give information regarding the detention.*²¹³ *The Court considers the disappearance ended only when the person's location is determined or the remains are reliably identified.*²¹⁴ *During the disappearance, the State must investigate and then punish those deemed responsible.*²¹⁵ *Since this analysis involves the violation of many human rights over time, it must span the entire disappearance.*²¹⁶

*First, the State military officials classified the survivors as "suspicious."*²¹⁷ *They believed the cafeteria workers aided M-19 in the attack*

210. *Id.*

211. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, "Operative Paragraphs" ¶ 3.

212. *Id.* ¶¶ 227-28, 321.

213. *Id.* ¶ 226.

214. *Id.* ¶ 228.

215. *Id.*

216. *Id.* ¶ 234.

217. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 243.

since the group first took over the cafeteria, and the officials believed the three visitors could not properly justify their purpose in the Palace of Justice or identify themselves.²¹⁸ Classification alone does not violate the Convention and instead demonstrates the State's duty to maintain safety.²¹⁹ However, the victim's classifications become relevant in the context of their forced disappearances.²²⁰

The Court held that detentions, irrespective of their purpose or duration, must be recorded and include: a reason for detention, the identity of who detained the individual, the detention's length, and the official notice to a judge.²²¹ Military officers took survivors to the second floor of the Casa del Florero to identify them; however, four inconsistent lists of survivors were included in the case file and others (including Ms. Santodomingo Albericci, Mr. Matson Ospino, and Ms. Franco Pineda) were not registered.²²² The State argued that this was a high-pressure situation involving hostages so everyone was considered a suspect.²²³ However, the Court indicated this does not justify the failure to register the detentions.²²⁴ Additionally, if the officers had properly recorded these detentions, there would not have been an issue of enforced disappearances and it would have aided those identifying the dead.²²⁵ The Court held that the failure to register suspicious persons and absence of a record contributed to the enforced disappearances based on element three: the denial of information.²²⁶

Special forces transferred several of the suspicious hostages to other military facilities where at least seven of them disappeared.²²⁷ These disappearances were confirmed through military testimony,²²⁸ and a radio transmission appearing to give "final orders" regarding some detainees.²²⁹

218. *Id.* ¶¶ 239; 241.

219. *Id.* ¶ 243.

220. *Id.*

221. *Id.* ¶ 247.

222. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 245.

223. *Id.* ¶ 246.

224. *Id.*

225. *Id.* ¶ 247.

226. *Id.* ¶ 249.

227. *Id.* ¶ 250.

228. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 252-53.

229. *Id.* ¶ 254.

Some family members were informed that their loved one survived the siege from military officers, radio transmissions, or other survivors.²³⁰ The case file indicated that some or all of the cafeteria staff survived the siege.²³¹ In the following days, some family members heard their loved one had been transferred to the North Canton and the Charry Solano Battalion,²³² which support the hypothesis that the victims left the Palace of Justice alive and the military detained them.²³³

One element of a forced disappearance is the State's refusal to give information to family members, making it harder to ask questions about the disappearance.²³⁴ Here, multiple family members asked for information and were told their loved ones were not detained,²³⁵ and since the Court determined that the detentions occurred, these denials satisfy element three.²³⁶

The Court held that State crime scene investigators did not meet the standard for processing because of the numerous errors in handling the deceased, and in processing and inspection.²³⁷ These errors created difficulty in determining facts and were so blatant, the Court believes they were not accidental but instead intended to cover-up what actually occurred during the military operation.²³⁸

Some family members received threats to stop searching for their loved ones.²³⁹ The case file proves the State was aware of some of these threats, and that it ordered security for Ms. Santodomingo and her family.²⁴⁰ The State did not attempt to deny that these threats were made.²⁴¹

Because the release of hostages from the Palace of Justice was transmitted across various television channels,²⁴² many family members saw loved

230. *Id.* ¶ 255-56.

231. *Id.* ¶ 257.

232. *Id.* ¶ 260.

233. *Id.* ¶ 262.

234. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 265.

235. *Id.* ¶ 266.

236. *Id.* ¶ 268.

237. *Id.* ¶ 269.

238. *Id.* ¶ 270.

239. *Id.* ¶ 271.

240. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 272.

241. *Id.*

242. *Id.* ¶ 273.

ones leave alive, but all attempts to recover the footage were futile.²⁴³ The Court determined that identifications made by video could not count as evidence since they could not be properly corroborated.²⁴⁴

The State argued that the victims may have died in the siege and their bodies have not been recovered or properly identified.²⁴⁵ However, in the early 2000's, the South Grave was exhumed and only one victim out of ninety bodies was identified through genetic tests.²⁴⁶ Additionally, even if their bodies were included in the mass grave, the victims still could have left the Palace of Justice alive.²⁴⁷ Expert testimony on the length of time the fire burned and its effect on corpses was not definitive but unlikely to burn bodies to ash.²⁴⁸ Further, the probability of identification errors occurring to all of the eight disappeared cafeteria workers is low.²⁴⁹ The State's expert witness suggested that the military may have buried some Palace of Justice victims in a different mass grave and that they did not properly guard the South Grave.²⁵⁰ Therefore, the Court rejected the State's theories.²⁵¹

Although the State commenced multiple domestic investigations, it did not determine one official factual narrative as to the victims.²⁵² The evidence and investigations suggest that these victims were forcibly disappeared and the State even acknowledged its negligence played a factor.²⁵³ For the foregoing reasons, the Court determined that all the elements of forced disappearances were met.²⁵⁴

Forced disappearances inherently violate Article 1(a) (Prohibition of Practicing, Tolerating or Permitting Forced Disappearances) of the Inter-American Convention on Forced Disappearances, as well as other

243. *Id.* ¶¶ 237-74.

244. *Id.* ¶ 275.

245. *Id.* ¶ 289.

246. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 290.

247. *Id.* ¶ 293.

248. *Id.* ¶ 295.

249. *Id.* ¶ 296.

250. *Id.* ¶ 297.

251. *Id.* ¶ 298.

252. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 299.

253. *Id.* ¶ 302.

254. *Id.* ¶ 305.

international human rights.²⁵⁵ Since the first element of a forced disappearance is deprivation of liberty, when a victim is not registered with or brought before the proper authorities, this simultaneously violates Article 7 (Right to Personal Liberty) and satisfies the first element of a forced disappearance.²⁵⁶

Forced disappearances violate Article 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture and Cruel, Inhuman or Degrading Treatment) and 7 (Right to Personal Liberty) because detainees are often subjected to coercive and prolonged periods of solitary confinement.²⁵⁷ The Court presumed military members performed these and other acts of torture on the victims.²⁵⁸ Forced disappearances also violate Article 4(1) (Prohibition of Arbitrary Deprivation of Life) because when State agents are free to torture or murder with impunity, this violates the obligation of the State to protect people's physical integrity and life.²⁵⁹ Moreover, forced disappearances often involve an execution without due process followed by a cover-up.²⁶⁰ Finally, forced disappearances violate Article 3 (Right to Juridical Personality) because inherent in a forced disappearance is a removal from the protection of law; just as the Court found here, these victims were in a "legal limbo" where they could not exercise any of their legal rights.²⁶¹

In conclusion, the Court found the State violated Articles 3, 4(1), 5(1), 5(2) and 7 of the Convention because the military forcibly caused the victims to disappear, denied responsibility, and deliberately took steps to conceal this from their families.²⁶²

Article 4 (Right to Life), in relation to Article 1(1) of the Convention, to the detriment of Ms. Ana Rosa Castiblanco Torres and Ms. Norma Constanza Esguerra Forero,²⁶³ because:

255. *Id.* ¶ 321.

256. *Id.* ¶ 322.

257. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 322.

258. *Id.*

259. *Id.* ¶ 323.

260. *Id.*

261. *Id.*

262. *Id.* ¶ 324.

263. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, "Operative Paragraphs" ¶ 4.

Neither Ms. Esguerra Forero nor Ms. Castiblanco Torres were determined to be forcibly disappeared; however, the State still violated Article 4 (Right to Life),²⁶⁴ which can be violated if bodies are treated in a demeaning manner, including a failure to both respect basic standards of identification and to return bodies to their families.²⁶⁵ Thus, the Court recognized an obligation for the State to tell families the truth about a loved one's location.²⁶⁶

Ms. Esguerra Forero's mother identified her belongings next to a severely burned body the day following the siege and the autopsy report showed this body belonged to an unidentified woman.²⁶⁷ However, officials returned this body to the family of Justice Pedro Elías Serrano.²⁶⁸ In 2002, the family of Ms. Esguerra Forero asked for either the exhumation of the body returned to Justice Serrano's family or her daughter's death certificate; no Court evidence showed that Colombian officials took any steps in response.²⁶⁹ At the time of the Judgment, the location of Ms. Esguerra Forero's remains was still unknown.²⁷⁰

Ms. Castiblanco Torres's body was one of those discovered during the mass exhumation of the South Grave.²⁷¹ The autopsy records are unclear, but the burning of her body suggests that she died in a fire during the siege.²⁷² Due to inconsistent evidence, the Court could not declare her forcibly disappeared.²⁷³ However, this did not absolve the State from its obligations under Article 4 (Right to Life) because the State still had a duty to inform her family of the location of her remains, which were unknown for sixteen years because she was buried in a mass grave.²⁷⁴

Therefore, the Court held that Colombia violated its obligation to Ms. Esguerra Forero and Ms. Castiblanco Torres' next of kin by its treatment of their bodies, burying Ms. Castiblanco Torres in a mass grave without

264. *Id.* ¶¶ 317, 320; “Operative Paragraphs” ¶ 4.

265. *Id.* ¶ 327.

266. *Id.* ¶ 326.

267. *Id.* ¶ 307.

268. *Id.*

269. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 313.

270. *Id.* ¶ 326.

271. *Id.* ¶ 318.

272. *Id.* ¶ 320.

273. *Id.*

274. *Id.* ¶ 326.

following efficient identification protocol, and failing to return Ms. Esquerro Forero's body to the proper family.²⁷⁵

Articles 3 (Right to Juridical Personality), 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 Carlos Horacio Urán Rojas,²⁷⁶ because:

As discussed above, the elements of a forced disappearance are: (1) an individual is deprived liberty; (2) State agents directly intervene or acquiesce; and (3) the State refuses to acknowledge this deprivation and provide information about the location or fate of the individual.²⁷⁷ This third element heightens the violation from extrajudicial execution to a forced disappearance.²⁷⁸ The State presented contradictory evidence as to Mr. Urán Rojas's fate after it was proven that he was in the Palace of Justice during the siege in a bathroom in between the second and third floors.²⁷⁹ Some evidence suggested he was killed in the bathroom while other evidence purported no bomb exploded in the bathroom and that he must have died later.²⁸⁰ Multiple eyewitnesses also claimed to have seen Mr. Urán Rojas leave the Palace of Justice alive²⁸¹ and multiple videos identified him leaving alive.²⁸² His wife received his body without any personal effects and several autopsies performed concluded inconsistent causes of death.²⁸³ The State acknowledged responsibility by omission for failing to properly investigate what happened to Mr. Urán Rojas.²⁸⁴ The Court noted that his body was found amongst those labeled "guerillas" and had a similar gunshot wound as seven other guerrilla members.²⁸⁵

After examining this evidence, the Court determined that Mr. Urán Rojas

275. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 327.

276. *Id.* "Operative Paragraphs" ¶ 5.

277. *Id.* ¶ 365.

278. *Id.* ¶ 366.

279. *Id.* ¶ 331.

280. *Id.* ¶ 335.

281. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 336-38.

282. *Id.* ¶¶ 339-42.

283. *Id.* ¶¶ 345-54.

284. *Id.* ¶ 355.

285. *Id.* ¶ 358.

*left the Palace of Justice alive in the State's custody, he was not registered on any list of survivors, and the State subsequently executed him,*²⁸⁶ *which satisfies the first two elements of a forced disappearance.*²⁸⁷ *The absence of any registration of his detainment combined with the State's impediment of his family's investigation satisfies the third element.*²⁸⁸ *Thus, the Court found Colombia violated Articles 3 (Right to Juridical Personality), 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) to the detriment of Mr. Urán Rojas.*²⁸⁹

Articles 7(1) (Right to Personal Liberty and Security), 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law) and 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), in relation to Article 1(1) of the Convention, to the detriment of Ms. Yolanda Santodomingo Albericci, Mr. Eduardo Matson Ospino and Mr. Orlando Quijano,²⁹⁰ because:

*The State violated Mr. Quijano, Mr. Matson Ospino and Ms. Santodomingo Albericci's rights under Articles 7(1) (Right to Personal Liberty and Security), 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law), and 7(3) (Prohibition of Arbitrary Arrest or Imprisonment) because the military officials did not properly register their detentions, their detentions were not based on established domestic norms or on any objective and specific criteria, and the State denied evidence of their detentions.*²⁹¹ *A detention must comply with Article 7 even if it is only to identify someone or to ensure public order.*²⁹² *The Court determines whether a detention complied with Article 7(2) after examining the reasons and procedure established within domestic law.*²⁹³ *The State attempted to provide the Court with justifiable reasons for Mr. Quijano's detention too late and thus was time-barred.*²⁹⁴ *Further, Article 28 of Colombia's Constitution requires a government*

286. *Id.* ¶ 364.

287. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 365.

288. *Id.* ¶¶ 367-68.

289. *Id.* ¶ 369.

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

291. *Id.* ¶ 410.

292. *Id.* ¶ 404.

293. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 405.

294. *Id.*

order after the ministers give their opinion, which is only admissible when “significant indicators” show the individual is violating public peace.²⁹⁵ The State could not definitively prove this in Mr. Quijano’s case.²⁹⁶ State documents showed he was only detained because he was near the Palace of Justice and acting “suspiciously” before the M-19 attack.²⁹⁷ However, the Truth Commission proved Mr. Quijano was inside the Palace of Justice during the attack and evacuated that night.²⁹⁸ Moreover, the State’s argument that it detained Mr. Quijano for identification purposes is meritless because he presented his identification documents to military officials.²⁹⁹

Additionally, the Court defined “arbitrary” under Article 7(3) as any deprivation of liberty without a specific reason or motive.³⁰⁰ In Mr. Quijano’s case, the State did not argue any objective or specific reason for his detainment.³⁰¹ Similarly, military officials subjectively classified Mr. Matson Ospino and Ms. Santodomingo Albericci as “suspicious” and did not utilize any objective criteria.³⁰² For the foregoing reasons, the Court found Colombia violated Mr. Quijano, Mr. Matson Ospino, and Ms. Santodomingo Albericci’s rights under Article 7(1) (Right to Personal Liberty and Security), 7(2) (Prohibition of Deprivation of Liberty Unless for Reasons and Conditions Previously Established by Law) and 7(3) (Prohibition of Arbitrary Arrest or Imprisonment) of the Convention.³⁰³

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), in relation to Article 1(1) of the Convention to the detriment of Mr. José Vicente Rubiano Galvis,³⁰⁴ because:

The State violated Mr. Rubiano Galvis’s rights under 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) because he was detained without a court order, was accused of acts

295. *Id.*

296. *Id.*

297. *Id.* ¶ 406.

298. *Id.*

299. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 407.

300. *Id.* ¶ 408.

301. *Id.*

302. *Id.* ¶ 409.

303. *Id.* ¶ 410.

304. *Id.* “Operative Paragraphs” ¶ 7.

*unrelated to his alleged crime, was not permitted to speak to his family, the military denied his detainment, and there was no proof of his detention.*³⁰⁵ *The State claimed it properly detained Mr. Rubiano Galvis because it found him in flagrante delicto, or clearly in the midst of committing a crime which violated Decree 1056, permitting the detention of an individual without a court order in a state of emergency.*³⁰⁶ *However, even in times of emergency, the military still must only detain individuals according to a “strict criteria of due diligence” and comply with the State’s treaty obligations.*³⁰⁷ *Additionally, the State has the burden of proof if it raises an in flagrante delicto detention.*³⁰⁸ *In this case, the State only provided the Court with documentation showing that the military detained Mr. Rubiano Galvis at a military checkpoint after seizing weapons on a public bus, and that Mr. Rubiano Galvis was seen before a military criminal investigation judge.*³⁰⁹ *Although the “hearing” could show evidence of a proper procedural norm, the State did not provide sufficient documentation to prove the lawfulness of Mr. Rubiano Galvis’s detention.*³¹⁰ *Further, Mr. Rubiano Galvis and his representatives rebutted with evidence showing he could not contact his family, and was subjected to torture.*³¹¹ *For the foregoing reasons, the Court found the State violated Mr. Rubiano Galvis’s rights.*³¹²

Articles 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), 11(1) (Right to Honor and Dignity) and 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attacks on Honor and Dignity), in relation to Article 1(1) of the Convention, to the detriment of Mr. José Vicente Rubiano Galvis,³¹³ because:

The Court found that the acts of sexual violence performed by the military

305. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 416.

306. *Id.* ¶ 411.

307. *Id.* ¶ 412.

308. *Id.* ¶ 413.

309. *Id.*

310. *Id.*

311. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 413-15.

312. *Id.* ¶ 416.

313. *Id.* “Operative Paragraphs” ¶ 8.

on Mr. Rubiano Galvis constituted torture and violated his right to privacy.³¹⁴ The Court determines a violation of the right to physical and mental integrity on a case-by-case basis.³¹⁵ This Court has held that one of the most deplorable violations is when a State's agent commits an act of sexual violence against a detainee.³¹⁶ The Court defined sexual violence as "acts of a sexual nature committed on a person without his consent" and can include actions even absent physical contact.³¹⁷ Here, the military took Mr. Rubiano Galvis to multiple detainment locations where officials beat him and shocked various body parts, including his genitals, with electric currents in an attempt to make him confess to involvement with M-19.³¹⁸ This action constitutes torture under Articles 5(1) and 5(2) because sexual violence against a detainee degrades the victim physically and emotionally, causes psychological damage, and was performed to illicit a confession.³¹⁹

Further, Article 11 (Right to Privacy) protects an individual's privacy, including his sexual life, and therefore this act of sexual violence violated Mr. Rubiano Galvis's rights under Articles 11(1) (Right to Honor and Dignity) and 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attacks on Honor and Dignity).³²⁰

Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture and Cruel, Inhumane or Degrading Treatment), in relation to Article 1(1) of the Convention, to the detriment of Ms. Yolanda Santodomingo Albericci and Mr. Eduardo Matson Ospino,³²¹ because:

The Court recognized that acts of unnecessary force on a detainee violate Article 5 (Right to Humane Treatment).³²² In previous cases, the Court more narrowly articulated "torture" as: (1) intentional ill-treatment that (2) causes "severe physical or mental suffering;" and (3) is performed

314. *Id.* ¶ 425.

315. *Id.* ¶ 421.

316. *Id.* ¶ 425.

317. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 425.

318. *Id.* ¶ 423.

319. *Id.* ¶¶ 424-25.

320. *Id.* ¶ 425.

321. *Id.* "Operative Paragraphs" ¶ 9.

322. *Id.* ¶ 419.

for an objective or purpose.³²³ Here, the military detained Ms. Santodomingo Albericci and Mr. Matson Ospino because they appeared suspicious.³²⁴ The officials threatened to shoot them, subjected them to long interrogations where they were kicked and told to confess, forced to undergo the gauntlet test, subjected to a “eucalyptus” smelling gas that caused a suffocating feeling, turned in circles to disorient them, and handcuffed to beds where they were interrogated.³²⁵ The Court also determined that some of the military’s actions directed towards Ms. Santodomingo Albericci specifically, including threats to cut her hair and throw her naked into a waterfall, qualified as violence against women.³²⁶ The Court held that the military actions against the students constituted intentional ill treatment and satisfied the first element.³²⁷ The students suffered physically and psychologically, thereby satisfying the second element.³²⁸ Since the military performed these actions to illicit a confession, the Court held the ill treatment satisfied the third element.³²⁹ Therefore, Colombia violated Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture and Cruel, Inhumane, or Degrading Treatment) to the detriment of Ms. Santodomingo Albericci and Mr. Matson Ospino.³³⁰

Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture and Cruel, Inhumane or Degrading Treatment), in relation to Article 1(1) of the Convention, to the detriment of Mr. Orlando Quijano,³³¹ because:

The military forced Mr. Quijano to hold his hands above his head for extended periods of time through multiple, lengthy interrogations.³³² Although the military engaged in these activities to illicit Mr. Quijano’s confession, they caused him less suffering and he testified he did not consider this torture.³³³ Instead, the Court determined these actions qualified as “cruel and degrading treatment” in violation of Articles 5(1) (Right to

323. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs ¶ 420.

324. *Id.* ¶ 422.

325. *Id.*

326. *Id.* ¶ 427.

327. *Id.* ¶ 424.

328. *Id.*

329. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 424.

330. *Id.*

331. *Id.* “Operative Paragraphs” ¶ 10.

332. *Id.* ¶ 423.

333. *Id.* ¶ 428.

*Physical, Mental, and Moral Integrity) and 5(2)(Prohibition of Torture and Cruel, Inhumane or Degrading Treatment).*³³⁴

Articles 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 Article 1(1) of the Convention and Article 1(b) (Duty to Punish Forced Disappearances) of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of the next of kin of the disappeared victims,³³⁵ because:

*Articles 8 (Right to a fair Trial) and Article 25 (Right to Judicial Protection) require states to competently investigate alleged human rights violations and “provide effective judicial remedies” to the victims with proper due process considerations.*³³⁶ *In the years following the siege, some Colombian military officials have been held responsible for the forced disappearances in criminal courts, disciplinary hearings, or in the military criminal jurisdiction; however, none of these decisions are final, and numerous appeals were pending at the time of this Judgment.*³³⁷

*This Court has held in prior cases that the military criminal jurisdiction has a limited scope and should only be utilized to try active soldiers for offenses relating to the internal function of the military; it is not the proper jurisdiction to investigate human rights violations.*³³⁸ *The investigation of Ms. Franco Pineda’s forced disappearance should have been conducted under ordinary jurisdiction*³³⁹ *because this jurisdiction does not punish forced disappearances.*³⁴⁰ *Since her family could not participate in these proceedings, this prevented the conviction of high-ranking officials in the ordinary jurisdiction.*³⁴¹ *Therefore, the State violated the victims’ rights to ordinary judges.*³⁴²

*States have the obligation to impose proportional sentences upon those convicted.*³⁴³ *The UN High Commissioner for Human Rights indicated*

334. *Id.*

335. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, “Decides” ¶ 11.

336. *Id.* ¶¶ 435-37.

337. *Id.* ¶ 433.

338. *Id.* ¶¶ 442-43.

339. *Id.* ¶ 447.

340. *Id.* ¶¶ 441; 446.

341. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 448.

342. *Id.* ¶ 450.

343. *Id.* ¶ 459.

that in this matter, illegally granting benefits to Army members convicted of extrajudicial executions could be considered a "form of impunity."³⁴⁴ After the military officials were convicted, they were moved across various military facilities to serve their sentences due to safety concerns.³⁴⁵ Witnesses say the official's "special sentence" is a farce and he still lives like a "regular officer."³⁴⁶ In this case, the Court found the State had not violated this requirement because of legitimate safety concerns and the human rights obligation owed to the detainee.³⁴⁷

If a forced disappearance is suspected, states have the obligation to open a competent, independent, ex officio, and timely criminal investigation.³⁴⁸ Even though family members asked for information immediately following the attack and also voiced theories of disappearances,³⁴⁹ the State did not open any investigations and denied disappearances.³⁵⁰ Even after multiple ordinary jurisdiction investigations determined Ms. Franco Pineda had been forcibly disappeared, the military criminal jurisdiction declared there was insufficient evidence to reach this conclusion.³⁵¹ Therefore, the Court found the State failed to open an ex officio investigation.³⁵²

The State had the duty to search for the missing victims³⁵³ but in cases of alleged forced disappearances, states have the heightened obligation to conduct investigations timely and utilize all necessary measures,³⁵⁴ including all legal mechanisms.³⁵⁵ This is critical because states also owe an obligation to the next of kin to provide the truth about a loved one's whereabouts.³⁵⁶ Here, the next of kin lead the charge to determine loved ones' whereabouts whereas the government performed only fragmented investigations.³⁵⁷ At the time of judgment, the whereabouts of the eleven

344. *Id.* ¶ 461.

345. *Id.* ¶¶ 452-56.

346. *Id.* ¶ 458.

347. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 465; 468-470.

348. *Id.* ¶ 475.

349. *Id.* ¶ 471.

350. *Id.* ¶ 473.

351. *Id.* ¶ 474.

352. *Id.* ¶ 477.

353. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 478.

354. *Id.* ¶¶ 479-80.

355. *Id.* ¶ 488.

356. *Id.* ¶ 481.

357. *Id.* ¶ 483.

missing victims was still unknown.³⁵⁸ The Court concluded that the State did not take sufficient measures and did not conduct proper investigative or legal strategy,³⁵⁹ therefore, it did not comply with its obligations³⁶⁰ to determine the whereabouts of the victims and thus violated the family members' access to justice.³⁶¹

The State also owes an obligation to conduct the investigation within a reasonable time.³⁶² Since most substantive investigations took place almost twenty years after the siege, the Court did not analyze this in detail and summarily determined a violation of the reasonable time requirement.³⁶³

The family member's right to know the truth exists within articles in the Convention, other international legal documents, and through this Court's case law.³⁶⁴ At the time of this judgment, the truth of what happened to the victims was still unknown.³⁶⁵ Since this right is included within other Articles, the Court did not make a separate determination as to any violation of this right.³⁶⁶

For the foregoing reasons, the Court found the State violated Articles 8(1) (Right to a Hearing Within a Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court) to the detriment of the forcibly disappeared victims.³⁶⁷

Articles 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 Article 1(1) of the Convention and Articles 1 (Obligation to Prevent and Punish Torture), 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment), and 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Ms. Yolanda Santodomingo Albericci, Mr. Eduardo Matson

358. *Id.* ¶ 478.

359. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 485-86.

360. *Id.* ¶¶ 504-05.

361. *Id.* ¶¶ 485-86.

362. *Id.* ¶ 505.

363. *Id.* ¶¶ 506-07.

364. *Id.* ¶ 509.

365. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 510.

366. *Id.* ¶ 511.

367. *Id.* ¶¶ 512-13.

Ospino, Mr. Orlando Quijano and Mr. José Vicente Rubiano Galvis,³⁶⁸ because:

As discussed above, states must comply with due process by investigating alleged human rights violations and providing victims with effective judicial remedies.³⁶⁹ The military criminal jurisdiction has a limited scope³⁷⁰ and does not meet the necessary independence and impartiality requirements.³⁷¹ The military conducted the investigation into Ms. Santodomingo Albericci and Mr. Matson Ospino's detention under this jurisdiction.³⁷² Therefore, the State violated the right to ordinary judges.³⁷³

States must investigate allegations of torture or inhumane treatment, and punish those responsible.³⁷⁴ Because Ms. Santodomingo Albericci and Mr. Matson Ospino reported their torture days later and Mr. Quijano testified about his torture in court,³⁷⁵ Colombia was on notice of these events.³⁷⁶ Even after the Special Court declared Ms. Santodomingo Albericci and Mr. Matson Ospino were subjected to ill treatment, investigations closed in 1993 and were not reopened until 2007.³⁷⁷ Therefore, the Court concluded the State failed to conduct a proper ex officio investigation.³⁷⁸

For the foregoing reasons, including some of the reasons discussed above in regards to the forcibly disappeared victims, the Court found the State violated Articles 8(1) (Right to a Hearing Within a Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court) to the detriment of Ms. Santodomingo Albericci, Mr. Matson Ospino, Mr. Quijano, and Mr. Rubiano Galvis.³⁷⁹

368. *Id.* "Operative Paragraphs" ¶ 11.

369. *Id.* ¶¶ 435-37.

370. *Id.* ¶¶ 442-43; 445.

371. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 447.

372. *Id.* ¶ 441.

373. *Id.* ¶ 450.

374. *Id.* ¶ 476.

375. *Id.* ¶ 472.

376. *Id.* ¶¶ 471-72.

377. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs ¶ 472.

378. *Id.* ¶ 477.

379. *Id.* ¶¶ 512-13.

Articles 4(1) (Prohibition of Arbitrary Deprivation of Life) and 5(1) (Right to Physical, Mental, and Moral Integrity), in relation to Article 1(1) of the Convention, to the detriment of the disappeared victims,³⁸⁰ because:

For a State to comply with its obligations under Articles 4 (Right to Life) and 5 (Right to Humane Treatment), it has the negative obligation not only to refrain from killing anyone arbitrarily, but also the positive obligation to take the proper measures (administratively, politically, legally, and culturally) to ensure this right is complied with.³⁸¹ A violation of this right does not necessarily equate to non-compliance because it depends on means and action.³⁸² Additionally, this right also includes protecting individuals from potential third-party violators, not just state actors.³⁸³ To determine whether the State failed to comply with its obligations, the Court examines whether: (1) a real and imminent danger to the life existed; (2) at that time, the government knew or should have known of the danger; and (3) the government did not take necessary and reasonable preventative steps.³⁸⁴

Prior to the siege of the Palace of Justice, judges and their family members received years of death threats in attempts to persuade them to not enforce the United States-Colombia Extradition Treaty and threats made against human rights attorneys demonstrated evidence of such imminent danger that the government increased security at the Palace of Justice.³⁸⁵ Additionally, Colombian officials were aware of M-19's guerrilla activity and its intent to execute a large-scale terrorist attack, as demonstrated by their radio message, the building plans discovered during a raid and an intercepted tip the day before the attack.³⁸⁶ However, the government still reduced the Palace of Justice's security on November 4, 1985.³⁸⁷ The State claims that the President of the Supreme Court requested reduced security, but the President vehemently denies making that request.³⁸⁸ The

380. *Id.* “Operative Paragraphs” ¶ 12.

381. *Id.* ¶¶ 518-20.

382. *Id.* ¶ 519.

383. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 520.

384. *Id.* ¶ 523.

385. *Id.*

386. *Id.*

387. *Id.*

388. *Id.* ¶ 524.

*State should have properly assessed this risk by giving adequate protection and informing those involved of the enhanced risk.*³⁸⁹ *Additionally, since the obligation is one of means not results, the State's argument that the siege would have occurred irrespective of the amount of security is meritless.*³⁹⁰ *All that needs to be proven is that the State's acts or omissions lead to this result.*³⁹¹ *Therefore, the State violated Articles 4(1) (Prohibition of Arbitrary Deprivation of Life) and 5(1) (Right to Physical, Mental and Moral Integrity), because it knew of an imminent and real danger to those who worked and visited the Palace of Justice, yet did not heighten security.*³⁹²

Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) in relation to Article 1(1) (Obligation of Non-Discrimination) of the American Convention to the detriment of the next of kin of victims identified in paragraph 539,³⁹³ because:

*In previous cases, the Court has held that next of kin of victims can also be victims.*³⁹⁴ *The State acknowledged violating the right to personal integrity of the next of kin of those forcibly disappeared except for Ms. Guarín Cortés's niece and Ms. Castiblanco Torres's daughter.*³⁹⁵ *The State also accepted responsibility for violating the right to personal integrity for Ms. Santodomingo Albericci and Mr. Matson Ospino's next of kin, but not for Mr. Quijano or Mr. Rubiano Galvis's next of kin.*³⁹⁶ *The next of kin of forcibly disappeared victims are psychologically harmed and this is exacerbated when authorities refuse to give any information on the victim's whereabouts, or do not conduct an effective investigation.*³⁹⁷ *Here, the next of kin demonstrated harm in testifying about the traumatizing events as a result of their loved one's forced disappearance.*³⁹⁸ *All convinced the Court, except Ms. Crista del Pilar Guarín Cortés's niece, who is too distantly related and did not prove sufficient harm.*³⁹⁹

389. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 525-26.

390. *Id.* ¶ 527.

391. *Id.* ¶ 529.

392. *Id.* ¶¶ 528-30.

393. *Id.* "Operative Paragraphs" ¶ 13.

394. *Id.* ¶ 532.

395. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 532.

396. *Id.*

397. *Id.* ¶ 533.

398. *Id.* ¶ 534.

399. *Id.* ¶ 535.

*The Court also emphasized that the State should return the remains of Ms. Esguerra Forero and Ms. Castiblanco Torres as soon as possible.*⁴⁰⁰ *The Court found Colombia's negligent investigation into their whereabouts violated the right to mental and moral integrity of their next of kin.*⁴⁰¹ *However, Ms. Castiblanco Torres's biological daughter whom she gave up for adoption did not sufficiently prove harm.*⁴⁰² *Additionally, the Court found Colombia violated the right of integrity of Ms. Santodomingo Albericci and Mr. Matson Ospino's next of kin after receiving the State's acknowledgment of the violation, after hearing expert testimony, and after hearing testimony articulating the psychological harm they suffered after their family members returned.*⁴⁰³

The Court found unanimously:

The State was not responsible for Ms. Ana Rosa Castiblanco Torres and Ms. Norma Constanza Esguerra Forero's forced disappearances,⁴⁰⁴ because:

*In the case of Ms. Esguerra Forero, the Court found insufficient evidence to indicate the State forcibly caused her disappearance and some evidence showed she was actually killed during M-19's attack on the Palace of Justice.*⁴⁰⁵ *Additionally, Ms. Castiblanco Torres's body was carbonized upon exhumation, indicating she died in one of the many fires during the Palace of Justice siege and therefore, the Court found insufficient evidence to prove her forcible disappearance.*⁴⁰⁶

C. Dissenting and Concurring Opinions

1. Concurring Opinion of Judge Eduardo Ferrer Mac-Gregor Poisot

Judge Mac-Gregor Poisot discussed the progression of this Court's case law in further developing the next of kin of victims' "right to truth."⁴⁰⁷ In

400. *Id.* ¶ 536.

401. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 536.

402. *Id.* ¶ 537.

403. *Id.* ¶ 538.

404. *Id.* "Operative Paragraphs" ¶ 14.

405. *Id.* ¶ 317.

406. *Id.* ¶ 320.

407. Case of Rodríguez Vera et. al. (The Disappeared from the Palace of Justice) v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Concurring Opinion of Judge Eduardo

this case, the Court considered the State's violation of the "right to truth" a violation of Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection).⁴⁰⁸ However, Judge Mac-Gregor Poisot believes the violation of the "right to truth" no longer requires a violation of an obligation of the American Convention because case law and suggestions from other international bodies have transformed it into its own autonomous right that independently establishes obligations upon States.⁴⁰⁹

IV. REPARATIONS

The Court ruled unanimously⁴¹⁰ that the State had the following obligations:

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

1. Conduct an Extensive, Systematic, and Thorough Investigations to Determine What Occurred

The State must conduct this investigation while reflecting on this case's complexity with due diligence.⁴¹¹ Additionally, the State must avoid omissions while assessing the evidence and should follow up on logical investigations.⁴¹² The State cannot avoid its responsibilities by applying amnesty laws or arguing that the statute of limitations has run, *res judicata*, *ne bis in idem*, or that criminal law is non-retroactive.⁴¹³ The proper authorities must investigate *ex officio* and utilize all available resources to collect and process evidence and must have full access to any information that can clarify what occurred.⁴¹⁴ The State must identify and individualize the perpetrators and keep this investigation in ordinary jurisdiction.⁴¹⁵ Further, with respect to presumed sexual violence perpetrated against Ms. Santodomingo Albericci and Mr. Matson Ospino, the State must consider Mr. Matson Ospino's observations and conclusions

Ferrer MacGregor Poisot, Inter-Am. Ct. H.R., (ser. C) No. 287, ¶ 6 (Nov. 14, 2014).

408. *Id.*

409. *Id.*

410. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, "Operative Paragraphs," ¶ 18.

411. *Id.* ¶ 556.

412. *Id.*

413. *Id.*

414. *Id.*

415. *Id.*

from the expert witness.⁴¹⁶ The State must be transparent while conducting this investigation and the results must be publicized.⁴¹⁷

2. Conduct an Investigation to Determine What Happened to Norma Constanza Esguerra Forero and Rosa Castiblanco Torres

The State must conduct all necessary investigations under the same standard discussed above to determine what happened to Ms. Esguerra Forero and Ms. Castiblanco Torres.⁴¹⁸

3. Perform a Rigorous Search to Determine the Whereabouts of the Disappeared Victims

The State must determine the whereabouts of the missing victims to provide their families with closure and allow them to bury their loved one according to their beliefs, if possible.⁴¹⁹ Not only would this satisfy an obligation to the families, but also discovering the bodies would aid the investigation and help determine what occurred.⁴²⁰ The State must perform a thorough search and utilize every relevant judicial and administrative mechanism as well as proper technological and scientific methods.⁴²¹ Additionally, the State should establish measures for transparency to communicate with the victim's families and must cover the cost of any funerals.⁴²²

4. Provide Medical, Psychiatric, or Psychological Treatment Upon Request of the Victims and Pay for the Treatment of Victims Living Outside of Colombia

The State must provide free healthcare, including treatment and medication, to the victims whether through appropriate national systems or through specialized private institutions.⁴²³ This treatment must continue as long as it is needed and the State must make a significant effort

416. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 558.

417. *Id.* ¶ 559.

418. *Id.* ¶ 557.

419. *Id.* ¶ 563.

420. *Id.*

421. *Id.* ¶ 564.

422. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 564.

423. *Id.* ¶ 567.

to communicate this information to the victims.⁴²⁴ If victims reside outside the State and request treatment, the State must provide them \$7,500.00 (U.S.) within six months to receive treatment or medication.⁴²⁵

5. Publish and Publicly Acknowledge the Judgment

The State must publish the official summary of the judgment in both the Official Gazette and a national newspaper that is circulated widely.⁴²⁶ Additionally, the State must publish and retain the judgment for one year on an official website.⁴²⁷ The State must also broadcast the judgment on both a national radio station and television channel and give the representatives notice of the broadcasts two weeks prior.⁴²⁸ Although the State partially acknowledged its violations, it must also publicly acknowledge its violations at an organized event with input from the victims with the Senior State officials and the victims present.⁴²⁹

6. Create an Audiovisual Documentary of this Case

The State must create an audiovisual documentary based on the attack, the facts involving the victims and their family members' search for justice as established in this judgment, and must include the opinions of the victims and their representatives.⁴³⁰ The State must pay for the cost of creating and distributing this documentary.⁴³¹ The State must show this documentary on national television and give notice to the victims and their families at least two weeks prior, and must give 155 copies to the representatives.⁴³²

B. Compensation

1. Pecuniary Damages

The Court ordered the State pay \$45,000 to the family of Ms. Guarín Cortés; \$38,000 to the family of Mr. Beltrán Hernández; \$35,000 to the family of Ms. Protela León and \$5,000 to the family of Ms. Franco Pineda

424. *Id.* ¶ 568.

425. *Id.* ¶ 569.

426. *Id.* ¶ 572.

427. *Id.*

428. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 573.

429. *Id.* ¶ 576.

430. *Id.* ¶ 579.

431. *Id.*

432. *Id.*

since their families had not received compensation at this time.⁴³³

The State must also pay \$10,000 each to Ms. Santodomingo Albericci, Mr. Quijano, Mr. Matson Ospino and Mr. Rubiano Galvis as reimbursement for their torture and ill treatment.⁴³⁴

2. Non-Pecuniary Damages

The Court ordered the State pay \$100,000 to each of the forcibly disappeared victims, \$80,000 to their parents, children, spouses and permanent companions, and \$40,000 to their siblings in an attempt to reimburse them for their suffering and the harm perpetuated against their personal integrity.⁴³⁵ Additionally, the State must pay \$80,000 for Ms. Esguerra Forero, \$70,000 for Ms. Castiblanco Torres, and \$20,000 to each of their family members.⁴³⁶ The State must also pay \$40,000 each for Ms. Santodomingo Albericci, Mr. Matson Ospino, and Mr. Rubino Galvis, and \$30,000 for Mr. Quijano and \$15,000 to their family members.⁴³⁷

3. Costs and Expenses

The State must reimburse CCAJAR \$14,465; the Justice and Peace Omission \$1,055.00; CEJIL \$25,800.00; and the two attorneys, Mr. Molano Rodríguez and Mr. Romero Sánchez, \$3,349 in legal fees.⁴³⁸ Additionally, the State must reimburse these organizations \$61,000 in legal fees.⁴³⁹

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

\$7,536,092

C. Deadlines

The State must begin to conduct a proper investigation into what occurred and to determine the whereabouts of the missing victims within

433. *Id.* ¶ 596.

434. *Rodríguez Vera et. al v. Colombia*, Preliminary Objections, Merits, Reparations, and Costs, ¶ 599.

435. *Id.* ¶ 603.

436. *Id.* ¶ 604.

437. *Id.* ¶ 605.

438. *Id.* ¶ 607.

439. *Id.* ¶ 608.

a reasonable time.⁴⁴⁰

The State must immediately provide free, appropriate, and adequate psychical, psychological, and mental healthcare to the victims and their families.⁴⁴¹ However, the State has six months to determine if any victims live outside the State and then provide them compensation to receive care.⁴⁴²

The State must publish this judgment within six months and hold an organized event publicly acknowledging its violations within one year.⁴⁴³

The State must create, exhibit, and distribute the audiovisual documentary within two years.⁴⁴⁴

The State must compensate victims, their families, and representatives within two years.⁴⁴⁵

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

[None]

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[Case of Rodríguez Vera et. al. \(The Disappeared from the Palace of Justice\) v. Colombia, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R., \(ser. C\) No. 287 \(Nov. 14, 2014\).](#)

2. Decisions on Merits, Reparations, and Costs

[Case of Rodríguez Vera et. al. \(The Disappeared from the Palace of Justice\) v. Colombia, Preliminary Objections, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R., \(ser. C\) No. 287 \(Nov. 14, 2014\).](#)

440. Rodríguez Vera et. al v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 556.

441. *Id.* ¶ 567.

442. *Id.* ¶ 569.

443. *Id.* ¶¶ 572-73; 576.

444. *Id.*, ¶¶ 563; 579.

445. *Id.* ¶ 609.

[Case of Rodríguez Vera et. al. \(The Disappeared from the Palace of Justice\) v. Colombia, Preliminary Objections, Merits, Reparations, and Costs, Concurring Opinion of Judge Eduardo Ferrer MacGregor Poisot, Inter-Am. Ct. H.R., \(ser. C\) No. 287 \(Nov. 14, 2014\).](#)

3. Provisional Measures

[Case of Rodríguez Vera et. al. \(The Disappeared from the Palace of Justice\) v. Colombia, Provisional Measures, Order of the President, Inter-Am. Ct. H.R. \(ser. C\) No. 287, “Visto” \(Oct. 16, 2013\).](#)

[Case of Rodríguez Vera et. al. \(The Disappeared from the Palace of Justice\) v. Colombia, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R., \(ser. C\) No. 287, “Having Seen,” \(May 30, 2013\).](#)

4. Compliance Monitoring

[None]

5. Review and Interpretation of Judgment

[None]

B. *Inter-American Commission*

1. Petition to the Commission

[Case of Rodríguez Vera et. al. \(The Disappeared from the Palace of Justice\) v. Colombia, Petition No. 10.738, Inter-Am. Comm’n H.R. \(Dec. 26, 1990\).](#)

2. Report on Admissibility

[Case of Rodríguez Vera et. al. \(The Disappeared from the Palace of Justice\) v. Colombia, Admissibility Report, Report No. 137/11, Inter.-Am. Comm’n H.R., Case. No. 10.738 \(Oct. 31, 2011\).](#)

3. Provisional Measures

[None]

4. Report on Merits

[None]

5. Application to the Court

Case of Rodríguez Vera et. al. (The Disappeared of the Palace of Justice) v. Colombia, Petition to the Court, Inter.-Am. Comm'n. H.R., Case No. 10.738 (Feb. 9, 2012).

VIII. BIBLIOGRAPHY

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Juan David Laverde Palma, *Papeles Inéditos del holocausto del Palacio de Justicia: un caso plagado de errores*, El Espectador, Oct. 23, 2015 (5:43 A.M.), <http://www.elespectador.com/noticias/judicial/papeles-ineditos-del-holocausto-del-palacio-de-justicia-articulo-594455>.