

# Landaeta Mejías Brothers et al. v. Venezuela

## ABSTRACT<sup>1</sup>

*This case is about the extrajudicial killing, in two separate events, of two brothers in the Venezuelan State of Aragua, by police officers. The Court found Venezuela in violation of the American Convention both for the killings as well as for the failure to properly investigate and prosecute.*

## I. FACTS

### A. Chronology of Events

**Mid-1990s:** Mr. Igmarr Alexander Landaeta Mejías and Mr. Eduardo José Landaeta Mejías are two teenage brothers living in Venezuela.<sup>2</sup> Mr. Igmarr Landaeta lives in the Samán de Güerre neighborhood with his mother and significant other, Ms. Francy Parra, who is pregnant with his first child, Johanyelis Landaeta Parra.<sup>3</sup> Mr. Igmarr Landaeta is eighteen years old, enrolled in his third year of high school, and works at the same company as his father.<sup>4</sup>

Mr. Eduardo Landaeta is seventeen years old, works in a tire shop, and aspires to join the Navy.<sup>5</sup> Mr. Igmarr Landaeta and Mr. Eduardo Landaeta's parents are Ms. María Magdalena Mejías and Mr. Ignacio Landaeta.<sup>6</sup> The Landaeta brothers have two younger sisters: five-year-old Victoria Landaeta and ten month old Leydis Landaeta.<sup>7</sup>

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1. Edgar Navarrete, Author; Milja Miric, Editor; Megan Venanzi, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am.Ct.H.R. (ser. C) No. 281, ¶ 1 (Aug. 27, 2014).

3. *Id.* ¶¶ 2(c)(a)(iii), 46.

4. *Id.* ¶ 46.

5. *Id.*

6. *Id.*

7. *Id.*

### 1. Events pertaining to Mr. Igmarr Alexander Landaeta Mejías

**November 17, 1996:** There are two opposing versions of the events occurring on this date.<sup>8</sup>

#### **Version of Seven Eyewitness and a doctor**

Around 3:00 p.m. in the district of Samán de Güerre in the Mariño municipality, two men pursue a pedestrian, Mr. Igmarr Landaeta, in an unmarked vehicle.<sup>9</sup> Mr. Igmarr Landaeta is shot in the back, falls, and his pursuers exit their vehicle and approach him.<sup>10</sup> The men are police officers Geraldo Alcides Castillo Freites and Andrés Jose Castillo Garcia.<sup>11</sup> One of the officers shoots his firearm into the air to disperse the crowd that had gathered.<sup>12</sup> The other officer approaches Mr. Igmarr Landaeta as he lays on the ground, at which point Mr. Igmarr Landaeta pleads for his life to no avail; the officer shoots him at point blank range.<sup>13</sup> Mr. Igmarr Landaeta dies as a result of his injuries.<sup>14</sup> At this time a woman who has been allegedly travelling with the officers exits their vehicle and approaches Mr. Igmarr Landaeta's lifeless body.<sup>15</sup> The woman tells the officers they have killed the wrong person.<sup>16</sup> The woman then runs away from the scene.<sup>17</sup> The men place Mr. Igmarr Landaeta's body in their car and drop him off at the Type III Outpatient Clinic of Tumeró.<sup>18</sup>

#### **Version of Two Policemen and Two Eyewitnesses**

Police officers Castillo Freites and Castillo Garcia conduct an intel-

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8. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 59.

9. *Id.* ¶ 60.

10. *Id.* ¶ 61; Landaeta Mejías Brothers *et al.* v. Venezuela, Admissibility Report, Report No. 22/09, Inter-Am.Ct.H.R., Case No. 12.606, ¶ 17 (Mar. 20 2009).

11. Landaeta Mejías Brothers *et al.* v. Venezuela, Admissibility Report, ¶ 16.

12. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 61.

13. *Id.* ¶¶ 61, 62.

14. *Id.* ¶ 59.

15. *Id.* ¶ 62.

16. *Id.*

17. *Id.*

18. Landaeta Mejía Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, ¶¶ 63-64.

ligence gathering operation while driving in a private car in plain-clothes.<sup>19</sup> They are unaccompanied.<sup>20</sup> During their operation, they observe a man hand a gun to another individual.<sup>21</sup> The policemen identify themselves and order the men to drop the weapon and put their hands up.<sup>22</sup> The men do not comply and respond by shooting at the officers and subsequently running away.<sup>23</sup> The officers fire at the fleeing suspects with their service weapons.<sup>24</sup> One man is struck and falls to the ground, and the other escapes.<sup>25</sup> The officers carry the injured man into their vehicle and drive him to the Outpatient Clinic.<sup>26</sup> The man was still alive when they arrived at the clinic.<sup>27</sup> A doctor later informs them the man had died and that his name was Igmarr Landaeta.<sup>28</sup> The policemen seize a gun, four spent cartridges, and two unspent cartridges, and give them to the Technical Unit of the Judicial Police (“CTPJ”).<sup>29</sup>

**November 17, 1996:** The Mariño Police Department dispatches police agents to the scene of the incident to interview witnesses, Dr. Velmar Quintero at the Outpatient Clinic, and to examine Mr. Igmarr Landaeta’s body.<sup>30</sup> Over the next few days, evidence, including a gun and cartridges allegedly belonging to Mr. Igmarr Landaeta, is collected.<sup>31</sup> The cause of Mr. Igmarr Landaeta’s death is determined to be brain damage from a traumatic gunshot to the head.<sup>32</sup>

**February 24, 1997:** The Ninth Prosecutor formally accuses officers Castillo Freites and Castillo Garcia of conspiring to kill Mr. Igmarr Landaeta.<sup>33</sup> Accusations are brought before the Court of the Santiago Mariño and Libertador municipalities (“Municipal Court”).<sup>34</sup>

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19. *Id.* ¶ 65.

20. *Id.*

21. *Id.*

22. *Id.*

23. *Id.*

24. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, ¶ 65.

25. *Id.*

26. *Id.* ¶ 66.

27. *Id.*

28. *Id.*

29. *Id.* ¶ 67.

30. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, ¶¶ 75, 76.

31. *Id.* ¶¶ 77, 78, 81.

32. *Id.* ¶ 79.

33. *Id.* ¶ 82.

34. *Id.*

**September 12, 1997:** The Municipal Court declares the summary investigation closed because there is no finding of illegal acts committed by the officers.<sup>35</sup>

**September 23, 1997:** Mr. Igmarr Landaeta's father, Mr. Ignacio Landaeta, formally accuses the officers of aggravated homicide through his private attorney.<sup>36</sup>

**October 1, 1997:** The Sixth Court confirms the Municipal Court's decision.<sup>37</sup>

**October 10, 1997:** The Sixth Court forwards the case *ex officio* to the Third Superior Criminal and Correctional Juvenile Court ("Third Superior Court") for review.<sup>38</sup>

**November 11, 1997:** The Third Superior Court revokes the judgment confirmed by the Sixth Court and orders the judicial apprehension of the officers through the Sixth Court.<sup>39</sup>

**January 15, 1998:** The Sixth Court orders the officers be incarcerated.<sup>40</sup>

**May 21, 1998:** The Sixth Prosecutor charges the officers with manslaughter and misuse of weapons.<sup>41</sup> The officers' counsel argues self-defense as a result of a confrontation.<sup>42</sup>

**July 1, 1999:** The case is forwarded to the Second Court pursuant to the Organic Code of Criminal Procedure.<sup>43</sup>

**October 13, 2000:** The Second Court delivers a first instance judgment and decides: (1) to acquit officer Castillo Garcia of first degree-murder; (2) to sentence officer Castillo Freites to twelve years for first degree murder; and (3) to dismiss the misuse of weapons charges.<sup>44</sup>

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35. *Id.* ¶ 83.

36. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, ¶ 84.

37. *Id.* ¶ 85.

38. *Id.*

39. *Id.* ¶ 86.

40. *Id.*

41. *Id.* ¶ 87.

42. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, ¶ 88.

43. *Id.* ¶ 90.

44. *Id.* ¶ 90.

**April 25, 2002:** The Court of Appeals dismisses an appeal submitted by the defense of convicted officer Castillo Freites, thereby confirming the Second Court's judgment.<sup>45</sup>

**June 5, 2002:** Officer Castillo Freites' defense counsel requests an annulment, arguing the court had misinterpreted the law and that the officer's intent to kill Mr. Igmarr Landaeta was not proven.<sup>46</sup>

**November 29, 2002:** The Supreme Court of Justice annuls the judgment and returns the case to the Court of Appeals to reexamine the case.<sup>47</sup>

**November 10, 2003:** The Court of Appeals delivers a new judgment and dismisses the case against officer Castillo Freites.<sup>48</sup> The President of the Appellate Court dissented.<sup>49</sup>

## 2. Events pertaining to Mr. Eduardo José Landaeta Mejías

**November 19, 1996:** Ms. Mejía informs the media that officer Castillo Freites had threatened to kill one of her sons and that officers had forcibly entered and searched her home.<sup>50</sup> On this occasion, officer Castillo Freites enters her home with his firearm drawn and threatens to kill Mr. Eduardo Landaeta; he also says he will kill Mr. Igmarr Landaeta "if he felt like it," and that no one would stop him because of who he is.<sup>51</sup>

**November 20, 1996:** Ms. Mejías tells the Mariño Police Department that police officers were harassing Mr. Eduardo Landaeta because he witnessed an individual's death.<sup>52</sup>

**December 29, 1996:** Two policemen arrest Mr. Eduardo Landaeta near the Matarredonda neighborhood.<sup>53</sup> The police report states Mr. Eduardo Landaeta is undocumented and erroneously indicates he is eighteen years

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45. *Id.* ¶ 91.

46. *Id.* ¶ 92.

47. *Id.*

48. Landaeta Mejías Brothers et al. v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, ¶ 93.

49. *Id.*

50. *Id.* ¶ 56.

51. *Id.*

52. *Id.* ¶ 57.

53. *Id.* ¶ 69.

old when in reality he is seventeen.<sup>54</sup> The report also connects him to a November 18, 1996 case file E-702.015, which is under investigation by the Mariño Police Department.<sup>55</sup>

Mr. Eduardo Landaeta lets his parents know he is being held at “El Cuartelito” Police Station in San Carlos and that the police are demanding 30,000 Bolivars, or about 3,004.49 in United States dollars, for his release.<sup>56</sup> His parents immediately go to the police station and inform the police personnel their son’s life is in danger due to a history of police threats against his life.<sup>57</sup> While waiting at the police station, the Landaetas witness two officers arrive in a vehicle lacking license plates who ask for Mr. Eduardo Landaeta, but upon seeing the Landaetas and recognizing them as the youth’s parents, they immediately leave.<sup>58</sup> The policewoman on duty tells the parents not to worry because “Central Command has been advised that [Mr.] Eduardo Landaeta was a minor” and advises them to return the next day so he could be transferred.<sup>59</sup> Mr. Eduardo Landaeta’s parents spend the night at the police station where he is being held.<sup>60</sup>

**December 30, 1996:** At around 8:00 a.m., Mr. Eduardo Landaeta is transferred to Central Command.<sup>61</sup> From there, Mr. Eduardo Landaeta is to be transferred to the Technical Body of the Judicial Police.<sup>62</sup> While waiting for Mr. Eduardo Landaeta’s second transfer at Central Command, the police warn his parents not to leave the station because of strange activity they had seen outside.<sup>63</sup> At 10:30 p.m. Mr. Eduardo Landaeta signals to his parents to leave the station because he would not be transferred that day.<sup>64</sup>

**December 31, 1996:** At approximately 7:30 a.m., Mr. Ignacio Landaeta

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54. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, ¶ 69.

55. *Id.*

56. *Id.* ¶ 70; Landaeta Mejías Brothers *et al.* v. Venezuela, Admissibility Report, Report No. 23/07, Inter-Am.Ct.H.R., Case No. 12.606, ¶ 14 (Mar. 9 2007).

57. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 70.

58. Landaeta Mejías Brothers *et al.* v. Venezuela, Admissibility Report, ¶ 15.

59. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 70.

60. Landaeta Mejías Brothers *et al.* v. Venezuela, Admissibility Report, ¶ 16.

61. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 71.

62. Landaeta Mejías Brothers *et al.* v. Venezuela, Admissibility Report, ¶ 16.

63. *Id.* ¶ 17; Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 71.

64. *Id.*

is told by Central Command that his son has been transferred to the Technical Body of the Judicial Police in Turmero.<sup>65</sup> He thus travels to the Technical Body of the Judicial Police in Turmero where he is told his son has not yet been transferred.<sup>66</sup> After returning to Central Command, he is told the transfer had been ordered for 8:00 a.m., contradicting the prior information given.<sup>67</sup>

While his father is running between police stations, Mr. Eduardo Landaeta is transferred to the Technical Body of the Judicial Police in Mariño in a red non-police vehicle driven by officer Freddy Antonio Blanco Pérez with officers Carlos Andrés Requena Mendoza and Carlos Alexander Rojas Alvarado in the back seat.<sup>68</sup> At approximately 8:30 a.m., the vehicle is struck from behind.<sup>69</sup> Four hooded men with firearms exit the vehicle, disarm the officers, and fire upon the red vehicle, killing Mr. Eduardo Landaeta.<sup>70</sup> Officer Alvarado flees the scene, officer Pérez is shot in the leg, and officer Mendoza remains unharmed.<sup>71</sup> An investigation to find the perpetrators' vehicle is unsuccessful.<sup>72</sup>

The same day, the Mariño Police department dispatches police agents to the scene and the morgue where Mr. Eduardo Landaeta's body is transferred for investigation.<sup>73</sup>

**January 24, 1997:** Gunpowder residue on the hands of officers Requena Mendoza and Rojas Alvarado match the residue found at the scene of the crime.<sup>74</sup> Further forensic investigations are carried out and the cause of death is determined to have been from two bullets to the head and thirteen to the body.<sup>75</sup>

**March 25, 1998:** The Ninth Prosecutor, pursuant to a request by the Justice and Peace Human Rights Committee, asks the Municipal Court to initiate a "preliminary inquiry into unlawful conduct" of officers Rojas

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65. Landaeta Mejías Brothers et al. v. Venezuela, Admissibility Report, ¶ 19.

66. *Id.*

67. *Id.*

68. Landaeta Mejías Brothers et al. v. Venezuela, Admissibility Report, ¶ 25.; Landaeta Mejías Brothers et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 72.

69. Landaeta Mejías Brothers et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 73.

70. *Id.*

71. *Id.*

72. *Id.* ¶ 74.

73. *Id.* ¶ 98.

74. *Id.* ¶ 99.

75. Landaeta Mejías Brothers et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 100-02.

Alvarado, Requena Mendoza and Blanco Pérez for Mr. Eduardo Landaeta's murder and the misuse of weapons.<sup>76</sup>

**February 8, 1999:** The Ninth Prosecutor files a formal complaint against the officers for aggravated homicide and misuse of weapons.<sup>77</sup>

**January 7, 2000:** The Second Court receives Mr. Eduardo Landaeta's case pursuant to the Organic Code of Criminal Procedure.<sup>78</sup>

**October 30, 2003:** Investigation into Mr. Eduardo Landaeta's case resumes with the Prosecutor requesting that several measures be taken to clarify the facts.<sup>79</sup>

**January – June 2004:** The Mariño Sub-Delegation begins interviewing witnesses and analyzing crime scene evidence, which proves difficult due to the significant amount of time that has transpired since the incident.<sup>80</sup>

**July 17, 2004:** The Prosecutor requests that the case against the officers be dismissed due to lack of evidence.<sup>81</sup>

**November 9, 2004:** The No. 4 First Instance Criminal Court with Oversight Functions ("First Instance Court") denies the dismissal request owing to the ongoing investigation.<sup>82</sup>

**July 13, 2005:** The Superior Prosecutor forwards the case to the Public Prosecution Service to continue investigating.<sup>83</sup>

**September 2005 – July 2006:** The Prosecutor files multiple requests to gather additional evidence.<sup>84</sup> Mr. Eduardo Landaeta's corpse is exhumed to retrieve a bullet for further evidence collection.<sup>85</sup> Concrete residue on the bullet prevents the Prosecutor from obtaining substantive evidence.<sup>86</sup>

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76. *Id.* ¶ 103.

77. *Id.* ¶ 104.

78. *Id.* ¶ 105.

79. *Id.*

80. *Id.* ¶ 106.

81. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 107.

82. *Id.*

83. *Id.* ¶ 108.

84. *Id.* ¶ 109.

85. *Id.* ¶ 110.

86. *Id.*



**April 24, 2006:** The Commission receives a petition on behalf of Mr. Eduardo Landaeta.<sup>87</sup>

**March 9, 2007:** The Commission adopts Report on Admissibility No. 23/07.<sup>88</sup>

**December 15, 2008:** The Prosecutor brings charges against the officers for first-degree murder of Mr. Eduardo Landaeta.<sup>89</sup>

**December 16, 2011:** The Court acquits the officers.<sup>90</sup>

**October 30, 2012:** The appellate court annuls the judgment and orders a new trial since the testimonies of the six individuals were omitted without justification.<sup>91</sup>

### *B. Other Relevant Facts*

Instances of unlawful and arbitrary detentions and subsequent extrajudicial executions plague Venezuela in the 1990s.<sup>92</sup> In 1993, Mr. Bacre Waly Ndiaye, the United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, states he receives multiple reports of human rights violations, which include extrajudicial, summary, and/or arbitrary executions committed by the Criminal Investigations Police (“PTJ”), Metropolitan Police (“PM”), the National Guard, the Directorate of Military Intelligence (“DIM”), and the Directorate of Intelligence and Prevention Services (“DISIP”).<sup>93</sup> In 1997, UN Special Rapporteur Ms. Asma Jahangir states she receives several allegations of human rights violations committed by Venezuelan police.<sup>94</sup>

In 2001, the state of Aragua reports in the Office of the Venezuelan Ombudsman’s Annual Report that the autopsies of police brutality victims reveal detainees are routinely subjected to physical torture before

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87. Landaeta Mejías Brothers *et al.* v. Venezuela, Report on Merits, ¶ 4.

88. *Id.* ¶ 5.

89. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 112.

90. *Id.* ¶ 115.

91. *Id.* ¶ 116.

92. *Id.* ¶ 47.

93. *Id.* ¶ 49.

94. *Id.*

execution.<sup>95</sup> Between 2000 and 2001, the Office of the Venezuelan Ombudsman handles 30 separate reports of extrajudicial executions committed by police.<sup>96</sup>

In 2003, the Inter-American Commission on Human Rights (“Commission”) notes the prevalence of death squads with ties to police in Venezuela.<sup>97</sup> The *modus operandi* of these groups entails contrived confrontations between police and victims where victims are arrested, taken into police custody, and then found dead days later.<sup>98</sup> In 2007, The Venezuelan National Commission for Police Reform (“CONAREPOL”) prepares a report entitled “Characteristics of the Venezuelan Police Forces”.<sup>99</sup> The report states that Venezuelan police forces retain a military police model that involves a “warlike rationale.”<sup>100</sup> This promotes the use of force and aggression while encouraging a lack of trust among citizens.<sup>101</sup> The 2006 Annual Report of the Prosecutor General reports that between 2000 and 2007, there are 6,405 separate cases of human rights violations, murders, and extrajudicial murders in Venezuela, with only 436 indictments.<sup>102</sup>

In 1996, there are large-scale extrajudicial killings in the Venezuelan state of Aragua, and the Landaeta brothers happen to be two of many citizens killed at the hands of policemen.<sup>103</sup> A report by the U.S. Department of State finds that in most cases of Venezuelan extrajudicial killings by law enforcement agents, the government rarely prosecutes individuals and that the judicial system remains largely inefficient and corrupt.<sup>104</sup> A report by Human Rights Watch in 1998 finds that many killings committed by police agents during this time period follow a general pattern.<sup>105</sup> Most killings appear to be planned and police agents follow a series of standard procedures to avoid accountability.<sup>106</sup> These procedures include

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95. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 52.

96. *Id.*

97. *Id.* ¶ 50.

98. *Id.*

99. *Id.* ¶ 51.

100. *Id.*

101. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 51.

102. *Id.* ¶ 53.

103. IACTHR to Hear Cases Involving Extrajudicial Killings in Peru, Guatemala, and Venezuela During 102nd Regular Session, IJRC (Feb. 4, 2014), <http://www.ijr-center.org/2014/02/04/iacthr-to-hear-cases-involving-extrajudicial-killings-in-peru-guatemala-and-venezuela-during-102nd-regular-session/#more-3032>.

104. U.S. Dep't of State, Bureau of Democracy, H.R. and Lab., Venezuela Country Report on Human Rights Practices for 1996, p. 2 (1996).

105. Human Rights Watch, World Report 1998: Venezuela, **Human Rights Watch**, [https://www.hrw.org/legacy/worldreport/Americas-10.htm#P991\\_221352](https://www.hrw.org/legacy/worldreport/Americas-10.htm#P991_221352) (last visited Nov. 5, 2016).

106. *Id.*

officers wearing hoods to hide their identity, discharging of weapons into the air to scare potential witnesses, and moving the corpses of their victims before crime scene investigators arrive under the pretext of rushing the victim to a hospital.<sup>107</sup> Officers also resort to intimidating the family members of victims.<sup>108</sup>

In February 2014, an agent of the State disparages the Court by stating that it is politically persecuting the State of Venezuela and demonstrates general apprehension with regards to complying with the Judgment.<sup>109</sup>

## II. PROCEDURAL HISTORY

### A. Before the Commission

#### 1. Events pertaining to Mr. Igmarr Alexander Landaeta Mejías

**September 20, 2004:** The Commission receives the petition submitted by the Human Rights Commission of Justice and Peace of the State of Aragua (*Comision de Derechos Humanos de Justicia y Paz del Estado Aragua*) for Mr. Igmarr Landaeta.<sup>110</sup>

**March 22, 2009:** The Commission adopts Report on Admissibility No. 22/09.<sup>111</sup> In the Admissibility Report, the Commission decides to consider the petition jointly with Mr. Eduardo Landaeta's case.<sup>112</sup>

#### 2. Events pertaining to Mr. Eduardo José Landaeta Mejías

**April 24, 2006:** The Commission receives the petition for Mr. Eduardo Landaeta.<sup>113</sup>

**March 9, 2007:** The Commission adopts a Report on Admissibility No. 23/07 regarding Petition P-425-06 and is assigned case number 12.606.<sup>114</sup>

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107. *Id.*

108. *Id.*

109. Corte IDH Tiene el Dedo Puesto a Venezuela por no Obedecer Dictámenes de EEUU: Saltrón, Al Día (Feb. 6, 2014), <http://noticiaaldia.com/2014/02/corte-idh-tiene-el-dedo-puesto-a-venezuela-por-no-obedecer-dictamenes-de-ee-uu-saltron/>.

110. Landaeta Mejías Brothers et al. v. Venezuela, Report on Merits, ¶ 4.

111. *Id.* ¶ 8.

112. *Id.*; Landaeta Mejías Brothers et al. v. Venezuela, Admissibility Report, “Decides” ¶ 2.

113. Landaeta Mejías Brothers et al. v. Venezuela, Report on Merits, ¶ 4.

114. *Id.* ¶ 5.

**March 22, 2009:** The Commission decides to jointly consider Mr. Eduardo Landaeta's petition with Mr. Igmarr Landaeta's petition.<sup>115</sup>

### 3. Events Pertaining to Both Mr. Igmarr Landaeta and Mr. Eduardo Landaeta

**March 21, 2012:** The Commission adopts Merits Report No. 58/12 with regards to both cases.<sup>116</sup> The Commission recommends the State conduct a thorough and effective investigation into the Landaeta brothers' cases and determine adequate punishments for the perpetrators.<sup>117</sup> It also orders the corresponding disciplinary, administrative, and criminal measures to address and resolve the obstacles that impede the resolution of the matter and delay the administration of justice.<sup>118</sup> The Commission orders the State to make pecuniary and non-pecuniary damages available to victims of human rights violations.<sup>119</sup> Finally, it also requests that the State establish policies to prevent similar atrocities from happening, including: (1) training programs for police addressing human rights standards, (2) measures to ensure accountability for such crimes, and (3) measures to ensure adequate investigation of future incidents.<sup>120</sup>

### B. Before the Court

**July 10, 2012:** The Commission submits the case to the Inter-American Court of Human Rights ("Court") after the State failed to adopt its recommendations.<sup>121</sup>

#### 1. Violations Alleged by Commission<sup>122</sup>

Article 4 (Right to Life)  
 Article 5 (Right to Humane Treatment)  
 Article 7 (Right to Personal Liberty)  
 Article 8 (Right to a Fair Trial)  
 Article 19 (Rights of the Child)  
 Article 25 (Right to Judicial Protection)

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115. *Id.* ¶ 8.

116. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 2(c).

117. *Id.* ¶ 2(c)(b)(i).

118. *Id.* ¶ 2(c)(b)(iii).

119. *Id.* ¶ 2(c)(b)(iv).

120. *Id.* ¶ 2(c)(b)(v).

121. *Id.* ¶ 2(e).

122. Landaeta Mejías Brothers *et al.* v. Venezuela, Report on Merit, ¶ 3.

*all in relation to:*

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

## 2. Violations Alleged by Representatives of the Victims<sup>123</sup>

Same Violations Alleged by Commission.

**September 10, 2012:** The State denounces the American Convention.<sup>124</sup> However, the Court is competent to hear the case because the State became party to the Convention in June 24, 1981 and accepted the Court's jurisdiction in June 24, 1981.<sup>125</sup>

**January 28, 2013:** The State submits a preliminary objection stating that the petitioners failed to exhaust domestic remedies before resorting to the Convention.<sup>126</sup> The representatives respond and argue the State's preliminary objection should be rejected because it lacks the formal and material requirements for such an objection to be admissible.<sup>127</sup>

An objection based on the alleged failure to exhaust domestic remedies must be presented during the "admissibility procedure before the Commission."<sup>128</sup> The State must also identify the remedies not yet exhausted by the petitioner.<sup>129</sup> Finally, the State must also establish that these other remedies were available to the petitioner.<sup>130</sup> The State fails to meet these requirements and the Court rejects the State's preliminary objections.<sup>131</sup>

**February 12, 2013:** The President of the Court finds the State's preliminary objection alleging a lack of impartiality is unfounded.<sup>132</sup>

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123. *Id.* ¶¶ 18, 21-23, 27; Landaeta Mejías Brothers et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 6, n.9. José Gregorio Guarenas, Luis Manuel Aguileras, Francisco Quintana, and Charles Abbott served as representatives of Mr. Igmarr Landaeta and Mr. Eduardo Landaeta. *Id.* n.9.

124. *Id.* ¶ 12.

125. *Id.*

126. *Id.* ¶ 14.

127. *Id.* ¶ 20.

128. *Id.* ¶ 23.

129. Landaeta Mejías Brothers et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 24.

130. *Id.* ¶ 29.

131. *Id.* ¶ 30.

132. *Id.* ¶ 7.

## III. MERITS

A. *Composition of the Court*<sup>133</sup>

Humberto Antonio Sierra Porto, President  
Roberto F. Caldas, Vice President  
Manuel E. Ventura Judge  
Eduardo Vio Grossi, Judge  
Eduardo Ferrer Mac-Gregor Poisot, Judge  
Diego García-Sayán, Judge  
Alberto Pérez Pérez, Judge

Pablo Saavedra Alessandri, Secretary  
Emilia Segares Rodríguez, Deputy Secretary

B. *Decision on the Merits*

**August 27, 2014:** The Court issued its Judgment on Preliminary Objections, Merits, Reparations, and Costs.<sup>134</sup>

The Court unanimously found Venezuela violated:

Article 4 (Right to Life), in relation to Article 1(1) and 2 of the Convention, to the detriment of Mr. Igmarr Landaeta,<sup>135</sup> because:

*The State lacked the “legal framework” for establishing a training regimen to instruct its law enforcement agents to use deadly force only as a last option in subduing suspects.<sup>136</sup> This missing training regimen ultimately caused arbitrary deprivation of Mr. Igmarr Landaeta’s life.<sup>137</sup> Additionally, the State failed to comply with its obligation to respect Mr. Igmarr Landaeta’s humanity when its agents utilized a disproportionate amount of force against Mr. Igmarr Landaeta.<sup>138</sup>*

*Although the Commission had not accused the State of violating Article*

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133. Judges Diego Garcia-Sayan excused him from deliberations by formerly presenting excuses not stated in this Judgment. Judge Alberto Perez Perez, excused himself from the deliberations citing “reasons beyond his control”. *Id.* n\*.

134. *Id.* ¶ 118.

135. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations and Costs, ¶ 147.

136. *Id.* ¶¶ 126, 147

137. *Id.* ¶ 147

138. *Id.*

2 (Obligation to Give Domestic Legal Effects to Rights) of the Convention, the Court applied the principle of *iura novit curia*, which allowed the Court to examine the possible violation.<sup>139</sup> The Court determined that the State failed to ensure the right to life through appropriate legislation related to use of force and therefore, had failed to comply with Article 2 (Obligation to Give Domestic Legal Effect to Rights).<sup>140</sup>

The right to life is a tenet that States are obligated to uphold as it is essential to the protection of other rights.<sup>141</sup> Therefore, States have an obligation to ensure parameters are in place to prevent the violation of this fundamental right.<sup>142</sup> The State has a duty to structure its domestic laws to ensure its agencies use force in a manner that respects the right to life of those subject to its jurisdiction.<sup>143</sup> In complying with this duty, it should provide its agents with training and equipment limiting the use of lethal force.<sup>144</sup> Law enforcement agencies should strive to arrest suspects without resorting to deadly force.<sup>145</sup> The intentional use of lethal force should only be made as a last resort in order to protect the life of the officer or another.<sup>146</sup>

The State has an obligation to provide individuals with adequate care after they have been subjected to deadly or harmful force on behalf of law enforcement agents.<sup>147</sup> Furthermore, the agents have a duty to notify the victim's family.<sup>148</sup>

With respect to Mr. Igmarr Landaeta's case, the State's use of force was disproportionate given the perceived threat to the agents.<sup>149</sup> The Court

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139. *Id.* ¶ 128.; *Iura novit curia* is a legal maxim that means that "the court knows the law." This gives the court the authority to base its decisions on legal theories that are not advanced by either of the opposing parties. Transnational Notes, *Iura Novit Curia*, N.Y.U. L. Blogs (Dec. 19, 2011) <http://blogs.law.nyu.edu/transnational/2011/12/iura-novit-curia/>.

140. Landaeta Mejías Brothers et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 129.

141. *Id.* ¶ 122.

142. *Id.*

143. *Id.* ¶ 126.

144. *Id.*

145. *Id.* ¶ 130.

146. Landaeta Mejías Brothers et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 131.

147. *Id.* ¶ 146.

148. *Id.*

149. *Id.* ¶¶ 137-38.

found that the agents could have resorted to alternative non-lethal methods to subdue Mr. Igmara Landaeta.<sup>150</sup> The evidence provided by the Commission showed that Mr. Igmara Landaeta was shot twice: once in the back and once in the face.<sup>151</sup> The Court determined that the second shot was unnecessary and therefore was an un-proportional use of force.<sup>152</sup>

Finally, the Court found the agents' handling of Mr. Igmara Landaeta's body after shooting him was disrespectful and negatively affected the gathering of evidence for investigative purposes.<sup>153</sup> All things considered, the State failed to show Mr. Igmara Landaeta due diligence in investigating his death and respecting his humanity.<sup>154</sup> Thus, the State violated Article 4 (Right to Life).<sup>155</sup>

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), 7(3) (Prohibition of Arbitrary Arrest or Imprisonment), 7(4) (Right to Be Informed of Reasons of Arrest and Charges), and 7(5) (Right to Personal Liberty), in relation to Articles 1(1) and Article 19 of the Convention, to the detriment of Mr. Eduardo Landaeta,<sup>156</sup> because:

*The State has an obligation to limit the authority of its agents when they take individuals into custody to conform to the obligations established by the Convention.*<sup>157</sup> Children especially are entitled to all the rights recognized in the Convention, including the right to personal liberty.<sup>158</sup> Under Article 7(2), it is essential for the State to follow domestic procedures related to deprivation of liberty in order to comply with the Convention.<sup>159</sup>

*The State's constitution asserts, under Article 60, that "no one may be arrested or imprisoned, unless [they] have been surprised in flagrante*

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150. *Id.* ¶¶ 138-39.

151. *Id.* ¶ 133.

152. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 141.

153. *Id.* ¶ 146

154. *Id.*

155. *Id.* ¶ 147

156. *Id.* ¶ 204.

157. *Id.* ¶ 156.

158. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 157.

159. *Id.* ¶ 158



delicto [i.e. the act of wrongdoing], without a written order from an official authorized to order the detention.”<sup>160</sup> The State’s domestic law also holds that in cases where minors under the age of eighteen are involved in a police investigation, a specialized children’s attorney must be present.<sup>161</sup> Furthermore, in instances when a minor has been detained, and a Juvenile Judge has not been informed, the minor’s representatives may request that the case be brought before a Juvenile Judge.<sup>162</sup>

The Court determined that Mr. Eduardo Landaeta was arbitrarily and unlawfully arrested because his arrest was not carried out in flagrante delicto or with a court order to justify his detention.<sup>163</sup> Furthermore, the State never proved how he was detained or whether there was a well-justified reason for doing so.<sup>164</sup> This violated Article 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.<sup>165</sup>

Under Article 7(4) (Right to Be Informed of Reasons of Arrest and Charges), a judicial official must state the charges and give the reasons for an individual’s detention at the time of arrest to adequately protect the individual’s rights.<sup>166</sup> Here, the reasoning behind Mr. Eduardo Landaeta’s detention was not provided to him verbally or in writing, nor was he provided counsel when taken into custody as a minor.<sup>167</sup> Additionally, as a juvenile Mr. Eduardo Landaeta had the right to have his parents notified of his detention as soon as possible, which did not happen in this case.<sup>168</sup> Therefore, the State violated Article 7(4) (Right to Be Informed of Reasons of Arrest and Charges).

Further, the Court determined there was an egregious “lack of judicial control” related to Mr. Eduardo Landaeta’s detention since he died while in custody, violating Article 7(5) (Right to Personal Liberty) of the Convention.<sup>169</sup> The Court noted that the State failed to properly consider Mr.

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160. *Id.* ¶ 159.

161. *Id.* ¶ 160.

162. *Id.*

163. *Id.* ¶ 164.

164. Landaeta Mejías Brothers et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 164

165. *Id.*

166. *Id.* ¶ 165

167. *Id.* ¶ 166

168. *Id.* ¶¶ 167-68

169. *Id.* ¶¶ 169-71

*Eduardo Landaeta's age, thereby denying him the chance to be brought before an appropriate juvenile authority.<sup>170</sup> The Court found that the State attempted to conceal Mr. Eduardo Landaeta's true age by identifying him as eighteen at his arrest, when in fact they knew he was seventeen.<sup>171</sup> The Court also notes that thirty-eight hours transpired between Mr. Eduardo Landaeta's arrest and his transfer without the notification of a juvenile judge.<sup>172</sup> Finally, there is no indication the transfer was prompted by an intention to turn Mr. Eduardo Landaeta's over to the appropriate juvenile authorities.<sup>173</sup> Therefore, the Court concluded that the State inappropriately violated Mr. Eduardo Landaeta's personal liberty.<sup>174</sup>*

Article 4 (Right to Life), in relation to Article 1(1) and Article 19 of the Convention, to the detriment of Mr. Eduardo Landaeta,<sup>175</sup> because:

*A State has the obligation to protect human rights and prevent violation of these rights within its jurisdiction.<sup>176</sup> Consequently, the State must also take actions to prevent its agencies from violating these rights.<sup>177</sup> Accordingly, it must take measures to prevent and punish all arbitrary executions carried out by its own security forces.<sup>178</sup> Additionally, whenever a child is deprived of his or her liberty, the State has the additional responsibility of protecting the child's best interests.<sup>179</sup> Whenever an individual, especially a child, dies in State custody, the State bears the burden of proof to show that the death is not a result of its actions.<sup>180</sup>*

*The Court found that the State failed to provide a satisfactory explanation for the events that caused Mr. Eduardo Landaeta's death while he was in custody.<sup>181</sup> The State's agents were aware that Mr. Eduardo Landaeta's*

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170. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 172.

171. *Id.* ¶ 173.

172. *Id.* ¶ 178.

173. *Id.*

174. *Id.* ¶ 178.

175. *Id.* ¶ 196.

176. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 181.

177. *Id.*

178. *Id.*

179. *Id.* ¶ 182.

180. *Id.* ¶ 183.

181. *Id.* ¶ 196.

safety was in danger after his mother alerted them to the past police harassment and death threats he had been subjected to.<sup>182</sup> In spite of this knowledge, the State failed to grant special measures to protect him from harm.<sup>183</sup> The Court also cited the spotty crime scene evidence, the multiple inconsistent statements offered by police agents, and various omissions by investigators to determine that the State played a direct role in the arbitrary deprivation of Mr. Eduardo Landaeta's life.<sup>184</sup>

Article 5(1) (Right to Humane Treatment), in relation to Article 1(1) and Article 19 of the Convention, to the detriment of Mr. Eduardo Landaeta,<sup>185</sup> because:

*The State is responsible for guaranteeing the right to humane treatment as recognized in the Convention.*<sup>186</sup> This means that the State has an obligation to "safeguard the health and wellbeing" of those within its custody.<sup>187</sup> Furthermore, the State has an obligation to thoroughly investigate all alleged human rights violations it is accused of committing.<sup>188</sup> In the absence of substantive evidence and an explanation for human rights violations, the Court may consider these allegations substantiated.<sup>189</sup>

*The Court noted the autopsy on Mr. Eduardo Landaeta's body found evidence of injuries caused by mistreatment prior to his death.*<sup>190</sup> The injuries were different from those that ultimately caused Mr. Eduardo Landaeta's death and were indicative of torture.<sup>191</sup> The Court found that the injuries on Mr. Eduardo Landaeta's body proved the existence of human rights violations in the absence of an adequate explanation for their presence.<sup>192</sup>

*The Court determined the State failed to provide an explanation for the injuries suffered by Mr. Eduardo Landaeta prior to his death, and that the State failed to carry out an investigation into the matter, thus violating*

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182. Landaeta Mejías Brothers et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 187.

183. *Id.* ¶ 190.

184. *Id.* ¶ 195.

185. *Id.* ¶ 204.

186. *Id.* ¶ 198.

187. *Id.*

188. Landaeta Mejías Brothers et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 199.

189. *Id.*

190. *Id.* ¶ 200.

191. *Id.* ¶ 201.

192. *Id.* ¶ 202.

*Article 5(1) (Right to Humane Treatment).*<sup>193</sup>

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and Article 25(1) (Right of Recourse Before a Competent Court) of the Convention, to the detriment of Mr. Igmarr Landaeta's family,<sup>194</sup> because:

*The State is obligated to investigate human rights violations to uphold the rights of its citizens.*<sup>195</sup> *This obligation not only entails investigating violations, but also requires, if possible, restoring the rights violated.*<sup>196</sup> *For an investigation to be effective, however, the State must conduct it with due diligence.*<sup>197</sup> *This requires that the State employ all measures and inquiries necessary to obtain the required result.*<sup>198</sup> *Failure to satisfy these requirements results in ineffective and inefficient exercise of the State's prosecutorial powers.*<sup>199</sup>

*In order to effectively comply with Article 25(1) (Right of Recourse Before a Competent Court), the State must direct proceedings in a way that resolves matters swiftly, without "undue delays and disruptions."*<sup>200</sup> *Judges must diligently ensure that "proceedings are conducted promptly."*<sup>201</sup> *The following factors are considered when determining whether compliance has been reasonable: "(a) the complexity of the matter; (b) the procedural activity of the interested party; (c) the actions of the judicial authorities; and (d) the effects on the legal situation of the person involved in the proceedings."*<sup>202</sup>

*The Court found that the State failed to meet its obligations since it did not jointly investigate the deaths of the Landaeta brothers, especially considering the State's knowledge about the threats and harassment the*

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193. *Id.*

194. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 250.

195. *Id.* ¶ 214.

196. *Id.*

197. *Id.* ¶ 216.

198. *Id.*

199. *Id.* ¶ 217

200. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 218.

201. *Id.*

202. *Id.* ¶ 246.

brothers had been subjected to, in addition to the close temporal proximity between these threats and their brutal killings.<sup>203</sup> The separate investigations did nothing to establish the facts to determine who was responsible for the killings.<sup>204</sup>

The Court observed that during the investigation, the State's collection of evidence was inadequate and inappropriate.<sup>205</sup> The State failed to protect the crime scene in order to preserve any potential evidence in the area.<sup>206</sup> This impeded the inspection of the scene because bystanders had contaminated the evidence.<sup>207</sup> In fact, bystanders turned in much of the evidence that was collected from the crime scene.<sup>208</sup> The State also failed to take adequate photographs of the crime scene.<sup>209</sup> Finally, the ballistic reports collected by investigators were insufficient to determine the exact time of Mr. Igmarr Landaeta's death and who fired against whom in the confrontation.<sup>210</sup>

The Court found there were substantial delays attributed to judicial activities.<sup>211</sup> The Court noted that the indictment was filed on May 21, 1998 and that the case was ready for judgment on September 28, 1998, but that it was not delivered until October 13, 2000.<sup>212</sup> Furthermore, "the Court referred the case to the Second Transitional Court. . .two days before the adoption of the first instance judgment," thereby needlessly delaying the case.<sup>213</sup> The Court did not find that the period of inactivity during the transition from one regime to another justified the delay.<sup>214</sup>

The Court concluded that the State did not conduct an exhaustive and diligent investigation into the death of Mr. Igmarr Landaeta that would have permitted investigators to obtain reliable evidence to resolve the contradictory positions between the parties.<sup>215</sup> The Court also found that

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203. *Id.* ¶¶ 221, 224.

204. *Id.* ¶ 225.

205. *Id.* ¶ 230.

206. Landaeta Mejías Brothers et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 231.

207. *Id.*

208. *Id.*

209. *Id.*

210. *Id.* ¶ 234.

211. *Id.* ¶ 247.

212. Landaeta Mejías Brothers et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 247.

213. *Id.* ¶ 248.

214. *Id.*

215. *Id.*

*the State failed to provide Mr. Igmarr Landaeta's family members with an "effective judicial remedy" as a result of the undue delays that occurred over the course of the proceedings.<sup>216</sup> Thus, the State violated the family's rights under Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and Article 25(1) (Right of Recourse Before a Competent Court) regarding Mr. Igmarr Landaeta's death.*

Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and Article 25(1) (Right of Recourse Before a Competent Court) of the Convention, to the detriment of Mr. Eduardo Landaeta's family,<sup>217</sup> because:

*In cases where an individual dies while in police custody, the authorities have an obligation to determine the truth behind the death and prosecute those responsible.<sup>218</sup> This obligation is especially pertinent when it involves the death of children in custody.<sup>219</sup> In such instances, the State has an obligation to combat impunity by any legal means.<sup>220</sup> The Court also found it necessary that the State's investigation be guided by several standards in cases where an individual dies while under police custody.<sup>221</sup> These standards are: (1) an independent, impartial, and complete investigation; (2) openness to public scrutiny; (3) prompt, proper handling of the crime scene; (4) thorough examination of the body to establish a chronology; and (5) use of professionals in conducting the autopsy.<sup>222</sup> Furthermore, if there is an accusation or a well-founded belief that torture has been committed within their jurisdiction, the authorities have an obligation to conduct a thorough investigation into the matter.<sup>223</sup>*

*The State failed to comply with the aforementioned procedural guidelines.<sup>224</sup> There were several omissions from the autopsy performed on Mr. Eduardo Landaeta's body that would have provided substantial insight into the cause of his death.<sup>225</sup> The State failed to cordon off the scene of*

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216. *Id.* ¶ 250.

217. *Id.* ¶ 275.

218. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 253.

219. *Id.*

220. *Id.*

221. *Id.* ¶ 254.

222. *Id.*

223. *Id.* ¶ 270.

224. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 256.

225. *Id.* ¶ 256(a).

the incident, which made it impossible to collect all the spent bullet cartridges for investigative purposes.<sup>226</sup> A ballistic comparison was not conducted on the source of the bullets found at the scene of the crime, which made it impossible to determine the weapons used in Mr. Eduardo Landaeta's killing.<sup>227</sup> Finally, the weapons used by the officers escorting Mr. Eduardo Landaeta went missing under dubious circumstances.<sup>228</sup> The Court believed that all these omissions and irregularities constituted substantial obstructions.<sup>229</sup>

Due to the introduction of a "new procedural regime" in 2000, Mr. Eduardo Landaeta's case endured multiple procedural delays.<sup>230</sup> After more than four and half years of inactivity, investigations into Mr. Eduardo Landaeta's case resumed.<sup>231</sup> However, there were substantial omissions in this renewed investigation.<sup>232</sup> The omissions and irregularities in the renewed investigation included: (1) delays in carrying out procedures requested by the prosecution; (2) not addressing the omissions from the autopsy; (3) a "fundamentally flawed" exhumation; (4) "numerical inconsistencies" between the spent bullet cartridges retrieved from the scene of the crime and the injuries present on Mr. Eduardo's Landaeta's body; (5) evidence that the state had failed to conduct a serious and thorough investigation to identify the alleged hooded figures; (6) insufficient measures to locate the weapons assigned to the police agents tasked with escorting Mr. Eduardo Landaeta on the day he died; and (7) inability to obtain evidentiary materials as a result of the substantial passage of time.<sup>233</sup>

In conjunction with the irregularities and omissions discussed above, the Court found that the State's failure to "adequately and immediately" collect evidence that would assist with the investigation amounted to a failure in exercising due diligence and a lack of effectiveness in discovering and punishing those responsible.<sup>234</sup>

The Court also noted that from the start of the criminal proceedings there

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226. *Id.* ¶ 256(b).

227. *Id.* ¶ 256(c).

228. *Id.* ¶ 256(d).

229. *Id.* ¶ 257.

230. Landaeta Mejías Brothers et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 259.

231. *Id.*

232. *Id.*

233. *Id.* ¶ 259(a)-(g).

234. *Id.* ¶¶ 257, 261.

were multiple delays in the proceedings.<sup>235</sup> More than twelve years transpired since the commencement of the investigation before a date for the first public hearing was set in 2009.<sup>236</sup> In turn, the public hearing was not held until 2011 due to twelve postponements and rescheduling.<sup>237</sup> The Court considered the delays violations of the judicial guarantee for justice.<sup>238</sup>

The Court finally noted that the State failed to comply with their obligation to investigate and punish instances of torture that occurred within its jurisdiction.<sup>239</sup> Mr. Eduardo Landaeta's autopsy revealed injuries that were indicative of torture.<sup>240</sup> Furthermore, Mr. Eduardo Landaeta's father asked the prosecutor to investigate the possibility of torture.<sup>241</sup> Despite these well-founded assertions revealing the possibility of torture, the State did not investigate the matter.<sup>242</sup> Consequently, the Court found that the State failed to comply with its obligation to protect Mr. Eduardo Landaeta's rights under Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and Article 25(1) (Right of Recourse Before a Competent Court) to his family's detriment.<sup>243</sup>

Article 5(1) (Right to Physical, Mental, and Moral Integrity) of the Convention, to the detriment of the victims' next of kin,<sup>244</sup> because:

*In numerous prior cases, the Court has held that the victims' next of kin may also be victims of the State.*<sup>245</sup> Under Article 5(1) (Right to Physical, Mental, and Moral Integrity), a victim's family's rights may be violated when they have endured significant suffering resulting from violations committed against their "loved ones" and "subsequent acts or omissions of the State[ 's ]" authorities.<sup>246</sup>

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235. *Id.* ¶ 265.

236. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 266.

237. *Id.*

238. *Id.* ¶ 267.

239. *Id.* ¶ 270.

240. *Id.* ¶ 272.

241. *Id.*

242. Landaeta Mejías Brothers *et al.* v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 273.

243. *Id.* ¶ 274.

244. *Id.* ¶ 289.

245. *Id.* ¶ 279.

246. *Id.*



*The unlawful detention of Mr. Eduardo Landaeta and the death of both brothers at the hands of the State's agents had substantial negative "moral and mental" effects on the Landaeta family.<sup>247</sup> The Landaetas stated that the State's actions had caused "suffering, anguish, insecurity, frustration, and helplessness."<sup>248</sup> In response, the State did contest the violation of personal integrity against the family members.<sup>249</sup>*

*The Court noted the statements made during the cases' processing, and the expert appraisal done by Ms. Claudia Carrillo reveal the Landaeta brothers' family members suffered "profound anguish, sorrow, and suffering."<sup>250</sup> The expert found that the Landaeta brothers' parents suffered the most anguish.<sup>251</sup> Victoria Eneri Landaeta, sister of the deceased brothers, demonstrated signs of psychological disorders and sleep deprivation following her brothers' killings.<sup>252</sup> Furthermore, the family as a whole has suffered from the State's failure to proceed with a complete, diligent, and effective investigation into the matter, causing them to suffer feelings of "sorrow, helplessness, and anguish."<sup>253</sup> Finally, the Court also noted that the family members were victims of mental anguish even before the death of the Landaeta brothers as a result of the persistent threats against the Landaeta brothers' lives, thus violating Article 5(1) (Right to Physical, Mental, and Moral Integrity).<sup>254</sup>*

The Court unanimously did not rule on:

Article 5(1) (Right to Physical, Mental, and Moral Integrity) of the Convention, to the detriment of Mr. Igmarr Landaeta, nor Article 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) of the Convention, to the detriment of Mr. Eduardo Landaeta,<sup>255</sup> because:

*For Mr. Igmarr Landaeta, the Court determined the facts related to an Article 5(1) (Right to Physical, Mental, and Moral Integrity) were already examined under its Article 4 (Right to Life) analysis.<sup>256</sup> For Mr.*

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247. *Id.* ¶ 277.

248. Landaeta Mejías Brothers et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 277.

249. *Id.* ¶ 278.

250. *Id.* ¶ 283.

251. *Id.* ¶ 284.

252. *Id.* ¶ 285.

253. *Id.* ¶ 286.

254. Landaeta Mejías Brothers et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, ¶ 288.

255. *Id.* "Declares" ¶¶ 6, 7.

256. *Id.* ¶ 148.

*Eduardo Landaeta, the Court determined it did not have enough evidence to determine an Article 5(2) (Prohibition of Torture, and Cruel, Inhuman, or Degrading Treatment) violation.*<sup>257</sup>

### C. Dissenting and Concurring Opinions

#### 1. Partially Dissenting Opinion of Judge Roberto F. Caldas

In a separate opinion, Judge Roberto F. Caldas dissented with the majority's Judgment "with regard to . . . the '[o]bligation to investigate the events that resulted in the violations and to identify, prosecute and punish, as appropriate, those responsible.'"<sup>258</sup> Judge Caldas found that the Judgment left the victims' family with the possibility of not acquiring an "effective remedy."<sup>259</sup> Furthermore, Judge Caldas felt that if the victims were left uncompensated, the Judgment would essentially be meaningless.<sup>260</sup>

Judge Caldas found that the majority decision established that the victims would go uncompensated until those responsible for the killing of the Landaeta brother were sentenced and convicted.<sup>261</sup> Judge Caldas stated that a compensatory sum should be established if it is not possible to establish the guilt of those responsible.<sup>262</sup> Furthermore, since judgments should not be meaningless, at least a compensatory fund should be established.<sup>263</sup>

Judge Caldas concluded that the Court should establish a pecuniary compensation sum between \$50,000 and \$150,000 for the victims' family in the event that a conviction of the responsible parties is unattainable.<sup>264</sup>

## IV. REPARATIONS

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

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257. *Id.* ¶ 201.

258. *Landaeta Mejías Brothers et al. v. Venezuela*, Preliminary Objections, Merits, Reparations, and Costs, Dissenting Opinion of Judge Roberto F. Caldas, Inter-Am.Ct.H.R., (ser. C) No. 238, ¶ 2 (Nov. 29, 2011).

259. *Id.* ¶ 3.

260. *Id.* ¶ 6.

261. *Id.*

262. *Id.*

263. *Id.*

264. *Landaeta Mejías Brothers et al. v. Venezuela*, Preliminary Objections, Merits, Reparations, and Costs, Dissenting Opinion of Judge Roberto F. Caldas, ¶ 8.

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

1. Continue Investigation into the Landaeta Brothers' Killings

The Court ordered the State to continue and conclude the investigation within a reasonable time in order to identify, prosecute, and punish those responsible for the arbitrary killing of Mr. Igmarr Landaeta and Mr. Eduardo Landaeta.<sup>265</sup>

2. Provide Free Health Care and Psychological Treatment to Victims

The Court ordered the State to provide immediate psychological and medical treatment to the Landaeta brothers' next of kin free of charge.<sup>266</sup> The health care services were to be provided at the private medical institution in closest proximity to the victims' residence.<sup>267</sup> The victims had a six-month period to request the free treatment.<sup>268</sup>

3. Acknowledge and Apologize for Actions

The Court found that the State, within six months of notification of the Judgment, publish the official summary of the Judgment by the Court on both the Official Gazette and Venezuela's national newspaper as well as publish the Judgment in its entirety on the State's official website for an entire year.<sup>269</sup> Furthermore, to avoid similar incidents from reoccurring, the Court compelled the State to acknowledge international responsibility for the crimes and offer a public apology.<sup>270</sup>

4. Pay Pecuniary and Non-Pecuniary Damages

The State must pay costs for both pecuniary and non-pecuniary damages within a year from the Judgment.<sup>271</sup>

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265. *Landaeta Mejías Brothers et al. v. Venezuela*, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 300, "Operative Paragraphs" 9.

266. *Id.* ¶ 303.

267. *Id.*

268. *Id.*

269. *Id.* ¶ 305.

270. *Id.* ¶ 307.

271. *Landaeta Mejías Brothers et al. v. Venezuela*, Preliminary Objections, Merits, Reparations, and Costs, ¶ "Operative Paragraphs" 14.

### 5. Reimburse the Victims' Legal Assistance Fund of the Court

The President of the Court permitted the victims to access the Legal Assistance Fund.<sup>272</sup> In view of the violations in the Judgment, the Court ordered the State to reimburse the Fund in the amount of \$2,725.17.<sup>273</sup>

### 6. Provide the Court with Compliance Reports

The Court ordered the State to provide a notification a year after the Judgment of the measures take to comply with the ruling.<sup>274</sup> The case will be considered closed once the State has fully complied with the Judgment.<sup>275</sup>

## *B. Compensation*

The Court awarded the following amounts:

### 1. Pecuniary Damages

The Court found the State responsible for violating the Landaeta brothers' right to life and compelled it to pay \$177,540 for the loss of lifelong earnings of Mr. Igmarr Landaeta and \$180,840 for the loss of lifelong earnings of Mr. Eduardo Landaeta.<sup>276</sup> Furthermore, the Court ordered the State pay \$500 to Mr. Ignacio Landaeta and Ms. María Magdalena Mejías Camero for the funeral expenses of the two brothers.<sup>277</sup>

### 2. Non-Pecuniary Damages

The Court, considering the violations committed by the State against the Landaeta brothers and the subsequent suffering of the brothers' next of kin, determined that the State owed non-pecuniary damages to the victims.<sup>278</sup> These non-pecuniary damages were designated accordingly: Igmarr Landaeta was awarded \$60,000, Eduardo Landaeta was awarded \$60,000, María Magdalena Mejías Camero was awarded \$35,000, Ignacio Landaeta Muñoz was awarded \$35,000, Francys Yellut Parra Guzmán

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272. *Id.* ¶ 330.

273. *Id.* ¶ 332.

274. *Id.* ¶ "Operative Paragraphs" 16.

275. *Id.* ¶ "Operative Paragraphs" 17.

276. *Id.* ¶ 320.

277. *Landaeta Mejías Brothers et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs*, ¶ 322.

278. *Id.* ¶ 325.

was awarded \$30,000, Johanyelis Alejandra Landaeta Parra was awarded \$20,000, Victoria Eneri Landaeta Galindo was awarded \$15,000, and Leydis Rosamir Landaeta Galindo was awarded \$15,000.<sup>279</sup>

### 3. Costs and Expenses

Although the Landaeta brothers' representatives originally petitioned for a reimbursement of \$7,238 for expenses, the Court found the evidence submitted by the representatives did not justify the amount sought.<sup>280</sup> The Court subsequently established the State owed the sum of \$1,500 to Mr. Ignacio Landaeta, \$2,000 to the Justice and Peace Human Rights Committee of the state of Aragua, \$2,000 to the Episcopal Vicarate for Human Rights of Caracas, and \$6,511 to the Center of Justice and International Law ("CEJIL"), all for their expenses in processing the proceedings.<sup>281</sup> Furthermore, the State must present the amounts to Mr. Ignacio Landaeta and his representatives within one year of notification of the Judgment.<sup>282</sup>

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

\$643,616.17

### *C. Deadlines*

The court ordered the State to pay the pecuniary and non-pecuniary costs within a year of the Judgment.<sup>283</sup>

## V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

## VI. COMPLIANCE AND FOLLOW-UP

[None]

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279. *Id.*

280. *Id.* ¶¶ 327, 329.

281. *Id.* ¶ 329.

282. *Id.*

283. *Id.* ¶ 333.

## VII. LIST OF DOCUMENTS

*A. Inter-American Court*

## 1. Preliminary Objections

[None]

## 2. Decisions on Merits, Reparations and Costs

[Landaeta Mejías Brothers et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am.Ct.H.R. \(ser. C\) No. 281 \(Aug. 27, 2014\).](#)

[Landaeta Mejías Brothers et al. v. Venezuela, Preliminary Objections, Merits, Reparations, and Costs, Dissenting Opinion of Judge Roberto F. Caldas, Inter-Am.Ct.H.R., \(ser. C\) No. 238 \(Nov. 29, 2011\).](#)

## 3. Provisional Measures

[Landaeta Mejías Brothers et al. v. Venezuela, Resolución del Presidente de la Corte, Fondo de Asistencia Legal de Víctimas, Inter-Am.Ct.H.R., Case No. 12.606 \(Feb. 13, 2013\).](#)

[Landaeta Mejías Brothers et al. v. Venezuela, Resolución del Presidente de la Corte, Inter-Am.Ct.H.R., Case No. 12.606 \(Feb. 12, 2013\).](#)

[Landaeta Mejías Brothers et al. v. Venezuela, Resolución del Presidente de la Corte, Inter-Am.Ct.H.R., Case No. 12.606 \(Dec. 26, 2013\).](#)

## 4. Compliance Monitoring

[None]

## 5. Review and Interpretation of Judgment

[Landaeta Mejías Brothers et al. v. Venezuela, Excepciones Preliminares, Fondo, Reparaciones y Costas, Resumen Oficial por la Corte, Inter-Am.Ct.H.R. \(ser. C\) No. 238 \(Nov. 29, 2011\).](#)

*B. Inter-American Commission*

## 1. Petition to the Commission

[Not Available]

## 2. Report on Admissibility

[Landaeta Mejías Brothers et al. v. Venezuela, Admissibility Report, Report No. 23/07, Inter-Am.Ct.H.R., Case No. 12.606 \(Mar. 9 2007\).](#)

[Landaeta Mejías Brothers et al. v. Venezuela, Admissibility Report, Report No. 22/09, Inter-Am.Ct.H.R., Case No. 12.606 \(Mar. 20 2009\).](#)

## 3. Provisional Measures

[None]

## 4. Report on Merits

[Landaeta Mejías Brothers et al. v. Venezuela, Reports on Merit, Report No. 58/12, Inter-Am.Ct.H.R., Case 12.606 \(Mar. 21 2012\).](#)

## 5. Application to the Court

[Not Available]

## VIII. BIBLIOGRAPHY

[IACHR to Hear Cases Involving Extrajudicial Killings in Peru, Guatemala, and Venezuela During 102nd Regular Session, IJRC \(Feb. 4, 2014\), <http://www.ijrcenter.org/2014/02/04/iacthr-to-hear-cases-involving-extrajudicial-killings-in-peru-guatemala-and-venezuela-during-102nd-regular-session/#more-3032>.](#)

[Corte IDH Tiene el Dedo Puesto Venezuela pr no Obedecer Dictámenes de EEUU: Saltrón, Al Dia \(Feb. 6, 2014\), <http://noticiaaldia.com/2014/02/corte-idh-tiene-el-dedo-puesto-a-venezuela-por-no-obedecer-dictámenes-de-ee-uu-saltron>.](#)

[U.S. Dep't of State, Bureau of Democracy, H.R. and Lab., Venezuela Country Report on Human Rights Practices for 1996 \(1996\).](#)

[Human Rights Watch, World Report 1998: Venezuela, Human Rights Watch, https://www.hrw.org/legacy/worldreport/Americas-10.htm#P991\\_221352](https://www.hrw.org/legacy/worldreport/Americas-10.htm#P991_221352) (last visited Nov. 5, 2016).