

Girón et al. v. Guatemala

ABSTRACT*

This case is about the sentencing to death and execution in Guatemala of two persons who were found guilty of the rape and murder of a four-year-old girl. The Court found Guatemala in violation of several articles of the American Convention including because Guatemalan law mandated capital punishment for the crime in question, because of the faulty prosecution and trial, and because of the way the State managed their stay on death row and execution.

I. FACTS

A. Chronology of Events

Before April 1993: The Constitution and the Criminal Code of the Republic of Guatemala authorize and limit the use the death penalty.¹ Both indicate there will not be an execution until all legal recourses have been exhausted.² The Criminal Code mandates the death sentence for a rape offense resulting in death where the victim is less than ten years old.³ The final legal recourse available to the condemned is to petition the President of Guatemala for a pardon or clemency.⁴

April 18, 1993: Mr. Roberto Girón and Mr. Pedro Castillo Mendoza are arrested for the aggravated rape of a four-year-old girl, of Ms. Sonia Marisol Alvarez García, resulting in her death.⁵

*Christian Flores, Author; Gabrielle Szlachta-McGinn, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

1. Girón et al. v. Guatemala, Report on Admissibility and Merits, Report No. 76/17, Inter-Am. Comm'n H.R., Case No. 11.686, ¶¶ 34-35 (July 5, 2017).

2. *Id.*

3. *Id.* ¶¶ 36-37.

4. *Id.* ¶¶ 40-42.

5. Girón et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 390, ¶ 40 (Oct. 15, 2019).

April 19, 1993: Mr. Girón appears before the First Peace Judge to give a preliminary investigative statement wherein he denies participating in the rape of the child with Mr. Castillo Mendoza.⁶ After Mr. Girón's initial statement, the judge informs him that he must select a defense lawyer within five days, or the court will appoint one for him.⁷ Mr. Girón elects to select counsel at a later date.⁸

Mr. Castillo Mendoza also appears before the First Peace Judge to give a preliminary investigative statement.⁹ He admits that he and Mr. Girón were not under the influence of drugs or alcohol when they committed the crime, and that he could not recall why they raped her.¹⁰

April 22, 1993: The Second Chamber of the First Trial Court orders preventive detention for Mr. Girón and Mr. Castillo Mendoza for the aggravated rape of Ms. Alvarez García.¹¹

April 27, 1993: Mr. Leonel Chinchilla Cristales is appointed as Mr. Girón's defense lawyer and Mr. Edy Iván Bocanegra Conde is appointed as Mr. Castillo Mendoza's defense lawyer.¹² Both Mr. Chinchilla Cristales and Mr. Bocanegra Conde are law students and not yet practicing lawyers.¹³

May 5, 1993: The Second Chamber of the First Trial Court conducts a proceeding between Mr. Girón and Mr. Castillo Mendoza, without the presence of either party's counsel, to clarify contradictory aspects of their preliminary statements.¹⁴ Mr. Girón and Mr. Castillo Mendoza disagree regarding their respective versions of facts.¹⁵

May 12, 1993: The First Chamber of the First Trial Criminal Court of Escuintla opens criminal proceedings against Mr. Girón and Mr. Castillo Mendoza for the aggravated rape of Ms. Alvarez García pursuant to Article 175 of the Criminal Code.¹⁶ Article 175 imposes a sentence of thirty

6. Girón et al. v. Guatemala, Report on Admissibility and the Merits, ¶¶ 56-58.

7. Girón et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 41.

8. *Id.*

9. *Id.* ¶ 42.

10. *Id.*; Girón et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 59.

11. Girón et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 60.

12. *Id.* ¶ 61.

13. *Id.*

14. *Id.* ¶¶ 62, n. 36.

15. *Id.* ¶ 62.

16. *Id.* ¶¶ 63-64.

to fifty years if the rape results in the victim's death, and the death penalty if the victim was under ten years old.¹⁷

June 2, 1993: Mr. Chinchilla Cristales files a brief before the First Trial Criminal Court of Escuintla regarding the lack of evidence against Mr. Girón.¹⁸ The brief indicates there are no witnesses that can substantiate Mr. Castillo Mendoza's claim that he acted in concert with Mr. Girón in committing the crime.¹⁹

June 14, 1993: Mr. Bocanegra Conde files a brief before the First Trial Criminal Court arguing that Mr. Castillo Mendoza cooperated with authorities when he confessed to the rape of Ms. Alvarez García and, thus, should serve to lessen his criminal liability.²⁰

October 4, 1993: The First Chamber of the First Trial Criminal Court convicts Mr. Girón and Mr. Castillo Mendoza for the crime of aggravated rape of a child resulting in death, and sentences them to death.²¹ The judgment indicates that the court based both convictions solely on the preliminary investigative statements that each defendant gave.²²

December 1, 1993: Mr. Girón and Mr. Castillo Mendoza appeal the October 4, 1993 judgment to the Twelfth Chamber of the Appeals Court of Criminal Matters.²³ The Twelfth Chamber of the Appeals Court declares both appeals inadmissible.²⁴

Mr. Girón and Mr. Castillo Mendoza appeal to the Twelfth Chamber of the Supreme Court of Justice.²⁵ Mr. Bocanegra Conde argues the First Chamber failed to consider the mitigating circumstances in favor of Mr. Castillo Mendoza; the cause of Ms. Alvarez García's death was related to the wounds to her neck and not due to rape; and Mr. Castillo Mendoza was not carrying the knife, which indicates that he was not the person who killed Ms. Alvarez García.²⁶

Mr. Chinchilla Cristales argues the First Chamber failed to establish sufficient evidence to link Mr. Girón to the rape and murder of Ms.

17. Girón et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 64.

18. *Id.* ¶ 65.

19. *Id.*

20. *Id.* ¶ 66.

21. *Id.* ¶ 67.

22. *Id.* ¶ 69.

23. Girón et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 71.

24. *Id.*

25. *Id.* ¶ 72.

26. *Id.* ¶ 73.

Alvarez García and failed to provide the reasoning behind the conclusion to convict him.²⁷

September 27, 1994: The Twelfth Chamber of the Supreme Court of Justice declares both appeals inadmissible.²⁸

June 9, 1995: Mr. Girón and Mr. Castillo Mendoza file an *amparo* appeal to the Constitutional Court, challenging the decision of the Criminal Chamber of the Supreme Court of Justice.²⁹

November 7, 1995: The Constitutional Court denies both *amparo* requests.³⁰

July 12, 1996: Mr. Girón and Mr. Castillo Mendoza request a pardon from the President of the Republic of Guatemala, arguing the judicial bodies failed to fully analyze the evidence produced in their trial and that their convictions were political rather than juridical.³¹

July 17, 1996: The President of the Republic denies the requests of pardon.³²

July 20, 1996: Mr. Girón and Mr. Castillo Mendoza file an *amparo* appeal with the Constitutional Court against the decision of the President of the Republic.³³ Attorneys for Mr. Girón and Mr. Castillo Mendoza file an additional *amparo* appeal with the Constitutional Court against the notice of execution from the First Criminal Execution Judge.³⁴

August 11, 1996: The Fourth Chamber of the Court of Appeals grants a provisional *amparo* request suspending the execution.³⁵

August 9, 1996: The Constitutional Court denies the *amparo* requests and concludes that both Mr. Girón and Mr. Castillo Mendoza were afforded proper due process.³⁶

27. Girón et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 74.

28. *Id.* ¶ 75.

29. *Id.*

30. *Id.*

31. *Id.* ¶ 76.

32. *Id.* ¶ 77.

33. Girón et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 78.

34. Girón et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 56.

35. *Id.*

36. Girón et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 79.

August 20, 1996: The Fourth Chamber of the Court of Appeals denies the *amparo* appeal, ruling it inadmissible and revoking the provisional *amparo*.³⁷

August 23, 1996: Mr. Girón and Mr. Castillo Mendoza request judicial review by the Criminal Chamber of the Supreme Court of Justice.³⁸

August 29, 1996: The Criminal Chamber of the Supreme Court of Justice rejects the request for judicial review.³⁹

September 13, 1996: Mr. Girón and Mr. Castillo Mendoza are executed by firing squad on live television.⁴⁰ Mr. Castillo Mendoza does not die from the initial volley but is fatally shot by a member of the firing squad who approaches him.⁴¹ Execution by firing squad is mandated by Guatemalan law at this time.⁴²

October 1996: Under Guatemalan law, execution by firing squad as a method of execution is repealed and replaced by lethal injection.⁴³

B. Other Relevant Facts

[None]

II. PROCEDURAL HISTORY

A. Before the Commission

July 11, 1996: The Magnus F. Hirschfeld Center for Human Rights, an American NGO engaged in the promotion of the human rights of LGBT persons, presents a petition on behalf of Mr. Girón to the Commission.⁴⁴

August 14, 1996: The Institute for Comparative Studies in Criminal Sciences of Guatemala (Instituto de Estudios Comparados en Ciencias Penales de Guatemala; “IECCP”) and the Centre for Human Rights Legal

37. Girón et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 56.

38. Girón et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 8.

39. *Id.*

40. *Id.* ¶¶ 80-81.

41. *Id.* ¶ 81.

42. *Id.* ¶ 82.

43. *Id.*

44. Girón et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 1.

Action (Centro para la Acción Legal en Derechos Humanos; “CALDH”) present a joint petition on behalf of Mr. Castillo Mendoza to the Commission.⁴⁵

September 9, 1996: The Commission requests the State suspend the execution of Mr. Girón and Mr. Castillo Mendoza.⁴⁶

The State argues the petitions inadmissible because the Supreme Court of Justice is procedurally unable to grant the suspension at the direction of the Commission.⁴⁷

July 5, 2017: The Commission issues Admissibility and Merits Report No. 76/17.⁴⁸

The petitioners argue the State did not provide a fair trial or judicial protection as the victims were unrepresented at fundamental proceedings, represented by inexperienced and ill-prepared law students, and unable to cross-examine witnesses.⁴⁹ Furthermore, the judge’s decision did not determine individual responsibility for each defendant.⁵⁰ The petitioners also allege the death penalty and execution by firing squad are inhumane.⁵¹

The State argues all aspects of the judicial process and alleged violations were carried out in accordance with the law.⁵² As a result, the State believes Mr. Girón and Mr. Castillo Mendoza were afforded due process.⁵³

The Commission holds that domestic remedies have been exhausted.⁵⁴ Based on the foregoing, the Commission concludes the State violated Articles 4(1) (Prohibition of Arbitrary Deprivation of Life), 4(2) (Limitations on Death Penalty), 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), 8(2) (Right to Be Presumed Innocent), 8(2)(c) (Right to Adequate Time and Means to Prepare Defense), 8(2)(e) (Right to Assistance by Counsel Provided by State), and 25(1) (Right of Recourse Before a Competent Court) of the American Convention.⁵⁵

45. Girón et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 1; Girón et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 2.

46. Girón et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 2.

47. *Id.*

48. Girón et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 4.

49. *Id.* ¶ 10.

50. *Id.*

51. *Id.* ¶¶ 11-12.

52. *Id.* ¶¶ 15-18.

53. *Id.* ¶ 15.

54. Girón et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 25.

55. *Id.* ¶ 122.

The Commission recommends the State: (1) compensate the victims' families; (2) adopt necessary measures to abolish the death penalty in accordance with the State's de facto cessation of the death penalty.⁵⁶

B. Before the Court

November 30, 2017: The Commission submits the case to the Court after the State failed to adopt its recommendations.⁵⁷

August 7, 2018: The State opposes the alleged violations and raises a preliminary objection arguing it fully afforded due process.⁵⁸ The State argues Mr. Girón and Mr. Castillo Mendoza exhausted all remedies and the execution complied with the final conviction issued by the judicial body which heard the case.⁵⁹ Furthermore, the State argues Guatemala has not utilized the death penalty in over twenty years and should be granted an exception.⁶⁰

1. Violations Alleged by Commission⁶¹

Article 4(1) (Prohibition of Arbitrary Deprivation of Life)

Article 4(2) (Limitations on Death Penalty)

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

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

Article 8(2) (Right to Be Presumed Innocent)

Article 8(2)(c) (Right to Adequate Time and Means to Prepare Defense)

Article 8(2)(e) (Right to Assistance by Counsel Provided by State)

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

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.

and

Article 1 (Obligation to Prevent and Punish Torture)

56. Girón et al. v. Guatemala, Report on Admissibility and the Merits, "Recommendations", ¶¶ 1-2.

57. Girón et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 3.

58. *Id.* ¶¶ 8, 15.

59. *Id.* ¶ 15.

60. *Id.*

61. Girón et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 122.

Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment) of the American Convention to Prevent and Punish Torture.

2. Violations Alleged by Representatives of the Victims⁶²

Same Violations Alleged by Commission, plus:

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

Article 8(2)(d) (Right to Self-Defense or Legal Assistance and to Communicate Freely with Counsel)

Article 8(2)(f) (Right of Defense to Obtain the Appearance of Witnesses and Examine Them)

Article 8(2)(g) (Right Not to Self-Incriminate)

Article 8(2)(h) (Right to Appeal)

Article 8(3) (A Confession is Valid Only if Not Coerced)

Article 8(5) (Criminal Proceedings Must Be Public) of the American Convention

and

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

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

all in relation to:

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

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

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

III. MERITS

A. *Composition of the Court*⁶³

Eduardo Ferrer Mac-Gregor Poisot, President

Eduardo Vio Grossi, Vice-President

62. Girón et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 5, 7. Ms. Lorena Padován and Mr. Johanny Castillo Sabari of the Inter-American Association of Public Defenders (Asociación Interamericana de Defensorías Públicas; “AIDEP”) served as representatives of Mr. Girón and Mr. Mendoza.

63. Judge Eugenio Raúl Zaffaroni did not participate in the deliberation of this judgement in accordance with Article 21 of the Court’s Regulations. *Id.* n.*.

Humberto Antonio Sierra Porto, Judge
Elizabeth Odio Benito, Judge
Patricio Pazmiño Freire, Judge
Ricardo Pérez Manrique, Judge

Pablo Saavedra Alessandri, Secretary

B. Decision on the Merits

October 15, 2019: The Court issues its Judgment on Merits, Reparations, and Costs.⁶⁴

The Court found unanimously that Guatemala had violated:

Articles 4(1) (Prohibition of Arbitrary Deprivation of Life), 4(2) (Limitations on Death Penalty), in relation to Article 1(1) (Obligation of Non-Discrimination) and Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the Convention, to the detriment of Mr. Girón and Mr. Castillo Mendoza,⁶⁵ because:

Articles 4(1) (Prohibition of Arbitrary Deprivation of Life) and 4(2) (Limitations on Death Penalty) require that the death penalty only be applied in exceptional circumstances and for the most serious crimes.⁶⁶ Where the Court has ruled in favor of a State utilizing the death penalty, its application is subject to rigorous limitations.⁶⁷ The State has a duty to protect all people and punish criminals within the boundaries of procedures preserving public safety and respect for human rights.⁶⁸

Here, Article 175 of the Criminal Code, at the time of conviction, mandated a sentence of death based on the conviction alone.⁶⁹ The Criminal Code did not allow for mitigation or sentencing based on the crime's specific circumstances or degree of participation in the crime.⁷⁰ Article 175 had itself been amended and subsequently repealed by the time Mr. Girón and Mr. Castillo Mendoza were executed.⁷¹ The mandatory death sentence and subsequent execution of Mr. Girón and Mr. Castillo Mendoza

64. Girón et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 1.

65. *Id.* "Declares," ¶ 1.

66. *Id.* ¶ 63.

67. *Id.*

68. *Id.* ¶ 64.

69. *Id.* ¶ 70.

70. Girón et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 71.

71. *Id.* ¶ 68.

*constituted an international wrongful act because it breached a duty to prohibit the arbitrary imposition of the death penalty under Articles 4(1) and 4(2) of the Convention.*⁷²

Article 5(1) (Right to Physical, Mental, and Moral Integrity), Article 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Girón and Mr. Castillo Mendoza,⁷³ because:

Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) require states not to violate a person's right to physical and mental integrity.⁷⁴ The Court and other authorities have found specific conditions on death row may create psychological trauma that constitutes cruel and degrading treatment.⁷⁵ Time on death row produces extreme anguish, stress, and trauma related to the inequities of conviction. Additionally, the Court recognized public executions as inherently cruel, inhuman, or degrading.⁷⁶

Here, the State suspended Mr. Girón and Mr. Castillo Mendoza's sentence twice before executing both men on television.⁷⁷ Both men were held for nearly three years under constant threat of execution.⁷⁸ During this period, Mr. Girón and Mr. Castillo Mendoza were forced to wrestle not only with their impending deaths, but also with the injustice and deprivations suffered in their numerous legal battles to stay alive.⁷⁹ Finally, the public execution violated the men's human dignity and served to degrade the men by objectifying them to exemplify an intolerance for their alleged behavior.⁸⁰ The effects of death row upon Mr. Girón and Mr. Castillo Mendoza and their subsequent public execution constituted an international wrongful act because it breached a duty to protect physical, mental, and moral integrity under Article 5(1) and the prohibition against

72. Girón et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 72, 74.

73. *Id.* "Declares," ¶ 2.

74. *Id.* ¶ 78.

75. *Id.* ¶ 79.

76. *Id.* ¶ 82.

77. *Id.* ¶ 83.

78. Girón et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 85.

79. *Id.*

80. *Id.* ¶ 87.

*cruel, inhuman, and degrading treatment under Article 5(2) of the Convention.*⁸¹

Articles 8(2)(d) (Right to Self-Defense or Legal Assistance and to Communicate Freely with Counsel), 8(2)(e) (Right to Assistance by Counsel Provided by State) in relation to Articles 4(1) (Prohibition of Arbitrary Deprivation of Life), 1(1) (Obligation of Non-Discrimination), and 1(2) (Definition of “Person”) of the Convention, to the detriment of Mr. Girón and Mr. Castillo Mendoza,⁸² because:

Article 8 (Right to a Fair Trial) of the Convention requires a State provide certain judicial guarantees to ensure due process and prevent the accused from suffering arbitrary decisions.⁸³ These protections must be in place at the outset to protect the right of self-defense for the accused.⁸⁴ Criminal defendants have the right to both state their version of the facts and to receive a technical defense provided by a legal professional.⁸⁵ A technical defense includes advising the investigated of their rights and duties under the law and shepherding the accused through the formalities crucial to the legal process including the production of evidence.⁸⁶

The State has a duty to provide competent and independent public counsel who, in turn, can provide the accused with a technical defense.⁸⁷ This public counsel must subordinate all interests, most of all those of the State, to the interests of his client.⁸⁸ The Court notes a State must sufficiently guarantee public counsel provide efficient performance and equality with the prosecution.⁸⁹

Here, the State did not provide assistance of counsel for Mr. Girón and Mr. Castillo Mendoza at critical early stages of the proceedings against them.⁹⁰ A judge interrogated both men without informing them of their right to remain silent.⁹¹ This interrogation included questions asked by the judge affirming their responsibility for criminal acts and other

81. Girón et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 88.

82. *Id.* “Declares,” ¶ 3.

83. *Id.* ¶ 96.

84. *Id.*

85. *Id.* ¶ 97.

86. *Id.*

87. Girón et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 99-100.

88. *Id.* ¶ 99.

89. *Id.* ¶ 101.

90. *Id.* ¶ 104.

91. *Id.* ¶ 105.

questions of leading, suggestive, and conclusory nature.⁹² At no point during this interrogation was any defense counsel present.⁹³ Law students were assigned to defend Mr. Girón and Mr. Castillo Mendoza prior to trial but after their statements were taken and other evidentiary proceedings had taken place.⁹⁴ The failure to provide assistance of counsel from the beginning of the legal process constituted an international wrongful act because it breached the right of legal assistance under Article 8(2)(d) of the Convention.⁹⁵

Additionally, both men were individually represented by law students who failed to follow proper legal formalities to the detriment of Mr. Girón and Mr. Castillo Mendoza.⁹⁶ Mr. Bocanegra Conde, defense counsel for Mr. Castillo Mendoza, had no experience with criminal law.⁹⁷ Mr. Chinchilla Cristales, defense counsel for Mr. Girón, failed to provide statements from three defense witnesses by not following the legal procedure of providing the judge with a list of questions for these witnesses.⁹⁸ The Court found that law students are not competent legal professionals when the accused face capital punishment.⁹⁹ The failure to provide legal professionals for the defense of Mr. Girón and Mr. Castillo Mendoza constituted an international wrongful act because it breached the duty to provide assistance by counsel under Article 8(2)(e) of the Convention.¹⁰⁰

The Court found unanimously that Guatemala had not violated:

Articles 4(6) (Right to Seek Amnesty, Pardon, or Commutation of Sentence), and Article 8(5) (Criminal Proceedings Must Be Public) of the Convention,¹⁰¹ because:

The State processed and resolved the appeals filed by Mr. Girón and Mr. Castillo Mendoza in compliance with obligations derived under the American Convention to review pardon requests.¹⁰² The President of the Republic and Constitutional Court's rejection of Mr. Girón and Mr.

92. Girón et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 105.

93. *Id.*

94. *Id.* ¶ 106.

95. *Id.* ¶ 107.

96. *Id.* ¶ 108.

97. *Id.*

98. Girón et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 108.

99. *Id.* ¶¶ 109-111.

100. *Id.* ¶ 110.

101. *Id.* "Declares," ¶ 4.

102. *Id.* ¶ 73.

*Castillo Mendoza's pardons and subsequent amparo requests did not violate their rights under Article 4(6) of the Convention.*¹⁰³

*Article 8(5) requires public criminal proceedings, except where necessary to protect the interests of justice.*¹⁰⁴ *The Court notes public proceedings entail oral stages of litigation where the accused has immediate access to the judge and evidence in a proceeding with public access.*¹⁰⁵

*Here, only the investigation and instruction periods were not carried out publicly.*¹⁰⁶ *Although some witness testimony was rejected, this resulted from formal defects in their presentation.*¹⁰⁷ *The Court found Mr. Girón and Mr. Castillo Mendoza and their counsel were not subject to a secret trial, but rather had effective access to the charges and evidence against them.*¹⁰⁸

IV. REPARATIONS

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

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

1. Judgment as a Form of Reparation.

The Court indicated that the Judgment itself should act as a form of reparation.¹⁰⁹

2. Publish the Judgment

The State must publish within six months, 1) the official summary of the Judgment in the Official Gazette, 2) publish the official summary of the Judgment in a nationally circulated newspaper, and 3) the entire

103. Girón et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 73.

104. *Id.* ¶ 120.

105. *Id.*

106. *Id.* ¶ 121.

107. *Id.*

108. *Id.* ¶ 122.

109. Girón et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, "Provides," ¶ 5.

judgment on an official State website accessible by the public, for a period of at least one year.¹¹⁰

3. Publicly Accept Responsibility

The Court ordered the State to publicly acknowledge responsibility: 1) in Aldea Pinula, Tiquisate, Escuintla within one year as directed by Mr. Castillo Mendoza's next of kin, and 2) a place to be determined by Mr. Girón's next of kin within 10 years.¹¹¹ The State must broadcast the official summary and sentence over the radio once with wide coverage and in Spanish.¹¹² The Court ordered the State to offer public apologies to the families of Mr. Girón and Mr. Castillo Mendoza for all direct and indirect violations.¹¹³

4. Provide Treatment and Housing

The Court ordered the State to provide the victims' next of kin with free medical and psychological treatment.¹¹⁴ Furthermore, the State must provide free housing to Mr. Castillo Mendoza's sister.¹¹⁵

5. Adapt Legal System in Accordance with Judgement

The Court ordered the State to take measures to 1) adapt the Criminal and Military Code and Constitutional regulations regarding the unconstitutionality of examining the threat of future danger in the imposition of the death penalty, 2) take measures to abolish the death penalty, 3) adapt internal legislation to the minimum standards of the American Convention, 4) adapt domestic laws to the American Convention to encompass the rights therein, especially in regards to judicial protection and guarantees, and 5) amendment of the Penal Code in accordance with the Convention.¹¹⁶

110. *Girón et al. v. Guatemala*, Preliminary Objections, Merits, Reparations, and Costs, ¶ 132.

111. *Id.* ¶ 133.

112. *Id.*

113. *Id.*

114. *Id.*

115. *Id.*

116. *Girón et al. v. Guatemala*, Preliminary Objections, Merits, Reparations, and Costs, ¶ 133.

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

[None]

2. Non-Pecuniary Damages

The Court ordered the State to give \$10,000 to each of the victims as compensation for non-pecuniary damages.¹¹⁷

3. Costs and Expenses

The Court awarded \$1,271.54 as reimbursement for costs and expenses to the Court's Legal Assistance Fund for Victims.¹¹⁸

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

\$21,271.54

C. Deadlines

The State must pay non-pecuniary damages to the relatives of Mr. Castillo Mendoza within one year of the Judgment.¹¹⁹ The State must pay non-pecuniary damages to the relatives of Mr. Girón within one year of their identification and verification.¹²⁰ The State must pay costs and expenses within six months of this Judgment.¹²¹

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

[None]

117. *Girón et al. v. Guatemala*, Preliminary Objections, Merits, Reparations, and Costs, ¶ 146.

118. *Id.* ¶ 151.

119. *Id.* ¶ 152.

120. *Id.*

121. *Id.* ¶ 151.

VII.LIST OF DOCUMENTS

A. Inter-American Court

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations and Costs

Girón et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 390 (Oct. 15, 2019).

3. Provisional Measures

Girón et al. v. Guatemala, Resolution of the President, Inter-Am. Ct. H.R., (ser. C) No. 390 (Mar. 4, 2019).

Girón et al. v. Guatemala, Resolution of the President, Inter-Am. Ct. H.R., (ser. C) No. 390 (Feb. 14, 2019).

4. Compliance Monitoring

[None]

5. Review and Interpretation of Judgment

[None]

A. Inter-American Commission

1. Petition to the Commission

[None]

2. Report on Admissibility

Girón et al. v. Guatemala, Report on Admissibility and Merits, Report No. 76/17, Inter-Am. Comm'n H.R., Case No. 11.686 (July 5, 2017).

3. Provisional Measures

[None]

4. Report on Merits

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5. Application to the Court

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VIII. BIBLIOGRAPHY

[None]

