

Rodríguez Revolorio et al. v. Guatemala

ABSTRACT¹

*This case is about three police officers in Guatemala who committed murder and were sentenced to death. One of them died while on death row, due to the poor detention condition. The other two remained on death row for fourteen years until their sentence was commuted. Consistently with the Court's previous decisions in *Martínez Coronado v. Guatemala* and *Fermín Ramírez v. Guatemala*, the Court found Guatemala in violation of the American Convention because the defendants had been sentenced to death not because of what they had done but because of their presumed dangerousness to society. It also found it in violation of the American Convention because of the condition of detention at the prison where the victims were held, and because the Court of Appeal had failed to review the factual issues raised during its review of the case.*

I. FACTS

A. Chronology of Events

February 11, 1995: Miguel Ángel Rodríguez Revolorio, Aníbal Archila Pérez, and Miguel Ángel López Calo, officers from Patrol 603 of the Guatemalan National Police, are arrested for the murder of Pedro Luis Choc and the attempted murder of Edgar Motta González.²

March 10, 1995: The Public Ministry charges Mr. Rodríguez Revolorio, Mr. Archila Pérez, and Mr. López Calo with murder, pursuant to Article 132 of the Penal Code.³ Article 132 imposes a sentence of twenty to fifty

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² Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 387, ¶ 38 (Oct. 14, 2019); Rodríguez Revolorio et al. v. Guatemala, Report on Admissibility and the Merits, Report No. 99/17, Inter-Am. Comm'n H.R., Case No. 11.782, ¶ 6 (Sept. 5, 2017).

³ Rodríguez Revolorio et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 52.

years for the crime of murder.⁴ If the circumstances reveal a greater and particular danger of the defendant, the death penalty is applied instead of the maximum prison sentence.⁵

April 22, 1996: The trial begins in the Fourth Court of Criminal Sentencing, Drug Trafficking and Crimes against the Environment.⁶ The accused's defense counsel files an appeal to recuse Judge MSM for lack of impartiality.⁷ The President of the Criminal Sentencing Court rejects the appeal.⁸

May 23, 1996: The trial court sentences Mr. Rodríguez Revolorio, Mr. Archila Pérez, and Mr. López Calo to death for the crimes of murder and attempted murder.⁹ The court concludes that the accused's actions were brutally perverse and devoid of any apparent motive.¹⁰ The court further determines that Mr. Rodríguez Revolorio, Mr. Archila Pérez and Mr. López Calo are extraordinarily dangerous because the crimes committed were not directed against a specific individual and were instead motivated by the pleasure of shedding blood.¹¹

June 20, 1996: Mr. Rodríguez Revolorio, Mr. Archila Pérez, and Mr. López Calo file a special appeal against their convictions.¹² In the appeal, they argue that the trial court did not individualize their cases or comply with substantive law in determining their sentencing.¹³ The appeal further alleges the court improperly assessed the evidence and obtained some evidence without the accused or defense counsel present.¹⁴

September 2, 1996: The Tenth Chamber of the Criminal Appeals Court, Drug Trafficking and Crimes against the Environment denies the special appeal.¹⁵ The Tenth Chamber concludes that the substantive defects

⁴ Rodríguez Revolorio et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 39.

⁵ *Id.* ¶ 39.

⁶ *Id.* ¶¶ 53, 54.

⁷ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 110.

⁸ *Id.*

⁹ Rodríguez Revolorio et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 54.

¹⁰ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 41.

¹¹ *Id.*

¹² *Id.* ¶ 42.

¹³ *Id.*

¹⁴ Rodríguez Revolorio et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 68.

¹⁵ *Id.* ¶ 69.

alleged in the appeal were beyond the court's control.¹⁶ An appeal is only reviewed in aggravating or extenuating circumstances and to verify whether a lower court complied with regulations confer a discretionary power.¹⁷ The sentencing court ultimately determines the punitive outcome of a case after analyzing and directly appreciating the evidence presented in trial.¹⁸

February 10, 1997: Mr. Rodríguez Revolorio, Mr. Archila Pérez, and Mr. López Calo file a cassation appeal.¹⁹ The Criminal Chamber of the Supreme Court of Justice declares the cassation appeal inadmissible.²⁰ The Supreme Court finds that the cassation appeal against the judgment of September 2, 1996, failed to state the reasons for challenging the decision and failed to comply with formalities required for filing an appeal for cassation.²¹ The Supreme Court also concludes that the appellants' rights under the Constitution had been respected throughout the trial proceedings since they had the opportunity to present a defense in accordance with the law.²²

March 14, 1997: Mr. Rodríguez Revolorio, Mr. Archila Pérez, and Mr. López Calo file an appeal for amparo before the Constitutional Court.²³ The appellants argue that the judgment of February 10, 1997, violated their right to defense and due process.²⁴

June 18, 1997: The Constitutional Court denies the appeal, stating that Supreme Court did not violate their rights and that the case was resolved in accordance with the court's legal powers.²⁵

July 30, 1997: An appeal for review is filed for the sentence issued by the Fourth Court of Criminal Sentencing, Drug Trafficking and Crimes against the Environment.²⁶

¹⁶ Rodríguez Revolorio et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 70.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* ¶ 71.

²⁰ *Id.* ¶ 73.

²¹ *Id.* ¶ 74.

²² Rodríguez Revolorio et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 76.

²³ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 45.

²⁴ *Id.*

²⁵ Rodríguez Revolorio et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 78.

²⁶ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 46.

February 18, 1998: The Criminal Chamber of the Supreme Court of Justice declares the appeal for review filed on July 30, 1997 inadmissible.²⁷

March 3, 1998: Mr. Rodríguez Revolorio, Mr. Archila Pérez, and Mr. López Calo file an appeal for reconsideration against the judgment of February 18, 1998.²⁸ On this same date, the Supreme Court of Justice declares the appeal inadmissible.²⁹

April 15, 1998: Mr. López Calo files an appeal for amparo against the Supreme Court's decision.³⁰

June 18, 1998: The Constitutional Court rejects the appeal for amparo filed by Mr. López Calo.³¹

May 29, 1999: Mr. Rodríguez Revolorio, Mr. Archila Pérez, and Mr. López Calo are transferred to a maximum-security prison known as “El Infiernito.”³²

July 16, 1999: Mr. Archila Pérez dies from diabetic ketoacidosis, a medical complication related to his diabetes.³³

June 1, 2000: The Congress of the Republic of Guatemala formally repeals Decree 159 of 1892, which allowed the Executive Branch to pardon or commute a death penalty sentence.³⁴

February 12, 2008: The Congress of the Republic enacts a law that restores the Executive Branch's power to pardon or confirm a convicted prisoner's death penalty sentence.³⁵ President Álvaro Colom subsequently vetoes the law during the same month, arguing that the law

²⁷ Rodríguez Revolorio et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 79.

²⁸ *Id.* ¶ 80.

²⁹ *Id.*

³⁰ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 47.

³¹ *Id.*

³² *Id.* ¶¶ 73, 79, 84.

³³ *Id.* ¶ 85.

³⁴ *Id.* ¶ 34.

³⁵ Rodríguez Revolorio et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 46.

201x]

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105

violates the State's commitments to the American Convention on Human Rights.³⁶

August 23, 2011: After more than fourteen years on death row, the Supreme Court of Justice commutes the sentences of Mr. Rodríguez Revolorio and Mr. López Calo.³⁷ The Supreme Court does so to comply with prior decisions of the Inter-American Court of Human Rights.³⁸ In 2005, in *Fermín Ramírez v. Guatemala*, the Inter-American Court had decided the “dangerousness” of the perpetrator for a crime of murder cannot be a ground for a death sentence.³⁹

November 15, 2013: The First Multi-Person Criminal Enforcement Court establishes that Mr. Rodríguez Revolorio and Mr. López Calo would complete their sentence on February 10, 2025 and be eligible to apply for parole with good conduct on August 12, 2017.⁴⁰

February 11, 2016: The Constitutional Court declares unconstitutional the phrase in Article 132 of the Penal Code that considers the “dangerousness” of the accused a criterion for applying the death penalty.⁴¹

April 14, 2016: Mr. Rodríguez Revolorio is released from custody.⁴²

August 23, 2016: Mr. López Calo is also released from custody.⁴³

January 11, 2017: Mr. López Calo dies of a heart attack.⁴⁴

³⁶ Rodríguez Revolorio et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 46.

³⁷ *Id.* ¶ 145.

³⁸ *Id.* ¶ 94-95.

³⁹ *Id.* ¶ 95. See *Fermín Ramírez v. Guatemala*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 126 (June 20, 2005); see also *Martínez Coronado v. Guatemala*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 376 (May 10, 2019).

⁴⁰ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 49.

⁴¹ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 35-36.

⁴² *Id.*

⁴³ *Id.* ¶ 83.

⁴⁴ *Id.*

B. Other Relevant Facts

Before the 1990s, the death penalty was applied infrequently in Guatemala.⁴⁵ During President Efraín Ríos Montt's regime, four executions were carried out in 1982 and another eleven in 1983 under Emergency Decree 46-82.⁴⁶ In the 1990s, the Congress of the Republic reinstated the death penalty (by firing squad) with Decree 234.⁴⁷ Decree 234 was repealed in November 1996 by Decree 100-96, which changed the method of execution to lethal injection.⁴⁸ In Guatemala, death penalty has not been applied since June 1, 2000, when Congress repealed Decree 159 of the National Legislative Assembly of April 19, 1892.⁴⁹

II. PROCEDURAL HISTORY

A. Before the Commission

July 17, 1997: The Center for Legal Action on Human Rights ("Centro para la Acción Legal en Derechos Humanos") files a petition on behalf of Mr. Rodríguez Revolorio, Mr. Archila Pérez, and Mr. López Calo to the Inter-American Commission on Human Rights.⁵⁰

September 5, 2017: The Commission issues the Admissibility and Merits Report No. 99/17, and concludes that the State of Guatemala is responsible for violating Articles 4(1) (Prohibition of Arbitrary Deprivation of Life), 4(2) (Limitations of Death Penalty), 5 (Right to Humane Treatment), 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), 8(2)(c) (Right to Adequate Time and Means to Prepare Defense), 8(2)(h) (Right to Appeal), 9 (Freedom from *Ex Post Facto* Laws), and 25(1) (Right of Recourse Before a Competent Court) of the American Convention in connection with the obligations set forth in Articles 1(1) and 2 thereof, to the detriment of Mr. Rodríguez Revolorio, Mr. Archila Pérez and Mr. López Calo.⁵¹

⁴⁵ Rodríguez Revolorio et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 33.

⁴⁶ *Id.*

⁴⁷ *Id.* ¶ 34.

⁴⁸ *Id.*

⁴⁹ *Id.* ¶¶ 35-36.

⁵⁰ *Id.* ¶¶ 1, 4.

⁵¹ Rodríguez Revolorio et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 3.

201x]

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107

The Commission recommends that the State: (1) fully repair the human rights violations declared in the report which must include fair compensation; (2) adopt necessary measures to ensure Mr. Rodríguez Revolorio and Mr. López Calo's convictions are annulled and a new procedure is carried out that respects their right to due process; and (3) adopt the necessary measures to ensure that domestic legislation is consistent with the practice of gradually eliminating the death penalty and thus continue on the path towards abolition instead of restriction.⁵² The Commission also notes that if Mr. Rodríguez Revolorio and Mr. López Calo are acquitted, then the State must release them and expunge their criminal records.⁵³

October 2, 2017: The State submits a brief indicating its willingness to initiate a friendly settlement agreement but does not provide any information indicating that there has been contact with Mr. Rodríguez Revolorio and Mr. López Calo or their representatives.⁵⁴

B. Before the Court

January 26, 2018: The Commission submits the case to the Court, after the State failed to adopt its recommendations.⁵⁵

March 20, 2018: The General Coordinator of the Inter-American Association of Public Defenders (Asociación Interamericana de Defensorías Públicas; "AIDEF") notifies the Court that Ms. Rivana Barreto Ricarte de Oliveira and Ms. Yanela Romero de Pimentel have been appointed to represent Mr. Rodríguez Revolorio and Mr. López Calo.⁵⁶

September 27, 2018: The State submits a preliminary objection claiming that the events conformed to domestic laws at the time when they occurred.⁵⁷

⁵² Rodríguez Revolorio et al. v. Guatemala, Report on Admissibility and the Merits, "Recommends" ¶¶ 1-3.

⁵³ *Id.* "Recommends" ¶ 2.

⁵⁴ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 2(d).

⁵⁵ *Id.* ¶ 1.

⁵⁶ *Id.* ¶ 5.

⁵⁷ *Id.* ¶¶ 8, 14.

1. Violations Alleged by Commission⁵⁸

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

Article 4(2) (Limitations of Death Penalty)

Article 5 (Right to Humane Treatment)

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

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

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

Article 9 (Freedom from *Ex Post Facto* Laws)

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

2. Violations Alleged by Representatives of the Victims⁵⁹

Same violations alleged by the Commission, plus:

Article 8(2)(b) (Right to Have Prior Notification of Charges)

In relation to:

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

III. MERITS

*A. Composition of the Court*⁶⁰

Eduardo Ferrer Mac-Gregor Poisot, President

Eduardo Vio Grossi, Vice-President

Humberto Antonio Sierra Porto, Judge

Elizabeth Odio Benito, Judge

L. Patricio Pazmiño Freire, Judge, and

⁵⁸ Rodríguez Revolorio et al. v. Guatemala, Report on Admissibility and the Merits, ¶ 3.

⁵⁹ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 7. Ms. Rivana Barreto Ricarte de Oliveira and Ms. Yanela Romero de Pimentel from the Inter-American Association of Public Defenders (la Asociación Interamericana de Defensorías Públicas; “AIDEF”) served as representatives of the victims.

⁶⁰ In accordance with Article 21 of the Rules of Court, Judge Eugenio Raúl Zaffaroni excused himself from participating in the deliberation. *Id.* n.*.

201x]

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109

Ricardo Pérez Manrique, Judge

Pablo Saavedra Alessandri, Secretary

B. Decision on the Merits

October 14, 2019: The Court issues its Judgment on Merits, Reparations and Costs.⁶¹

The Court found unanimously:

To dismiss Guatemala’s preliminary objection,⁶² because:

*The State’s argument does not qualify as a preliminary objection since it fails to provide reasons for the case’s inadmissibility or the Court’s incompetency to adjudicate it.*⁶³

The Court found unanimously that Guatemala had violated:

Article 4(2) (Limitations of Death Penalty) and Article 9 (Freedom from *Ex Post Facto* Laws), 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. Archila Pérez,⁶⁴ because:

*The State sentenced Mr. Rodriguez Revolorio, Mr. López Carlos, and Mr. Archila Pérez pursuant to Article 132 of the Penal Code.*⁶⁵ *More specifically, the provision states the death penalty should be applied if the circumstances of the act and the occasion reveal a greater and particular “dangerousness” of the accused.*⁶⁶ *The Court highlighted that the application of future “dangerousness” was previously decided in Martínez Coronado v. Guatemala and Fermín Ramírez v. Guatemala.*⁶⁷ *In these cases, the Court discussed that an assessment of*

⁶¹ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, n.*.

⁶² *Id.* ¶¶ 17-18.

⁶³ *Id.* ¶ 18.

⁶⁴ *Id.* “Declares” ¶ 2.

⁶⁵ *Id.* ¶ 62.

⁶⁶ *Id.*

⁶⁷ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 63.

“dangerousness” requires a judge to consider the probability that a defendant might commit criminal acts in the future, something that is impossible for a judge to predict when imposing a sentence on hypothetical conduct.⁶⁸ For this reason, the Court determined that “dangerousness” as a criterion for sentencing was incompatible with the rights recognized by the American Convention.⁶⁹

Here, the Court determined that Mr. Rodríguez Revolorio, Mr. López Carlos, and Mr. Archila Pérez were sentenced to death not because of any criminal act, but instead because of the evaluation of events that had not yet occurred.⁷⁰ Thus, Mr. Archila Pérez’s sentence was in violation Article 4(2) and Article 9 of the Convention.⁷¹

Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, and Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment) of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Mr. Rodríguez Revolorio, Mr. Archila Pérez, and Mr. López Calo,⁷² because:

The Court considered the State’s special position as the guarantor of rights for inmates in its custody.⁷³ In this position, the State has an implied duty to safeguard the well-being and health of prisoners who require medical attention.⁷⁴ In addition to this, the State must ensure that the method and way prisoners are deprived of their liberty does not surpass the level of suffering already inherent in detention.⁷⁵

*Mr. Rodríguez Revolorio, Mr. Archila Pérez, and Mr. López Calo were detained in a maximum-security prison known as “El Infiernito.”⁷⁶ In *Fermín Ramírez v. Guatemala*, the Court held that the “El Infiernito”*

⁶⁸ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 63.

⁶⁹ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 64.

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.* ¶ “Declares” ¶ 3.

⁷³ *Id.* ¶ 71.

⁷⁴ *Id.*

⁷⁵ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 71.

⁷⁶ *Id.* ¶¶ 73, 79, 84.

lacked adequate hygiene, ventilation and water.⁷⁷ Further, in that prison, prisoners did not have access to educational programming, sports activities, medical assistance, or psychological treatment.⁷⁸ The prison's poor physical and sanitary conditions evidenced in Fermín Ramírez v. Guatemala remain a concern with the present case.⁷⁹

While detained, Mr. Rodríguez Revolorio, Mr. Archila Pérez, and Mr. López Calo did not have access to sufficient light or ventilation because windows were located above their prison cells.⁸⁰ They were also restricted to six liters of water per day.⁸¹ Healthcare was also insufficient and almost non-existent.⁸² “El Infiernito” lacked medical supplies and trained medical personnel that could attend to the medical needs of prisoners.⁸³ As a result, prisoners experienced an increase in health problems and mental health issues.⁸⁴ The prison also failed to provide prisoners like Mr. Archila Pérez with a specialized diet for his diabetes, which ultimately worsened his condition.⁸⁵

Aside from these conditions, Mr. Rodríguez Revolorio, Mr. Archila Pérez, and Mr. López Calo's visits were restricted.⁸⁶ They remained handcuffed during visits and were not allowed to have physical contact with their visitors.⁸⁷ Based on the foregoing, the Court concluded that the prison conditions did not comply with international standards for decent and humane treatment.⁸⁸

The Court also concluded that Mr. Rodríguez Revolorio, Mr. Archila Pérez, and Mr. López Calo's death sentence caused them suffering, anguish, anxiety, stress, and frustration.⁸⁹ In previous decisions, the Court had called this the “phenomenon of death row.”⁹⁰ That is, prisoners sentenced to death experience psychological trauma

⁷⁷ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 86.

⁷⁸ *Id.*

⁷⁹ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 87-88.

⁸⁰ *Id.* ¶ 89.

⁸¹ *Id.*

⁸² *Id.* ¶ 90.

⁸³ *Id.*

⁸⁴ *Id.* ¶ 90.

⁸⁵ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 85, 90.

⁸⁶ *Id.* ¶ 91.

⁸⁷ *Id.*

⁸⁸ *Id.* ¶ 92.

⁸⁹ *Id.* ¶ 95.

⁹⁰ *Id.* ¶ 94.

*because of the constant threat of their execution.*⁹¹ *The Court held that Mr. Rodríguez Revolorio, Mr. Archila Pérez, and Mr. López Calo's confinement to death row caused them serious mental suffering, which was in violation of Article 5(1) and Article 5(2) of the Convention.*⁹²

Article 8(2)(h) (Right to Appeal), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Rodríguez Revolorio, Mr. Archila Pérez, and Mr. López Calo,⁹³ because:

*The right to appeal is a minimum guarantee to everyone subject to an investigation within the criminal process.*⁹⁴ *The Court notes that the appeal process should not be an obstacle for prisoners.*⁹⁵ *Guatemala has two remedies that satisfy the right to appeal a ruling.*⁹⁶ *The first is a "special appeal", which does not review the facts and is limited to legal errors or violations of constitutional norms.*⁹⁷ *The second is a cassation appeal, which is limited to an analysis of the law.*⁹⁸ *In 1996, Mr. Rodríguez Revolorio, Mr. Archila Pérez, and Mr. López Calo filed their first appeal against the judgment issued by the Fourth Court of Criminal Sentencing, Drug Trafficking and Crimes against the Environment.*⁹⁹ *The Court of Appeal, however, declared the appeal inadmissible without analyzing the individual arguments presented by the appellants.*¹⁰⁰ *The Court of Appeal's failure to review the factual issues raised was a breach of its duty to conduct a comprehensive review of the case.*¹⁰¹ *Thus, the State violated Mr. Rodríguez Revolorio, Mr. Archila Pérez, and Mr. López Calo's right to appeal their sentence to a higher judge or court under Article 8(2)(h).*¹⁰²

The Court found unanimously that Guatemala had not violated:

⁹¹ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 94.

⁹² Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 96.

⁹³ *Id.* "Declares" ¶ 4.

⁹⁴ *Id.* ¶ 126.

⁹⁵ *Id.* ¶ 127.

⁹⁶ *Id.* ¶ 128.

⁹⁷ *Id.* ¶¶ 129-130.

⁹⁸ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 131.

⁹⁹ *Id.* ¶ 132.

¹⁰⁰ *Id.* ¶¶ 133-134.

¹⁰¹ *Id.* ¶ 134.

¹⁰² *Id.* ¶¶ 134-136.

Articles 4(1) (Prohibition of Arbitrary Deprivation of Life), 4(2) (Limitations of Death Penalty), and 9 (Freedom from *Ex Post Facto* Laws), in relation to Articles 1(1) (Obligation of Non-Discrimination) and 2 (Obligation to Give Domestic Legal Effect to Rights) of the Convention, to the detriment of Mr. Rodríguez Revolorio and Mr. López Calo,¹⁰³ because:

The Court recalled that a State must guarantee freedoms and rights to investigate, judge, and sanction crimes committed.¹⁰⁴ When a case is not resolved, it is then submitted to the Commission and the Court for review.¹⁰⁵ The Court acknowledged that Mr. Rodríguez Revolorio and Mr. López Calo's prior sentence was partially annulled in 2012.¹⁰⁶ The Supreme Court of Justice commuted their death sentence and imposed a sentence of thirty years.¹⁰⁷ Because the court modified the sentence, the State was not considered responsible for the violations that exist when the death penalty is imposed.¹⁰⁸

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 8(2) (Right to Be Presumed Innocent), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Rodríguez Revolorio, Mr. Archila Pérez, and Mr. López Calo,¹⁰⁹ because:

The Court has consistently recognized the rights of the accused to be tried by an impartial court whose members do not have a direct interest or preference for any party.¹¹⁰ This right to impartiality implies that judges must not appear to be subject to influence, pressure, or threats.¹¹¹ In 1996, Mr. Rodríguez Revolorio, Mr. Archila Pérez, and Mr. López Calo, through their counsel, filed an appeal challenging the impartiality of the presiding judge of the Fourth Court of Criminal Sentencing, Drug

¹⁰³ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, "Declares" ¶ 5.

¹⁰⁴ *Id.* ¶ 57.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.* ¶ 60.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, "Declares" ¶ 6

¹¹⁰ *Id.* ¶ 107.

¹¹¹ *Id.* ¶ 107.

*Trafficking and Crimes against the Environment.*¹¹² The appeal alleged that the president of the sentencing court also participated in the investigation of the case as judge.¹¹³ The Court determined that alleged violations of impartiality were already evaluated and resolved.¹¹⁴ Therefore, the State was not in violation of Article 8(1) or Article 8(2) of the Convention.¹¹⁵

C. Dissenting and Concurring Opinions

1. Concurring Opinion of Judge Humberto Antonio Sierra Porto

In a separate opinion, Judge Sierra Porto discussed the inconsistent and inappropriate use of the principle *iura novit curia*.¹¹⁶ Judge Sierra Porto argued that this has been evident in the Court's recent analysis of cases concerning the violation of economic, social, cultural, and environmental rights.¹¹⁷ States should have the procedural opportunity to dispute the allegations involving its responsibility for the violation of human rights.¹¹⁸ New approaches in the jurisprudence of the Court affects the state's ability to use arguments and present evidence that would otherwise disprove such violations.¹¹⁹ Additionally, States must have the opportunity to resolve possible violations through domestic remedies.¹²⁰ Here, the Court analyzed the merits of the case from the perspective of the right to personal integrity.¹²¹ The Court reiterated that the State had an implied duty to safeguard the well-being and health of inmates.¹²² However, Judge Sierra Porto agreed with the decision reached by the Court as being consistent with its decisions in recent decades.¹²³

¹¹² Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 110.

¹¹³ *Id.* ¶ 112.

¹¹⁴ *Id.* ¶ 111.

¹¹⁵ *Id.* ¶ 115.

¹¹⁶ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, Concurring Opinion of Judge Humberto Antonio Sierra Porto, Inter-Am. Ct. H.R. (ser. C) No. 387, ¶ 1 (Oct. 14, 2019).

¹¹⁷ *Id.*

¹¹⁸ *Id.* ¶ 3.

¹¹⁹ *Id.*

¹²⁰ *Id.*

¹²¹ *Id.* ¶ 6.

¹²² Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, Concurring Opinion of Judge Humberto Antonio Sierra Porto, ¶ 6.

¹²³ *Id.* ¶ 7.

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115

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 is a form of reparation.¹²⁴

2. Provide Medical Treatment

The State must provide Mr. Rodríguez Revolorio with immediate medical care and psychological treatment, including medication, at no cost and for as long as necessary.¹²⁵

3. Conform Prison Conditions to International Human Rights Standards

The State must adopt necessary measures to ensure that the detention conditions at “El Infiernito” are modified to conform to international human rights standards.¹²⁶ The State must also present a report, within one year, to inform the Court of its compliance with these measures.¹²⁷ The Court indicated that the State must specifically address the shortcomings found within the prison including: 1) lack of natural light, 2) inadequate air circulation, 3) lack of access to water for daily use, 4) insufficient health care, trained medical personnel, and medication, 5) failure to provide diets appropriate for each inmate’s medical conditions, and 6) visitations.¹²⁸

¹²⁴ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, “And Provides” ¶ 7.

¹²⁵ *Id.* ¶ 145.

¹²⁶ *Id.* ¶ 157.

¹²⁷ *Id.*

¹²⁸ *Id.*

4. Publish the Judgment

The State must publish, within six months, an official summary of the judgment in the official gazette and in a widely circulated newspaper.¹²⁹ The State must also publish the judgment in its entirety on an official website accessible to the public for at least one year.¹³⁰

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

[None]

2. Non-Pecuniary Damages

The Court ordered the State to pay \$10,000 to each of the victims, Mr. Rodríguez Revolorio, Mr. López Calo and Mr. Archila Pérez, as compensation for the suffering incurred and the denial of justice.¹³¹ The State must deliver payment of \$10,000, within one year, to be split equally among the surviving family members of Mr. López Calo and Mr. Archila Pérez.¹³²

3. Costs and Expenses

The Court ordered the State to reimburse \$1,943.20 to the Court's Legal Assistance Fund for Victims within six months of the judgment.¹³³

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

\$31,943.20

¹²⁹ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 149.

¹³⁰ *Id.*

¹³¹ *Id.* ¶¶ 172-173.

¹³² *Id.* ¶¶ 174-175.

¹³³ *Id.* ¶ 184.

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117

C. Deadlines

The State must pay non-pecuniary damages, as well as costs and expenses, within one year of the judgment.¹³⁴

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

[None]

VII. LIST OF DOCUMENTS

A. Inter-American Court

1. Preliminary Objections

[None]

2. Decisions on Merits, Reparations and Costs

Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 387 (Oct. 14, 2019) (Available only in Spanish).

Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, Concurring Opinion of Judge Humberto Antonio Sierra Porto, Inter-Am. Ct. H.R. (ser. C) No. 387 (Oct. 14, 2019) (Available only in Spanish).

3. Provisional Measures

Rodríguez Revolorio et al. v. Guatemala, Resolution of the President, Inter-Am Ct. H.R. (ser. C) No. 387 (Feb. 15, 2019) (Available only in Spanish).

¹³⁴ Rodríguez Revolorio et al. v. Guatemala, Preliminary Objections, Merits, Reparations, and Costs, ¶ 185.

4. Compliance Monitoring

[None]

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

[None]

2. Report on Admissibility

Rodríguez Revolorio et al. v. Guatemala, Report on Admissibility and the Merits, Report No. 99/17, Inter-Am. Comm'n H.R., Case No. 11.782 (Sept. 5, 2017) (Available only in Spanish).

3. Provisional Measures

[None]

4. Report on Merits

Rodríguez Revolorio et al. v. Guatemala, Report on Admissibility and the Merits, Report No. 99/17, Inter-Am. Comm'n H.R., Case No. 11.782 (Sept. 5, 2017) (Available only in Spanish).

5. Application to the Court

Rodríguez Revolorio et al. v. Guatemala, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 11.782 (Jan. 26, 2018) (Available in Spanish).

VIII. BIBLIOGRAPHY

[None]