

González et al. (“Cotton Field”) v. Mexico

ABSTRACT¹

This case stems from the assassination of three women, in three separate incidents, who were all found dead in the same cotton field in Ciudad Juárez. Besides finding violations of several articles of the American Convention, mainly due to the severe investigative deficiencies that marred prosecution of the women’s assassins, the Court also found violations of the Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belém do Pará). The judgment is a landmark case on violence against women.

I. FACTS

A. Chronology of Events

1. Events pertaining to Claudia Ivette González

October 10, 2001: Ms. Claudia Ivette González is twenty-years-old and works at the *maquila* plant in Ciudad Juárez, Mexico.² According to a friend, Ms. González sometimes arrives late to work because she helps her sister take care of her daughter.³ Ms. González arrives two minutes late to work and is not permitted inside.⁴ No one sees her alive after this day.⁵

October 11 or 12, 2001: Ms. González’s family and close friends report that she is missing.⁶

1. Monica Rodriguez, Author; Elise Cossart-Daly, Grace Kim, and Sascha Meisel, Editors; Sarah Frost, Chief Articles Editor; Cesare Romano, Faculty Advisor.

2. González et al. (“Cotton Field”) v. Mexico, Preliminary Objection, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C), No. 205 ¶ 166 (Nov. 16, 2009).

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.* ¶ 172.

November 6, 2001: Ms. González's body is found in the cotton fields of Ciudad Juárez.⁷ She is wearing a white blouse and a light-colored brassiere.⁸ She is lying on her right side with her right arm placed next to her chest.⁹ Her legs are extended.¹⁰ There are signs of vegetation from the field on her.¹¹ Her skull has been skinned and tissue from her neck and throat are missing.¹²

November 9, 2001: The autopsy report is released; the cause of death cannot be established.¹³

November 16, 2001: Ms. González's sister identifies Ms. González after looking at a hair sample, a fingernail, a jacket, a blouse, and a tooth filling.¹⁴ The State returns the body to Ms. González's family the same day.¹⁵

2. Events pertaining to Esmeralda Herrera Monreal

October 29, 2001: Ms. Esmeralda Herrera Monreal is fifteen-years-old and is in her first year of high school in Ciudad Juárez.¹⁶ She leaves the house where she works as a domestic employee and is never seen again.¹⁷

October 30, 2001: Ms. Herrera Monreal is reported missing.¹⁸

November 6, 2001: Ms. Herrera Monreal's body is found in the cotton fields in Ciudad Juárez.¹⁹ She is wearing a blouse, torn on the upper right side, and a brassiere, both of which are raised over her breasts, and

7. *Id.* ¶ 2.

8. *Id.* ¶ 212(b).

9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.*

13. *Id.*

14. *Id.* ¶¶ 320, 321. The Argentine Forensic Anthropology Team ("EAAF") and the Inter-American Court both concluded that these were insufficient elements to establish a positive identification. Ms. González's family, however, indicated that they were satisfied with the initial identification.

15. *Id.* ¶¶ 320, 325.

16. *Id.* ¶ 167.

17. *Id.*

18. *Id.* ¶ 173.

19. *Id.* ¶ 2.

tattered white socks.²⁰ She is lying on her back with her legs spread open and her hands tied behind her lower back by a black cord.²¹ Some flesh had been removed from her skull, neck, collarbone area, right shoulder, right arm and right breast.²² Her right breast is missing and her left nipple has been partially removed.²³ Flesh had also been removed from her hand in the form of a glove.²⁴ Insects had invaded her body.²⁵

November 9, 2001: The autopsy report is released; the cause of death cannot be established.²⁶

November 16, 2001: Ms. Herrera Monreal's father and brother identify Ms. Herrera Monreal based on the clothes found where the bodies were discovered.²⁷ The State turns over the body to the family the same day before conducting any DNA testing.²⁸

March 15, 2006: When the Public Prosecutor's Office seeks to conduct DNA tests to confirm the identification of the body,²⁹ Ms. Irma Monreal Jaime, Ms. Herrera Monreal's mother, replies that she does want them to conduct the testing.³⁰

2006: Two police patrol cars stop Mr. Adrián Herrera Monreal, Ms. Herrera Monreal's brother, while he is driving.³¹ Shortly after he is pulled over, two police vans arrive and make him get out of his car.³² The officers beat him and take his vehicle.³³ The car is found dismantled eight months later in a lot that belongs to the police.³⁴

3. Events pertaining to Laura Berenice Ramos Monárrez

20. *Id.* ¶ 212(a).

21. *Id.*

22. *Id.*

23. *Id.*

24. *Id.*

25. *Id.*

26. *Id.* ¶ 212(a).

27. *Id.* ¶ 320.

28. *Id.* ¶¶ 320, 322.

29. *Id.* ¶ 325.

30. *Id.*

31. *Id.* ¶ 437.

32. *Id.*

33. *Id.*

34. *Id.*

September 22, 2001: Ms. Laura Berenice Ramos Monárrez, a seventeen-year-old high school student, phones her friend to let her know that she is getting ready to go to a party.³⁵

September 25, 2001: Ms. Ramos Monárrez disappears.³⁶ Her mother reports her daughter's disappearance to the authorities.³⁷

November 6, 2001: Ms. Ramos Monárrez's body is found in the cotton fields in Ciudad Juárez.³⁸ Ms. Ramos Monárrez's is wearing a white V-neck halter-top and a black brassiere, both garments raised exposing her breasts.³⁹ There is a five-millimeter wound around her right nipple, slicing off the tip.⁴⁰ She is found lying on her back and her arms extended over her head.⁴¹ The back of her skull appears to have been skinned.⁴² The remaining skin on her body is withered.⁴³ Her hair has been cut in an irregular fashion.⁴⁴ The surrounding vegetation has covered her body.⁴⁵

November 9, 2001: The autopsy report is released.⁴⁶ The cause of death cannot be established.⁴⁷

March 22, 2002: Ms. Benita Monárrez Salgado, Ms. Ramos Monárrez's mother, identifies her daughter's body.⁴⁸ The Technical Office of Expert Services of Chihuahua give the body to Ms. Monárrez Salgado, though they have not completed sufficient procedures to establish a positive identification.⁴⁹

Some point after the disappearance: Ms. Monárrez Salgado speaks out against the Mexican police for their deficient investigation and

35. *Id.* ¶ 165.

36. *Id.*

37. *Id.* ¶ 171.

38. *Id.* ¶ 2.

39. *Id.* ¶ 212(c).

40. *Id.*

41. *Id.*

42. *Id.*

43. *Id.*

44. *Id.*

45. *Id.*

46. *Id.* ¶¶ 212; 212(c).

47. *Id.* ¶ 212(b).

48. *Id.* ¶ 320.

49. *Id.* ¶¶ 320, 325.

complicity in her daughter's death.⁵⁰ She and her family begin to receive threatening calls, which intensify after the Court accepts the case.⁵¹ Ms. Monárrez Salgado and her two children begin to be followed.⁵² During one of these encounters Ms. Monárrez and her children are almost run over by a car.⁵³ On a different occasion, Monárrez Salgado's home is robbed.⁵⁴ She seeks asylum in the United States for herself, her daughter, and her son.⁵⁵

May 2, 2006: Ms. Claudia Ivonee Ramos Monárrez, Ms. Ramos Monárrez's sister, files a complaint with the Public Prosecutor's Office, asserting that people who had parked outside her home harassed her.⁵⁶

September 4, 2006: After being granted asylum, Ms. Monárrez Salgado flees to the United States.⁵⁷

4. Events pertaining to Ms. González, Ms. Herrera Monreal, and Ms. Ramos Monárrez

September-October 2001: In all three cases, the same day that Missing Person Report is prepared, the Services to Victims of Crime Program sends a letter to the Chief of Police to inform the police of the Program's knowledge of the three disappearances.⁵⁸ The Program also asks the police to conduct investigations on the three disappearances.⁵⁹

November 6, 2001: A construction worker walking through the cotton fields notices dead bodies and calls the police.⁶⁰ Ms. González, Ms. Herrera Monreal and Ms. Ramos Monárrez, all women of humble origins, are found dead in a cotton field in Ciudad Juárez, Mexico.⁶¹ The officers locate a total five bodies. Twenty-six items of evidence are collected. However, only one of these items appears on the official

50. *Id.* ¶ 431.

51. *Id.*

52. *Id.*

53. *Id.*

54. *Id.*

55. *Id.* ¶¶ 432-33.

56. *Id.* ¶ 429.

57. *Id.* ¶ 428.

58. *Id.* ¶ 175.

59. *Id.*

60. *Id.* ¶ 302.

61. *Id.* ¶¶ 2, 168.

record.⁶²

November 7, 2001: More items are found on the bodies.⁶³ This evidence never makes it into the official report.⁶⁴

November 9, 2001: The police arrest Mr. Victor Javier García Uribe and Mr. Gustavo González Meza for the Cotton Field murders.⁶⁵ The two men confess to having committed the murders.⁶⁶

November 12, 2001: Mr. García and Mr. González redact their confessions, stating that they had confessed only because the police tortured and threatened them.⁶⁷

February 5, 2002: The police of the state of Chihuahua shoot Mr. González's attorney.⁶⁸ He dies from the gunshot wounds.⁶⁹ The reason for the shooting is unknown.⁷⁰

February 8, 2003: Mr. González dies in prison, just hours before a medical operation.⁷¹

February 24-25, 2002: The family members of the victims conduct a two-day search in the cotton field for more evidence.⁷² They find significantly more evidence that the police had failed to gather including clothes, nine shoes, eleven various objects, a license plate, hair, blood remains, different containers, and bones.⁷³ There is no indication of what happened to this evidence, where it was sent, or which officer was in charge of it.⁷⁴ The authorities did not analyze some evidence until six years later.⁷⁵

62. *Id.* ¶ 303.

63. *Id.*

64. *Id.*

65. *See id.* ¶ 337, n. 370.

66. *See id.* ¶ 337.

67. *Id.*

68. *Id.* ¶ 338.

69. *Id.*

70. *Id.*

71. *Id.*

72. *Id.* ¶ 304.

73. *Id.*

74. *Id.*

75. *Id.*

October 2003: New genetic tests are requested for the Cotton Field case.⁷⁶ The victims in this case, however, are not examined because the families took the bodies and all of the genetic samples from the victims were used in the 2002 tests.⁷⁷

October 13, 2004: The Third Criminal Judge sentences Mr. García to fifty years imprisonment for the murders of Ms. Ramos Monárrez, Ms. González, and Ms. Herrera Monreal.⁷⁸

July 14, 2005: The Supreme Court of Chihuahua decides that the detention of Mr. García and Mr. González was arbitrary.⁷⁹ It also notes that the confessions were suspicious for two reasons.⁸⁰ First, the immediacy of the men's confession to the murders is questionable considering the fact that they knew of their right against self-incrimination.⁸¹ Second, the two men's detailed account of the facts of the murder conflicted with what was determined in the autopsies.⁸²

November 22, 2007: A box of evidence pertaining to the cases processed in Ciudad Juárez is found.⁸³ The box contains samples of hair and bones, but the reason for the box being there or the procedure for protecting the evidence is unknown.⁸⁴

B. Other Relevant Facts

Since the early 1990s, the city has reported severe issues regarding violence specifically targeted at women.⁸⁵ The women targeted are young, between the ages of fifteen to twenty-five.⁸⁶ Typically, the victims are students, workers in manufacturing and/or assembly plants (*maquiladoras*), or workers in other local businesses in the area.⁸⁷ The common sequence of these murders is the following: the women are abducted and held captive, the families report the disappearance of their

76. *Id.* ¶ 323.

77. *Id.*

78. *Id.* ¶ 339.

79. *Id.* ¶ 340.

80. *Id.*

81. *Id.*

82. *Id.*

83. *Id.* ¶ 304.

84. *Id.*

85. *Id.* ¶ 115.

86. *Id.* ¶ 122.

87. *Id.*

loved one, and after days or months, the body is found in an empty lot.⁸⁸ The body has signs of violence, including evidence of rape and other kinds of sexual abuse, torture and mutilation.⁸⁹ While reports agree that there are different motives for the murders of women in Ciudad Juárez, a major factor is the systematic discrimination against women rooted in the idea that women are inferior and subordinate to men.⁹⁰ The authorities' ineffective response and indifferent attitude toward the crimes only seems to perpetuate the violence.⁹¹

The Office of the Special Prosecutor for Crimes related to the Murders of Women in the Municipality of Juárez has stated that, from 1993 to 2005, 4,456 women are reported to have disappeared.⁹² As of December 31, 2005, only thirty-four women have been found.⁹³ In 2006, Ciudad Juárez was ranked number four for having the most murdered women out of all cities in Mexico.⁹⁴ Numerous national and international human rights organizations continue to monitor and call attention to the situation in Ciudad Juárez.⁹⁵

II. PROCEDURAL HISTORY

A. *Before the Commission*

1. Events pertaining to Ms. González, Ms. Herrera Monreal, and Ms. Ramos Monárrez

March 6, 2002: The petitioners Ms. Josefina González Rodríguez, mother of Ms. González, and Rosario Acosta and Jorge Alberto Gaytán, representing the Citizens' Network for Nonviolence and Human Dignity (Red Cuidana de No Violencia y por la Dignidad Humana), file the initial petition with the Commission.⁹⁶

February 24, 2005: The Commission approves Report Nos. 16/05,

88. *Id.* ¶ 125.

89. *Id.*

90. *Id.* ¶¶ 132-33.

91. *Id.*

92. *See id.* ¶¶ 147, 164.

93. *Id.* ¶ 119.

94. *Id.* ¶ 117.

95. *Id.* ¶ 116.

96. *Id.* ¶ 1; González et al. ("Cotton Field") v. Mexico, Admissibility Report, Report No. 16/05, Inter-Am. Comm'n H.R., Case Nos. 12.496, 12.497 and 12.498 (Feb. 24, 2005).

17/05, and 18/05 and declares the petitions admissible.⁹⁷

January 30, 2007: The Commission consolidates the three cases.⁹⁸

March 9, 2007: The Commission issues Merits Report No. 28/07.⁹⁹

B. Before the Court

November 4, 2007: The Commission submits the case to the Court after the State failed to adopt its recommendations.¹⁰⁰

1. Violations Alleged by Commission¹⁰¹

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 8 (Right to a Fair Trial)

Article 19 (Rights of the Child)

Article 25 (Right to Judicial Protection)

all in relation to:

Article 1(1) (Obligation to Respect Rights)

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

Article 7 (Duty to Prevent, Punish, and Eradicate Violence Against Women) of the Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belém do Pará)

2. Violations Alleged by Representatives of the Victims¹⁰²

Same Violations Alleged by Commission, plus:

Article 7 (Right to Personal Liberty)

97. *González et al. ("Cotton Field") v. Mexico*, Preliminary Objection, Merits, Reparations, and Costs, ¶ 1.

98. *Id.*

99. *Id.* The Merits Report was not available at the time of publication.

100. *Id.*

101. *Id.* ¶ 3.

102. *Id.* ¶ 4. *Asociación Nacional de Abogados Democráticos A. C.*, the Latin American and Caribbean Committee for the Defense of Women's Rights, the *Red Ciudadana de No Violencia y por la Dignidad Humana* and the *Centro para el Desarrollo Integral of the Mujer A. C.* served as representatives of Ms. González, Ms. Herrera Monreal and Ms. Ramos Monárrez.

Article 11 (Right to Privacy)

all in relation to:

Article 1(1) (Obligation to Respect Rights)

Article 2 (Domestic Legal Effects) of the American Convention

Article 7 (Duty to Prevent, Punish, and Eradicate Violence Against Women)

all in relation to:

Article 8 (Duty to Undertake Measures)

Article 9 (Special Consideration of Women in Specific Circumstances) of the Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belém do Pará)

April 24, 2007- September 21, 2009: The following groups submit *amicus curia* briefs to the Court: a human rights group from the Legal Research Institute of the Universidad Nacional Autónoma de Mexico (“UNAM”) Postgraduate Department; Women’s Link Worldwide; University of Toronto Law School’s International Reproductive and Sexual Health Law Program (“IRSHL” Program); the Center for Justice and International Law (“CEJIL”); TRIAL-Track Impunity Always; the World Organization Against Torture; Women’s Network of Ciudad Juárez A.C.; the Global Justice, Human Rights Program of the Universidad de los Andes; Human Rights Watch; Human Rights Program; the Master’s Program in Human Rights of the Universidad Iberoamericana de Mexico; Amnesty International; Horvitz & Levy LLP;¹⁰³ Essex University Law School’s Human Rights Centre; and the

103. *Id.* ¶ 14; n.18. The following organizations supported Horvitz & Levy LLP: Amnesty International, Thomas Antkowiak, Tamar Birkhead, Mary Boyce, Break the Circle, Arturo Carrillo, the Center for Constitutional Rights, the Center for Gender and Refugee Studies, the Center for Justice and Accountability, the Human Rights Center of the Universidad Diego Portales, Columbia Law School Human Rights Clinic, Cornell Law School International Human Rights Clinic, Bridget J. Crawford, the Domestic Violence and Civil Protection Order Clinic of the University of Cincinnati, Margaret Drew, Martin Geer, the Human Rights and Genocide Clinic, Benjamín N. Cardozo School of Law, Human Rights Advocates, Deena Hurwitz, the Immigration Clinic at the University of Maryland School of Law, the Immigration Justice Clinic, IMPACT Personal Safety, the International Human Rights Clinic at Willamette University College of Law, the International Mental Disability Law Reform Project of New York Law School, the International Women’s Human Rights Clinic at Georgetown Law School, Latino justice PRLDEF, the Legal Services Clinic at Western New England College School of Law, the Leitner Center for International Law and Justice at Fordham Law School, Bert B. Lockwood, the Allard K. Lowenstein International Human Rights Clinic, Yale Law School, Beth Lyon, Thomas M. McDonnell, the National Association of Women Lawyers, the Los Angeles Chapter of the National Lawyers Guild, the National Organization for Women, Noah Novogrodsky, Jamie O’Connell, Sarah Paoletti, Jo M. Pasqualucci, Naomi Roht-Arriaza, Darren Rosenblum, Susan Deller Ross, Seton Hall University School of Law Center for Social Justice, Gwynne Skinner, Kathleen Staudt, Jeffrey

International Center for Transitional Justice and Redress.¹⁰⁴

December 3, 2008: Ms. Rosa María Álvarez González is appointed as a judge *ad hoc*.¹⁰⁵

May 26, 2008: The State contests the Court's jurisdiction to hear the alleged violation of Article 7 (Duty to Prevent, Punish, and Eradicate Violence Against Women) of the Convention on the Prevention, Punishment and Eradication of Violence Against Women ("Convention of Belém do Pará").¹⁰⁶ The State also objects to the Court's consolidation of the cases.¹⁰⁷

The representatives of the victims assert that the Court has jurisdiction to also examine Articles 8 (Duty to Undertake Measures) and 9 (Special Consideration of Women in Specific Circumstances) of the Convention of Belém do Pará.¹⁰⁸

The State partially acknowledges its international responsibility regarding its failure to investigate the cases of Ms. González, Ms. Herrera Monreal, and Ms. Ramos Monárrez from 2001 to 2003, also known as the "first stage" of the investigation.¹⁰⁹ The State also acknowledges that its failure affected the girls' mental state and their families.¹¹⁰ In addition, the State affirms that it had provided medical, financial, legal and psychological assistance for the damage caused.¹¹¹ Despite providing assistance, the State maintains that none of its agents caused the victims' deaths and, as such, it cannot be found to have violated the alleged articles of the American Convention.¹¹²

November 16, 2009: The Court issues its Judgment on Preliminary Objections.

In response to the State's objection to the Court's jurisdiction, the

Stempel, Maureen A. Sweeney, Jonathan Todres, the Urban Morgan Institute for Human Rights, the U.S. Human Rights Network, Penny M. Venetis, Deborah Weissman, Richard J. Wilson, the Women's Law Project, the Women Lawyers Association of Los Angeles, and the World Organization for Human Rights USA. David S. Ettinger and Mary-Christine Sungaila presented the brief.

104. *Id.* ¶ 14.

105. *Id.* n.1.

106. *Id.* ¶ 4.

107. *Id.*

108. *Id.* ¶ 31.

109. *Id.* ¶¶ 4, 20, 27.

110. *Id.* ¶¶ 4, 20.

111. *Id.*

112. *Id.*

Court examines the actual text of the Convention of Belém do Pará.¹¹³ The Court relies on the Vienna Convention on the Law of Treaties to aid in its interpretation of the Convention of Belém do Pará.¹¹⁴

First, the Court focuses on the objection regarding its jurisdiction in relation to Article 7 (Duty to Prevent, Punish, and Eradicate Violence Against Women) of the Convention of Belém do Pará.¹¹⁵ The Court determines that a basic reading of Article 12 of the Convention of Belém do Pará confers the Court's jurisdiction.¹¹⁶ The Court then analyzes whether a systematic interpretation, a technical interpretation, application of the principle of effectiveness, and the added sufficiency to the literal criterion grant the Court jurisdiction to examine Article 7 of the Convention of Belém do Pará.¹¹⁷ Essentially, the Court concludes that these methods of interpretation permit the Court to use compulsory jurisdiction to analyze whether the State violated Article 7 of the Convention of Belém do Pará.¹¹⁸

Conversely, the Court finds that systematic and technical interpretations do not give the representatives the ability to surpass the language in Article 12 the Convention of Belém do Pará.¹¹⁹ Article 12 grants the Court jurisdiction to only examine possible violations in relation to Article 7 (Duty to Prevent, Punish, and Eradicate Violence Against Women) of the Convention of Belém do Pará.¹²⁰ Thus, the Court finds that it lacks contentious jurisdiction *rationae materiae* to examine Articles 8 (Duty to Undertake Measures) and 9 (Special Consideration of Women in Specific Circumstances) of the Convention of Belém do Pará.¹²¹

III. MERITS

A. *Composition of the Court*¹²²

Cecilia Medina Quiroga, President

113. *Id.* ¶¶ 41-42.

114. *Id.* ¶ 32.

115. *Id.* ¶ 34.

116. *Id.* ¶ 41.

117. *See id.*

118. *Id.* ¶¶ 31, 76.

119. *Id.* ¶ 79.

120. *Id.*

121. *Id.* ¶¶ 78-80; "Decides" ¶ 1.

122. Judge Sergio García Ramírez, a Mexican national, notified the Court that he was disqualified from hearing this case. Judge Leonardo A. Franco did not participate in the deliberation or hearing of this case due to *force majeure*.

Diego García-Sayán, Vice-President
Manuel E. Ventura Robles, Judge
Margarette May Macalay, Judge
Rhadys Abreu Blondet, Judge
Rosa María Álvarez González, Judge *ad hoc*

Pablo Saavedra Alessandri, Secretary
Emilia Segares Rodríguez, Deputy Secretary

B. Decision on the Merits

November 16, 2009: The Court issues its Judgment on Preliminary Objections, Merits, Reparations, and Costs.¹²³

The Court found unanimously that State had cannot be attributed with international responsibility for violations of the substantive rights:

Article 4 (Right to Life), Article 5 (Right to Humane Treatment), Article 7 (Right to Personal Liberty), in relation to Article 1(1) of the American Convention, to the detriment of Ms. González, Ms. Ramos Monárrez, and Ms. Herrera Monreal,¹²⁴ because:

It is impossible to know whether the persons who murdered the victims were public officials or private individuals.¹²⁵ The Court could not presume that the individuals committing these atrocities were public officials and automatically condemn the State for its failure to comply with its obligation to respect rights.¹²⁶ Therefore, the Court could not hold the State internationally responsible for the violations of the substantive rights in Articles 4 (Right to Life), 5 (Right to Humane Treatment), and 7 (Right to Personal Liberty) of the American Convention.¹²⁷

The Court found unanimously that State had failed to comply with:

Obligation of non-discrimination and respect and guarantee of

123. González et al. ("Cotton Field") v. Mexico, Preliminary Objection, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C), No. 205 (Nov. 16, 2009).

124. *Id.* "Declares" ¶ 3.

125. *Id.* ¶ 242.

126. *Id.*

127. *Id.*

rights embodied in Articles 4 (Right to Life), 5 (Right to Humane Treatment), and 7 (Right to Personal Liberty), in relation to Articles 1(1) and 2 of the American Convention and Article 7(b)-(c) of the Convention Belém do Pará to the detriment of Ms. González, Ms. Ramos Monárrez, and Ms. Herrera Monreal,¹²⁸ because:

*The State failed to take adequate steps to prevent the disappearance, abuse, and death of Ms. González, Ms. Ramos Monárrez, and Ms. Herrera Monreal.*¹²⁹ *Additionally, the State did not investigate the three victims' deaths with due diligence.*¹³⁰

*Before the Court went into the analysis of the specific articles, the Court discussed the Convention of Belém do Pará. The Convention of Belém do Pará defines the violence against women as "any act or conduct, based on gender, which causes death or physical, sexual or psychological harm or suffering to women, whether in the public or the private sphere."*¹³¹ *The Court reiterated the State's acknowledgement of the violence targeted at women in Ciudad Juárez might have resulted from the culture's discrimination against women.*¹³² *The Court then noted that various reports, including, but not limited to, the IACHR Rapporteur, CEDAW (the Committee on the Elimination of Discrimination of Women), and Amnesty International stated that many of the killings of women demonstrate the gender-based violence in Ciudad Juárez.*¹³³ *Finally the Court recognized that the three victims were typical victims of Ciudad Juárez: young, impoverished women, workers or students, all who likely suffered sexual abuse.*¹³⁴ *Based on the foregoing, the Court determined that Ms. González, Ms. Ramos Monárrez, and Ms. Herrera Monreal were victims of violence against women according to the American Convention and the Convention of Belém do Pará.*¹³⁵

Next, the Court analyzed the articles according to the State's obligation to respect, obligation to guarantee, and obligation to prevent the rights to personal liberty, personal integrity and life of the victims.

128. *Id.* "Declares" ¶ 4.

129. *Id.* ¶¶ 285-86.

130. *See id.*

131. *Id.* ¶ 226.

132. *Id.* ¶ 228.

133. *Id.* ¶ 229.

134. *Id.* ¶ 230.

135. *Id.* ¶ 231.

I. Obligation to Respect:

*Court found that the State did not violate its obligation to respect since the Court could not attribute international responsibility to the State for the violations of the substantive rights in Articles 4 (Right to Life), 5 (Right to Humane Treatment), and 7 (Right to Personal Liberty) of the American Convention.*¹³⁶

II. Obligation to Guarantee:

*The State has the responsibility not only to refrain from violating its citizens' rights, but also to take measures to protect these rights.*¹³⁷ *The obligations delineated in Article 4(1) (Prohibition of Arbitrary Deprivation of Life) of the American Convention reiterate the State's requirement to guarantee and preserve the right to life for the people within its jurisdiction.*¹³⁸ *Article 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) of American Convention specifies that to comply with the right to humane treatment, the State must implement measures to prevent and investigate all possible acts of torture or other cruel, inhumane, or degrading treatment.*¹³⁹ *Similarly, Article 7(1) (Right to Personal Liberty and Security) of the American Convention mandates the State prevent public officials and private parties from violating its citizens' right to liberty.*¹⁴⁰ *Moreover, when an individual's liberty has been violated, the State must investigate and punish those responsible for committing the violation.*¹⁴¹

III. Obligation to Prevent:

*The Court then focused its attention on determining whether the State fulfilled its obligation to prevent and investigate the disappearance, abuse, and death of the three victims.*¹⁴² *The obligation to prevent includes taking legal, political, administrative, and cultural measures that may result in punishment of the guilty party and/or compensation*

136. *Id.* ¶ 242.

137. *Id.* ¶ 243.

138. *Id.* ¶ 245.

139. *Id.* ¶ 246.

140. *Id.* ¶ 247.

141. *Id.*

142. *Id.* ¶ 248.

for the victim.¹⁴³ *The Convention of Belém do Pará imposes an even greater obligation to guarantee rights.*¹⁴⁴

*The Court made reference to various reports including CEDAW and U.N. Special Rapporteur on violence against women, which argue that opino juris requires States to act with due diligence to prevent and investigate acts of violence against women.*¹⁴⁵ *The Court went on to suggest that the State should implement measures including an effectively enforced legal system, prevention policies and practices, and preventative strategies in specific cases where it appears that certain women are being targeted.*¹⁴⁶ *The Court recognized that in 1998, the State created the Office of the Special Prosecutor for the Investigation of the Murders of Women in Ciudad Juárez in response to the violence.*¹⁴⁷ *The Office of the Special Prosecutor prosecuted and punished forty-five point seventy-two percent of the perpetrators in cases involving nonsexual crimes in Juárez.*¹⁴⁸ *Only four judgments, however, were rendered out of the ninety-two sexual crimes documented.*¹⁴⁹ *The State implemented other measures such as a National Women's Institute and a pilot program to train and locate disappeared persons.*¹⁵⁰ *However, the State failed to prove that these measures were effective or sufficient to prevent the massive violence against women in Ciudad Juárez.*¹⁵¹ *As a result, the Court found that these measures were ineffective and fostered impunity.*¹⁵²

*The Court emphasized that there are two crucial moments in the analysis of the obligation of prevention: (i) the moment prior to the victim's disappearance; and (ii) the moment before the discovery of their bodies.*¹⁵³ *Regarding the first crucial moment, the Court acknowledged that while the failure to prevent the disappearances does not result in per se international responsibility, the State should have implemented measures in 1998 when it was first warned of the pattern*

143. *Id.* ¶ 252.

144. *Id.* ¶ 284.

145. *Id.* ¶ 254.

146. *Id.* ¶ 258.

147. *Id.* ¶ 262.

148. *Id.* ¶ 264.

149. *Id.*

150. *Id.* ¶¶ 269-70.

151. *Id.* ¶ 279.

152. *Id.* ¶ 273.

153. *Id.* ¶ 281.

of violence against women in Ciudad Juárez.¹⁵⁴ Since the State did not act immediately in 1998, the Court found that the State had failed to comply with its general obligation of prevention.¹⁵⁵

Moreover, it was clear that the State was aware of the imminent risk of sexual abuse, ill-treatment, and death to the disappeared victims.¹⁵⁶ As such, the State should have exercised due diligence in the search and investigation of the missing women.¹⁵⁷ The State failed to prove that it acted promptly during the first hours and days following the reports of the disappearances.¹⁵⁸ The State simply went through the formalities of taking down statements, but did not diligently attempt to locate victims.¹⁵⁹ This failure constituted a violation of the obligations imposed by Article 7(b) of the Convention of Belém do Pará.¹⁶⁰ Additionally, the Court found that the State did not prove that it had adopted or implemented the necessary measures as mandated in Article 2 (Obligation to Give Domestic Legal Effects to Rights) of the American Convention and Article 7(c) of the Convention of Belém do Pará.¹⁶¹

Thus, the Court concluded that the State violated Articles 4(1) (Prohibition of Arbitrary Deprivation of Life), 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) and 7(1) (Right to Personal Liberty and Security), in relation to Articles 1(1) and 2 (Obligation to Give Domestic Legal Effects to Rights) of the American Convention, in addition to Article 7(b) and 7(c) of the Convention of Belém do Pará, to the detriment of Ms. González, Ms. Ramos Monárrez and Ms. Herrera Monreal.¹⁶²

IV. *Obligation to Investigate the facts effectively, in accordance with Articles 8(1) (Right to a Hearing Within Reasonable Time by Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court) of the Convention, derived from the obligation to guarantee the right to life, personal integrity and personal liberty:*

154. *Id.* ¶ 282.

155. *Id.*

156. *Id.* ¶ 283.

157. *Id.*

158. *Id.* ¶ 284.

159. *Id.*

160. *Id.*

161. *Id.* ¶ 285.

162. *Id.* ¶ 286.

As previously established, the State must comply with both the American Convention and the Convention of Belém do Pará.¹⁶³ These obligations require the State to investigate the facts with due diligence and impartially, with the goal of capturing and punishing the person responsible for the act.¹⁶⁴ Moreover, when the case involves a woman, the gender-based violence necessitates an even more vigorous and unbiased investigation.¹⁶⁵ With this in mind, the Court analyzed the specific disputes between the parties separately.¹⁶⁶

The Court first reviewed the alleged deficiencies in the investigation of the crime scene, the collection and handling of evidence, autopsies, and identification and the return of the victims' remains.¹⁶⁷ When investigating a death, the State must do so diligently and with a visible effort to uncover the truth.¹⁶⁸ The Court stated that the State should have at least attempted the following: (i) to identify the victim; (ii) to recover and preserve the probative material related to the death to assist in any potential criminal investigation; (iii) to identify possible witnesses and obtain their statements; (iv) to determine the cause, manner, place and time of death, as well as any pattern or practice that could have caused the death, and (v) to distinguish between natural death, accidental death, suicide and homicide.¹⁶⁹ The Court established that the State had no clear chain of command regarding the procedure for collecting and preserving evidence, nor was the State diligent when conducting the search.¹⁷⁰ The State admitted that it inadequately conducted the first stage of the investigations.¹⁷¹ Additionally, it acknowledged that it had failed to adopt measures ensuring that the crime scene would not be contaminated or to have experts evaluate the evidence.¹⁷² For the foregoing reasons, the Court determined that the State did not accurately identify the bodies discovered, and that the State negligently inspected and preserved the crime scene and evidence.¹⁷³

163. *Id.* ¶ 287.

164. *Id.* ¶ 290.

165. *Id.* ¶ 293.

166. *Id.* ¶ 295.

167. *Id.*

168. *Id.* ¶ 300.

169. *Id.* ¶

170. *Id.* ¶¶ 302-304.

171. *Id.* ¶ 298.

172. *Id.*

173. *Id.* ¶ 306.

Regarding the autopsies, the Court emphasized that certain basic procedures must be followed when conducting an autopsy.¹⁷⁴ The Court took notice of the incompleteness of the autopsies, the State's failure to mention important injuries in the report, and the State's neglect in administering salient tests.¹⁷⁵ Unfortunately, this type of negligence was typical of the cases in Ciudad Juárez.¹⁷⁶

The Court then went on to address the allegation of the State's deficiency in identifying and returning the bodies to the next of kin.¹⁷⁷ The State acknowledged that the bodies had been arbitrarily identified and named without any scientific analysis.¹⁷⁸ The family members had identified the bodies mostly based on the clothes that were presented to them.¹⁷⁹ The State returned the bodies to the families without first conducting the proper scientific identification procedures and tests, such as DNA testing.¹⁸⁰ When the State finally conducted the DNA tests, the results conflicted with the identifications made by the next of kin.¹⁸¹ As a result of the State's acknowledgment of these deficiencies and the State's failure to document the discovery of the bodies, to gather evidence, to implement a chain of custody, to adequately preserve the crime scene, and to properly conduct autopsies, identify the bodies, and return the bodies, the Court found that the State's investigation was deficient.¹⁸²

Second, the Court analyzed the prosecution of those allegedly responsible for the victims' deaths and reviewed the alleged fabricated confessions.¹⁸³ The Court determined that it was appropriate to review the evidence concerning Mr. García and Mr. González to the extent that it was relevant to the deficiencies in the State's investigation.¹⁸⁴ The Court concluded that the investigation and prosecution of Mr. García and Mr. González affected the victims' mothers and next of kin's access

174. *Id.* ¶ 310.

175. *Id.* ¶ 311.

176. *Id.* ¶ 312.

177. *Id.* ¶ 313.

178. *Id.* ¶¶ 313, 317.

179. *See id.* ¶¶ 318-25.

180. *Id.* ¶ 324.

181. *Id.* ¶ 331.

182. *Id.* ¶ 333.

183. *Id.* ¶ 334.

184. *Id.* ¶ 336.

to justice.¹⁸⁵ The Court accepted the State's acknowledgement of responsibility that the arbitrary arrest, investigation, and prosecution of Mr. García and Mr. González, and subsequent finding of Mr. García's innocence resulted in a loss of the authorities' credibility in the eyes of the victims' next of kin.¹⁸⁶

The Court noted that the investigation was re-opened four years after the murders had occurred, making the assessment of the evidence more difficult and ineffective.¹⁸⁷ Moreover, the State's failure to punish those who conducted this poor investigation encourages others to continue committing these crimes.¹⁸⁸

Third, the Court analyzed the alleged unjustified delay and absence of substantial progress in the investigations.¹⁸⁹ After Mr. García's conviction was revoked, the State did not re-open the investigation of the victims' cases for eight months.¹⁹⁰ Moreover, the Public Prosecutor's method and plan for the "second stage" of the investigation did not yield any results.¹⁹¹ At the time of judgment, eight years had passed and the investigation had not progressed beyond a preliminary phase.¹⁹²

Fourth, the Court reviewed how the alleged fragmentation of the investigations created impunity.¹⁹³ The Court divided its analysis into three separate sections. First, the Court addressed the representatives' argument that the State should have investigated the connection with organ trafficking, and reviewed this present case with the investigation of other cases of disappearances.¹⁹⁴ The Court noted that the representatives failed to prove how this evidence would have been relevant, so the Court could not issue a conclusion of the effectiveness of the investigation for those reasons.¹⁹⁵ Next, the Court found that the representatives failed to provide the domestic law for the Court to

185. *Id.* ¶ 343.

186. *Id.* ¶ 346.

187. *Id.*

188. *Id.*

189. *Id.* ¶ 347.

190. *Id.* ¶ 350.

191. *Id.* ¶ 351.

192. *Id.* ¶ 352.

193. *Id.* ¶ 353.

194. *Id.*

195. *Id.* ¶¶ 358-59.

determine whether the State’s federal government should have had jurisdiction over this case, how the transfer of jurisdiction occurs, or how this led to ineffectiveness in the judicial proceedings.¹⁹⁶ Finally, the Court concluded that the State should have been aware that all the murders took place in context of a femicide, thus it should have adopted measures to verify whether these murders were related to the femicide.¹⁹⁷

Fifth, the Court reviewed the alleged failure to punish public officials.¹⁹⁸ The Court found that none of the public officials potentially responsible for negligence in the victims’ cases had been investigated.¹⁹⁹ The State’s failure to punish the public officials responsible for the deficient investigation rendered the victims’ defenselessness, demonstrated impunity, and encouraged violators to continue violating human rights.²⁰⁰

Sixth, the Court analyzed the alleged denial of access to the case file, and delays or refusal of copies of the file.²⁰¹ The Court determined that the representatives did not produce sufficient evidence regarding the denial of access to the case file, photocopies of the file, domestic law regulating the confidentiality of the investigations, or a reason as to the impact that the denials and delays had on the victims’ rights.²⁰² Therefore, the Court did not examine the allegations.²⁰³

In conclusion, the Court found that the State “failed to comply” with its obligation to investigate and its obligation to guarantee basic rights.²⁰⁴ Thus, the Court decided that the State violated Articles 4 (Right to Life), 5 (Right to Humane Treatment), and 7 (Right to Personal Liberty), in Relation to Articles 1(1) and 2 of the American Convention, as well as Article 7 of the Convention Belém do Pará to the detriment of Ms. González, Ms. Ramos Monárrez, and Ms. Herrera Monreal.²⁰⁵

196. *Id.* ¶ 363.

197. *Id.* ¶ 368.

198. *Id.* ¶ 371.

199. *Id.* ¶ 378.

200. *Id.*

201. *Id.* ¶ 378.

202. *Id.* ¶ 387.

203. *Id.*

204. *Id.* ¶ 389.

205. *Id.*

The Court found unanimously that State violated:

Articles 8 (Right to Fair Trial), and 25 (Right to Judicial Protection) in relation to Articles 1(1) and 2 of the American Convention, and Articles 7(b) and (c) of the Belém do Para Convention, to the detriment of Ms. González's next of kin, Ms. Ramos Monárrez's next of kin, and Ms. Herrera Monreal's next of kin,²⁰⁶ because:

*For the same reasons discussed above, the Court found that the State violated the rights of access to justice and to judicial protection, embodied in Articles 8(1) (Right to a Hearing Within a Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right to Recourse Before a Competent Court) of the American Convention, in relation to Articles 1(1) and 2 and to Articles 7(b) and 7(c) of the Belém do Para Convention to the detriment of the three victims' next of kin.*²⁰⁷

Obligation not to discriminate contained in Article 1(1) of the American Convention, in relation to the obligation to guarantee the rights embodied in Articles 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty) of the American Convention, to the detriment of Ms. Ramos Monárrez, Ms. Herrera Monreal, and Ms. González, and in relation to Articles 8 (Right to Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, to the detriment of the three victims' next of kin,²⁰⁸ because:

*The violence against Ms. González, Ms. Ramos Monárrez, and Ms. Herrera Monreal was a form of discrimination against women.*²⁰⁹ *The Court noted that, in a report to CEDAW, the State explained that city authorities did not believe that violence against women was an important issue due to a culture of discrimination against women.*²¹⁰ *Moreover, the Court noted that other international organizations recognized a connection between violence against women and discrimination against women in Ciudad Juárez.*²¹¹ *Police indifference to the situation and their remarks of the victims were "flighty" or simply "run[ning] away with their boyfriends" compounded the*

206. *Id.* ¶ 389; "Declares" ¶ 5.

207. *Id.* ¶ 389.

208. *Id.* ¶ 402.

209. *Id.*

210. *Id.* ¶ 398.

211. *Id.* ¶ 399.

tolerance of violence against women.²¹² The Court cited the Commission's report on "Access to Justice for Women Victims of Violence," to highlight how victim blaming and gender stereotypes delegitimized victims of femicide.²¹³

As such, the Court found that the State violated the victims' rights to not be discriminated against as provided in Article 1(1), in relation to the obligation to guarantee delineated in Articles 4 (Right to Life), 5 (Right to Humane Treatment), and 7 (Right to Personal Liberty) of the American Convention. In addition, the Court determined that the State violated the victims' next of kin's right to access to justice established in Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention.²¹⁴

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 Articles 1(1) and 2 of the American Convention, to the detriment of Ms. González's next of kin, Ms. Ramos Monárrez's next of kin, and Ms. Herrera Monreal's next of kin,²¹⁵ because:

*The Mexican authorities' overall inactivity, lack of diligence in finding the young women, identifying the bodies, and their failure to promptly return the bodies of the disappeared women, in addition to the harassment suffered by the victims' next of kin, constituted degrading treatment.*²¹⁶ *The Court included the victims' mothers' testimony who recalled how the authorities often made disparaging remarks about their daughters.*²¹⁷ *The authorities' inaction led the victims' next of kin to take their own measures to search for the young women.*²¹⁸ *Furthermore, years of fruitless investigation prevented the families of the victims from properly grieving and coping with their loss.*²¹⁹ *In the interim, the media's announcement of the discovery of more bodies only brought the victims' families more anguish.*²²⁰ *The Court referenced the*

212. *Id.* ¶ 400.

213. *Id.* ¶ 401.

214. *Id.* ¶ 402.

215. *Id.* ¶¶ 29, 109, "Declares" ¶ 6.

216. *Id.* ¶¶ 424, 440.

217. *Id.* ¶ 419.

218. *Id.*

219. *Id.* ¶ 420.

220. *Id.*

*State's acknowledgement and acceptance that this behavior resulted in a violation of the victims' next of kin's' mental and moral integrity.*²²¹

*Next, the Court assessed the alleged harassment of the Ramos Monárrez and Herrera Monreal families.*²²² *The Court did not review harassment or threats regarding the González family because they nor the Commission alleged any specific acts.*²²³ *The Court found that the Monárrez family suffered years of threats, harassment, and physical attacks, which forced most of the family into exile, constituted a violation of the right to humane treatment.*²²⁴ *Similarly, the Court determined that the harassment and physical attack of Mr. Herrera Monreal were a violation to Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) of the American Convention.*²²⁵

*The Court found that the State violated Article 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) of the American Convention in relation to Articles 1(1) and (2) to the detriment of Mr. Herrera Monreal, Ms. Monárrez Salgado, Ms. Claudia Ivonne Ramos Monárrez, Mr. Daniel Ramos Monárrez, Mr. Ramón Antonio Aragón Monárrez, Ms. Claudia Dayana Bermúdez Ramos, Ms. Itzel Arely Bermúdez Ramos, Ms. Paola Alexandra Bermúdez Ramos, and Ms. Atziri Geraldine Bermúdez Ramos.*²²⁶

Article 19 (Rights of a Child), in relation to Articles 1(1) and 2 of the American Convention, to the detriment of Ms. Ramos Monárrez and Ms. Herrera Monreal,²²⁷ because:

*The State did not prove that it had proper mechanisms, public policies or institutions to ensure the rights of the girls.*²²⁸ *The Court established that children have special rights and the State must pay special attention to the needs and rights of the alleged victims that belong to a*

221. *Id.* ¶ 422.

222. *Id.* ¶¶ 425-40.

223. *Id.* ¶ 439.

224. *Id.* ¶¶ 428-36, 440.

225. *Id.* ¶ 440.

226. *Id.* ¶ 424.

227. *Id.* "Declares" ¶ 7.

228. *Id.* ¶ 410.

vulnerable group.²²⁹ In this case, Ms. Ramos Monárrez and Ms. Herrera Monreal were young adolescents.²³⁰ As such, the Court found that the State violated Article 19 (Rights of a Child).²³¹

The Court found unanimously that State had not violated:

Article 11 (Right to Privacy), in relation to Article 1(1) of the Convention, to the detriment of Ms. González, Ms. Ramos Monárrez, and Ms. Herrera Monreal and their mothers,²³² because:

*The Court found it inappropriate to examine the Right to Privacy because the Court examined the consequences of the failure to search and attain justice for the victims in relation to Article 5 (Right to Humane Treatment) of the American Convention.*²³³

C. Dissenting and Concurring Opinions

1. Concurring Opinion of Judge Diego García-Sayán

In a separate opinion, Judge García-Sayán analyzed the development of the State's obligation to prevent the violation of rights and its applicability to the present case.²³⁴ Judge García-Sayán emphasized that violence against women is one of the most prevalent forms of discrimination throughout the world.²³⁵ Because the Court could not establish the State's international responsibility, Judge García-Sayán's analysis focused on the State's failure to guarantee the victims their basic rights.²³⁶

The Judge stated that, through an analysis of the State's obligation to prevent violations, the Court and international organizations have defined the State's obligation to prevent violations.²³⁷ The Court has established specific criteria for cases involving minors or indigenous

229. *Id.* ¶ 408-09.

230. *Id.* ¶ 408.

231. *Id.* "Declares" ¶ 7.

232. *Id.* "Declares" ¶ 10.

233. *Id.* ¶ 445.

234. González et al. ("Cotton Field") v. Mexico, Preliminary Objection, Merits, Reparations, and Costs, Concurring Opinion of Judge Diego Garcia-Sayan, Inter-Am. Ct. H.R. (ser. C), No. 205 ¶¶ 1-15 (Nov. 16, 2009).

235. *Id.* ¶ 1.

236. *Id.* ¶ 2.

237. *Id.* ¶ 3.

communities, and implemented them in cases such as *Ximenes Lopes v. Brazil* and the *Yakye Axa v. Paraguay*.²³⁸

This Court and the European Court of Human Rights have also developed criteria to define the obligation to prevent violations so that it may be applied to more general situations.²³⁹ The European Court was concerned about imposing an impossible or disproportionate burden on the State when interpreting the obligation to prevent.²⁴⁰ Thus, the European Court interpreted the obligation to mean that the State must take appropriate steps to protect the lives of the people within its jurisdiction.²⁴¹ Likewise, the Court acknowledged that the State could not be held responsible for all human rights violations.²⁴² A State is liable for breaching the obligation to prevent violations if the State was aware of imminent danger targeted at a specific individual or group of people, reasonable measures could have prevented or avoided the danger, and the State failed to enact such measures.²⁴³

In this case, the Court determined that the State's failure to implement preventative measures in 1998 meant that the State did not comply with its obligation to prevent.²⁴⁴ Judge García-Sayán reiterated that the Court acknowledged that the State had been unaware of the real and imminent danger prior to the kidnapping and disappearances.²⁴⁵ When the Court analyzed the "second stage" – after the State was informed of the three victims' disappearance- the State failed to adopt adequate measures considering the surrounding circumstances.²⁴⁶ The Court ordered the State to invoke reasonable measures that take into account the context, criminal prosecution mechanisms, and the extensive criminal activity of Ciudad Juárez as a way for the State to fulfill its obligation.²⁴⁷ At the same time, the Court emphasized the difference between the violation of human rights and the State's international responsibility.²⁴⁸ Judge García-Sayán noted that this distinction would prevent the confusion of State's international responsibility for the criminal acts of individuals.²⁴⁹ In sum, Judge

238. *Id.* ¶¶ 3, 4.

239. *Id.* ¶ 5.

240. *Id.* ¶ 6.

241. *Id.*

242. *Id.* ¶ 8.

243. *Id.* ¶ 9.

244. *Id.* ¶ 11.

245. *Id.* ¶ 12.

246. *Id.*

247. *See id.* ¶ 13.

248. *Id.* ¶ 14.

249. *Id.*

García-Sayán observed that the Court tried to balance State responsibility to protect and limited responsibility for violations committed by private individuals.²⁵⁰

2. Concurring Opinion of Judge Cecilia Medina Quiroga

In a separate opinion, Judge Medina Quiroga agreed with the Court's decision that the State violated Article 5(2) (Prohibition on Torture, and Cruel, Inhumane or Degrading Treatment) of the American Convention; she dissented on the grounds that the Court did not characterize the victims' treatment as acts of torture.²⁵¹ Moreover, the Court did not provide a reason as to why it chose not to classify the violations as torture.²⁵² For an act to be considered torture, the ill treatment must (1) be intentional, (2) cause severe physical or mental distress, and (3) be committed with a specific goal or purpose.²⁵³ According to the Court's precedent, it is the severity of the physical or mental suffering that distinguishes inhumane and cruel treatment from torture.²⁵⁴ Similarly, the European Court and other international organizations have adopted this standard.²⁵⁵ The victims in this case clearly suffered serious physical injuries and were likely sexually abused before their death.²⁵⁶ Apart from the fact that the State could not be held responsible for acts of torture if no evidence proved that the State, a State agent, or public servant committed the act, there was no justification for not classing these actions as torture.²⁵⁷

Judge Medina Quiroga also highlighted three important points from the Inter-American Convention to Prevent and Punish Torture.²⁵⁸ First, that the Court defined what type of conduct is considered torture.²⁵⁹ This has resulted in different concepts of torture than that described in the Inter-American Convention to Prevent and Punish Torture; accordingly, the Court's concept of what constitutes torture

250. *Id.* ¶ 15.

251. González et al. ("Cotton Field") v. Mexico, Preliminary Objection, Merits, Reparations, and Costs, Concurring Opinion of Judge Cecilia Medina Quiroga, Inter-Am. Ct. H.R. (ser. C), No. 205 ¶ 1 (Nov. 16, 2009).

252. *Id.* ¶ 2.

253. *Id.* ¶ 3.

254. *Id.*

255. *Id.* ¶¶ 4-6.

256. *Id.* ¶ 8.

257. *Id.* ¶ 9.

258. *Id.* ¶ 12.

259. *Id.*

should not always be applied.²⁶⁰ Second, not all States who are parties to the American Convention are parties to the Inter-American Convention to Prevent and Punish Torture.²⁶¹ This means that while the Court may examine a case involving torture, it may not be able to apply the Inter-American Convention to Prevent and Punish Torture.²⁶² Third, after reviewing the European Court and the Inter-American Convention to Prevent and Punish Torture, the Court abolished all forms of torture.²⁶³ Thus, Judge Medina Quiroga argued that the Court did not need to follow the definition of torture in the Inter-American Convention to Prevent and Punish Torture, but should instead be guided by *jus cogens*.²⁶⁴ *Jus cogens* establishes that the intentional infliction of severe mental or physical pain on a person in an effort to obtain a certain goal is torture.²⁶⁵

Judge Medina Quiroga noted that if the Court had the ability to define torture, it could have expanded the definition by eliminating the requirement that a public office participate in the torture.²⁶⁶ She observed that had the Court concluded that the State was responsible for the torture inflicted on the victim, it could have made an important development and provided clarification regarding States' responsibility for acts of torture.²⁶⁷

IV. REPARATIONS

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

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

1. Effectively Conduct Current Criminal Proceedings, and Identify, Prosecute, and Punish Those Responsible.²⁶⁸

260. *Id.*

261. *Id.*

262. *Id.*

263. *Id.*

264. *Id.* ¶ 16.

265. *Id.* ¶ 14.

266. *Id.* ¶ 17.

267. *Id.* ¶ 20.

268. González et al. ("Cotton Field") v. Mexico, Preliminary Objection, Merits, Reparations, and Costs, "Orders" ¶ 12.

The Court ordered the State to conduct a thorough and prompt investigation of the same or similar acts to avoid repetition of these atrocities.²⁶⁹ During the investigations and judicial proceedings, all factual and juridical obstacles are to be removed in order to avoid the same or similar acts.²⁷⁰ The investigations shall include specific inquiries for crimes of sexual assault.²⁷¹ These inquiries must be made in accordance with protocols and manuals set forth in the Court's Judgment.²⁷² Moreover, the officers investigating these claims will be highly trained in cases dealing with victims of discrimination and gender based violence.²⁷³ In addition, the State will ensure that the different entities taking part in the investigation have the adequate resources to conduct the investigation in an independent, safe, and impartial manner.²⁷⁴ The victims' next of kin shall have full access to the case files and the investigation of their claim.²⁷⁵ The results of the proceedings shall be published so that Mexican citizens may know what happened.²⁷⁶

2. Investigate the Officials Accused of Irregularities and Sanction Those Found Responsible.²⁷⁷

The State shall, within a reasonable time, investigate officials accused of irregularities in the investigation and distribute administrative, disciplinary, or criminal sanctions if applicable.²⁷⁸

3. Investigate and, if Appropriate, Punish Those Responsible for Harassing Ms. Herrera Monreal's and Ms. Ramos Monárrez's next of kin.²⁷⁹

The Court found that Ms. Monárrez Salgado suffered various forms of harassment after her daughter's disappearance, so much so that she was forced to move abroad.²⁸⁰ Her three children and grandchildren

269. *Id.* ¶ 445(a).

270. *Id.*

271. *Id.* ¶ 455(b).

272. *Id.*

273. *Id.*

274. *Id.* ¶ 455(c).

275. *Id.* ¶ 455(b).

276. *Id.* ¶ 455(d).

277. *Id.* "Orders" ¶ 13.

278. *Id.* ¶ 460.

279. *Id.* ¶ 14.

280. *Id.* ¶ 462.

were also harassed.²⁸¹ Mr. Herrera Monreal also suffered various acts of harassment.²⁸² The Court ordered the State to investigate this harassment and to punish those responsible.²⁸³

Additionally, the Court urged the State to take measures to rectify the gender-based discrimination and violence against women so that women and girls can enjoy their basic human rights.²⁸⁴

4. Publish the Judgment.²⁸⁵

The State shall publish the Judgment in the Official Gazette of the Federation, in a daily newspaper with national circulation, in a daily newspaper with circulation within the state of Chihuahua, and on the State's official web site, within six months of notification of the Judgment.²⁸⁶

Organize a Public Act Acknowledging the State's International Responsibility and Honoring the Memory of the Ms. Ramos Monárrez, Ms. González, and Ms. Herrera Monreal.²⁸⁷

The public act must refer to this Judgment and the violated human rights.²⁸⁸ Additionally, the State shall broadcast the public ceremony by local and federal radio and television.²⁸⁹ The public act must be done within one year of the notification of this Judgment.²⁹⁰

5. Erect a Monument in Memory of the Women Victims of Gender-Based Murders in Ciudad Juárez.²⁹¹

The monument shall be unveiled at a ceremony in which the State publicly acknowledges its international responsibility.²⁹² The monument

281. *Id.*

282. *Id.*

283. *Id.*

284. *Id.*

285. *Id.* "Orders" ¶ 15.

286. *Id.*

287. *Id.* "Orders" ¶ 16.

288. *Id.* ¶ 469.

289. *Id.* ¶ 469.

290. *Id.* "Orders" ¶ 16.

291. *Id.* "Orders" ¶ 17.

292. *Id.*

shall be erected in the cotton field where the three victims were found.²⁹³
The monument shall be chosen by public authorities who will ask the public for their opinion.²⁹⁴

6. Standardize the State's Current Protocols, Manuals, Prosecutorial Investigation Criteria, Expert Services, and Investigation Services Relating to Disappearance, Sexual Abuse and Murders of Women.²⁹⁵

The State shall ensure, within a reasonable time, that its current protocols, manuals, prosecutorial investigation criteria, expert services, and investigation services relating to disappearance, sexual abuse and murders of women are brought in line with the Istanbul Protocol the United Nations Manual on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions and the international standards regarding searching for disappeared persons.²⁹⁶ The State shall present an annual report on its progress to the Court for the next three years.²⁹⁷

7. Adopt the Alba Protocol (Dawn Protocol) or Implement Another Similar Mechanism to Find the Disappeared Women.²⁹⁸

The measures implemented should focus on conducting searches of disappeared person immediately in efforts to protect the person's right to life, personal integrity, and personal liberty (also known as Alba Protocol).²⁹⁹ The mechanism should also include collaboration from various security agencies designated to finding the disappeared persons, as well as crosschecking the missing person report with the new database.³⁰⁰ Additionally, all obstacles, both legal and factual, should be eliminated and adequate resources must be provided to ensure a more efficient and effective search.³⁰¹ In addition, during the searches, priority should be given to areas where the disappeared person would most

293. *Id.* ¶ 471.

294. *Id.* ¶ 472.

295. *Id.* "Orders" ¶ 18.

296. *Id.*

297. *Id.*

298. *Id.* "Orders" ¶ 19.

299. *Id.* ¶ 506.

300. *Id.*

301. *Id.*

likely be found.³⁰² These measures should be urgently and rigorously enforced when the missing person is a girl.³⁰³

8. Create a Website for All of the Disappeared Women and Girls in Chihuahua Since 1993 and for Those Who Remain Missing.³⁰⁴

The State shall create a website that will allow any individual to give the authorities any information regarding the whereabouts of any missing woman or girl.³⁰⁵ The web page will have the option for the individual to divulge the information anonymously.³⁰⁶ This web page will be created within six months of notification of this Judgment.³⁰⁷

9. Create and/or Update a Database with the Disappeared Women's Personal Information.³⁰⁸

The database shall include personal information, such as, genetic information and tissue samples of the unidentified, dead women and girls, and DNA and tissue samples of the disappeared women and girls' next of kin who consent to this.³⁰⁹ This personal information shall be made available nationally and shall be completed within one year of notification of this Judgment.³¹⁰

10. Continue Implementing Permanent Education, Training Programs, and Courses for Public Officials.³¹¹

The training should focus on the relationship between human rights and gender, due diligence in conducting judicial proceedings on gender-based discrimination, abuse and murder of women, and overcoming the stereotypes of the roles of women in society.³¹² The State shall report to the Court every year, for three years, on its

302. *Id.*

303. *Id.*

304. *Id.* "Orders" ¶ 20.

305. *Id.*

306. *Id.*

307. *Id.*

308. *Id.* "Orders" ¶ 21.

309. *Id.*

310. *Id.*

311. *Id.* "Orders" ¶ 22.

312. *Id.*

progress.³¹³

11. Conduct Educational Programs for the General Population of the State of Chihuahua to Overcome the Gender Based Disappearances and Murders.³¹⁴

The State shall report annually on its progress with the educational programs for three years.³¹⁵

12. Provide Appropriate and Effective Medical, Psychological or Psychiatric Treatment to the Victims' Next of Kin, If They So Wish.³¹⁶

The State shall provide medical, psychological or psychiatric treatment, immediately and free of charge, to Ms. Monreal Jaime, Mr. Benigo Herrera Monreal, Mr. Herrera Monreal, Mr. Juan Antonio Herrera Monreal, Ms. Cecilia Herrera Monreal, Ms. Zuelma Montijo Monreal, Mr. Erick Montijo Monreal, Ms. Juana Ballín Castro, Ms. González Rodríguez, Ms. Mayela Banda González, Ms. Gema Iris Gonzáles, Ms. Karla Arizbeth Hernández Banda, Ms. Jacqueline, Hernández, Mr. Carlos Hernández Llamas, Ms. Monárrez Salgado, Ms. Claudia Ivonne Ramos Monárrez, Mr. Daniel Ramos Monárrez, Mr. Ramón Antonio Aragón Monárrez, Ms. Claudia Dayana Bermúdez Ramos, Ms. Itzel Arely Bermúdez Ramos, Ms. Paola Alexandra Bermúdez Ramos, and Ms. Atziri Geraldine Bermúdez Ramos.³¹⁷ The treatment will be offered through the State's specialized health institutions.³¹⁸

13. Provide the Court, Within One Year of the Notification of Judgment, with a Report on the Measure Adopted by the

313. *Id.*

314. *Id.* "Orders" ¶ 23.

315. *Id.*

316. *Id.* "Orders" ¶ 24.

317. *Id.*

318. *Id.*

State in its Efforts to Comply with the Judgment.³¹⁹

The Court will continue to monitor the State's compliance with the Judgment.³²⁰

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

The Court divided its analysis by consequential damage and loss of earnings.³²¹ The Court found that the families of the victims incurred consequential damages from the funeral expenses.³²² The Court noted that the State had already made some reimbursement to Ms. Monreal Jaime, Ms. Herrera Monreal's mother, and Ms. González Rodríguez, Ms. González's mother; however, the State had not made any reimbursement to Ms. Monárrez Salgado, Ms. Ramos Monárrez's mother.³²³ Based on this, the Court determined that the State should compensate Ms. Monreal Jaime for a portion of the \$550 spent on funeral expenses; Ms. González Rodríguez for a share of the \$250 spent on funeral expenses; and Ms. Monárrez Salgado for the \$750 spent on funeral expenses.³²⁴ Additionally, the Court awarded \$150 to Ms. Monreal Jaime, \$600 to Ms. González Rodríguez, and \$1,050 to Ms. Monárrez Salgado for additional expenses.³²⁵

When determining the loss of earnings of the three victims, the Court looked at the average life expectancy, the girls' age when they disappeared, and the victims' monthly employment wage prior to their disappearance.³²⁶ The Court found that the State should pay Ms. Herrera Monreal's heir(s) \$145,500, Ms. González's heir(s) \$134,000, and Ms. Ramos Monárrez's heir(s) \$140,500.³²⁷

2. Non-Pecuniary Damages

319. *Id.* "Orders" ¶ 26.

320. *Id.*

321. *Id.* ¶¶ 561-78.

322. *Id.* ¶ 561.

323. *Id.* ¶ 564-65.

324. *Id.* ¶ 565.

325. *Id.* ¶ 566.

326. *Id.* ¶ 575.

327. *Id.* ¶ 577.

The Court first addressed the moral damage suffered by the victims and their next of kin.³²⁸ The Court found that the victims' next of kin were caused and continue to endure moral and mental suffering due to three factors.³²⁹ The first factor that caused and continues to cause suffering to the victims' next of kin is the deprivation of liberty, ill-treatment and death suffered by Ms. Herrera Monreal, Ms. González and Ms. Ramos Monárrez.³³⁰ The second cause of suffering was the irregularities of the investigations conducted by the authorities and the resulting impunity.³³¹ Finally, Ms. Ramos Monárrez's and Ms. Herrera Monreal's next of kin suffered moral and mental damage because of the harassment that followed from the victims' disappearance.³³² The Court ordered the State to pay Ms. Herrera Monreal's next of kin the following amounts: her mother \$15,000, her brothers \$35,000, her sisters \$22,000 and her sister-in-law \$11,000.³³³ With regard to Ms. González's next of kin, the Court ordered the State to pay Ms. González's mother \$15,000, her sisters \$22,000, her nieces \$22,000, and her brother-in-law \$11,000.³³⁴ Finally, the Court ordered the State to pay Ms. Ramos Monárrez's mother \$18,000, her sister \$12,000, her brothers \$24,000, and her nieces \$48,000.³³⁵

The Court then found that the State should compensate Ms. Herrera Monreal, Ms. Ramos Monárrez, and Ms. González for the State's failure to uphold their rights to life, personal integrity and personal liberty.³³⁶ The Court awarded Ms. Herrera Monreal \$40,000, Ms. González \$38,000, and Ms. Ramos Monárrez \$40,000.³³⁷

3. Costs and Expenses

The State shall pay Ms. Herrera Monreal's mother, Ms. Ramos Monárrez's mother and Ms. González's mother \$45,000, collectively.³³⁸ The Court ordered the mothers to determine the amount to give to their

328. *Id.* ¶ 580.

329. *Id.* ¶ 583.

330. *Id.*

331. *Id.*

332. *Id.* ¶¶ 435-40, 583.

333. *Id.* ¶ 586.

334. *Id.*

335. *Id.*

336. *Id.*

337. *Id.*

338. *Id.* ¶ 596.

representatives for costs and expenses.³³⁹

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

\$ 841,350³⁴⁰

C. Deadlines

The State shall immediately provide medical, psychological or psychiatric treatment to the victims' next of kin, if they so choose.³⁴¹

The creation of a public act acknowledging international responsibility,³⁴² and of the website,³⁴³ are due within six months of notification of this Judgment.³⁴⁴

The payments of the compensation and the reimbursement of costs and expenses, the State's annual report on adopting the recommendation,³⁴⁵ are due within one year of the notification of this judgment.³⁴⁶ Should any beneficiary die before the payment of the respective amount, the amount shall be delivered to the beneficiary's heirs, in accordance with domestic law.³⁴⁷ The money has not been claimed after ten years, then the money shall be returned to the State.³⁴⁸

Finally, the State shall, within a reasonable amount of time investigate officials accused of irregularities³⁴⁹, investigate those responsible for the harassment of the victims' next of kin,³⁵⁰ standardize its materials, including, but not limited to manuals, protocols, prosecutorial investigation criteria,³⁵¹ implement Alba Protocol or a similar measure,³⁵² and conduct educational programs for the general population.³⁵³

339. *Id.*

340. *Id.* ¶¶ 586, 596.

341. *Id.* "Orders" ¶ 24.

342. *Id.* "Orders" ¶ 16.

343. *Id.* "Orders" ¶ 20.

344. *Id.* "Orders" ¶¶ 16, 20.

345. *Id.* "Orders" ¶ 26.

346. *Id.* ¶ 597.

347. *Id.*

348. *Id.* ¶ 599.

349. *Id.* "Orders" ¶ 13.

350. *Id.* "Orders" ¶ 14.

351. *Id.* "Orders" ¶ 18.

352. *Id.* "Orders" ¶ 19.

353. *Id.* "Orders" ¶ 23.

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

March 8, 2010: The State published the judgment in its Official Gazette.³⁵⁴

January 26, 2012: To fulfill the State’s obligation to construct a monument honoring the victims in Ciudad Juárez,³⁵⁵ the Municipal Government of Juárez requested the federal government of the State provide some of the “Cotton Field” land for a memorial.³⁵⁶ The Official Gazette published the agreement that the federal governments will transfer its possessory rights to the Municipal Government of Juárez.³⁵⁷

May 21, 2013: The Court finds that the State has complied with its obligations to publish the Court’s judgment in the State’s Official Gazette and other national newspapers.³⁵⁸ The State has also complied with its obligations to organize a public act acknowledging the State’s international responsibility with regard to Ms. Herrera Monreal, Ms. González and Ms. Ramos Monárrez, and to erect a memorial in honor of the victims.³⁵⁹ The Court also found that the State had also complied with its obligation to standardize its current protocols, manuals, prosecutorial investigation criteria, expert services, and investigation services relating to disappearance, sexual abuse and murders of women.³⁶⁰ The State also complied with its obligation to create a website for all of the disappeared women and girls in Chihuahua since 1993 and for those who remain missing, its obligation to create or update a database with the disappeared women’s personal information, continue implementing permanent education, training programs, and courses for public officials, and conduct educational

354. Secretaría de Gobernación, Diario Oficial de la Federación [DO], 8 de Marzo de 2010 (Mex.).

355. *Id.*

356. *Id.*

357. *Id.*

358. González et al. (“Cotton Field”) v. Mexico, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. “Declares” ¶ 1(a) (May 1, 2013).

359. *Id.* “Declares” ¶ 1(b), (c).

360. *Id.* “Declares” ¶ 1(d).

programs for the general population of the state of Chihuahua to overcome the gender based disappearances and murders.³⁶¹ The State had also complied with its obligation to pay pecuniary and non-pecuniary damages as well as costs and expenses.³⁶² The Court will continue to monitor the State's compliance in its remaining obligations.³⁶³

VII. LIST OF DOCUMENTS

A. *Inter-American Court*

1. Preliminary Objections

[González et al. \("Cotton Field"\) v. Mexico, Preliminary Objection, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\), No. 205 \(Nov. 16, 2009\).](#)

2. Decisions on Merits, Reparations and Costs

[González et al. \("Cotton Field"\) v. Mexico, Preliminary Objection, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\), No. 205 \(Nov. 16, 2009\).](#)

[González et al. \("Cotton Field"\) v. Mexico, Preliminary Objection, Merits, Reparations, and Costs, Concurring Opinion of Judge Diego Garcia-Sayan, Inter-Am. Ct. H.R. \(ser. C\), No. 205 \(Nov. 16, 2009\).](#)

[González et al. \("Cotton Field"\) v. Mexico, Preliminary Objection, Merits, Reparations, and Costs, Concurring Opinion of Judge Cecilia Medina Quiroga, Inter-Am. Ct. H.R. \(ser. C\), No. 205 ¶ 1 \(Nov. 16, 2009\).](#)

3. Provisional Measures

[None]

4. Compliance Monitoring

361. *Id.* "Declares" ¶ 1(e)-(g).

362. *Id.* "Declares" ¶ 1(g).

363. *See id.* "Declares" ¶ 2.

[González et al. \("Cotton Field"\) v. Mexico, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(May 21, 2013\).](#)

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

[None]

2. Report on Admissibility

González et al. ("Cotton Field") v. Mexico, Admissibility Report, Report No. 16/05, Inter-Am. Comm'n H.R., Case Nos. 12.496, 12.497 and 12.498 (Feb. 24, 2005).

González et al. ("Cotton Field") v. Mexico, Admissibility Report, Report No. 17/05, Inter-Am. Comm'n H.R., Case Nos. 12.496, 12.497 and 12.498 (Feb. 24, 2005).

González et al. ("Cotton Field") v. Mexico, Admissibility Report, Report No. 18/05, Inter-Am. Comm'n H.R., Case Nos. 12.496, 12.497 and 12.498 (Feb. 24, 2005).

3. Provisional Measures

[None]

4. Report on Merits

González et al. ("Cotton Field") v. Mexico, Report on Merits, Report No. 28/07, Inter-Am. Comm'n H.R., Case Nos. 12.496, 12.497 and 12.498 (Mar. 9, 2007).

5. Application to the Court

[González et al. \("Cotton Field"\) v. Mexico, Petition to the Court, Inter-Am. Comm'n H.R., Case Nos. 12.496, 12.497 and 12.498 \(Nov. 4,](#)

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VIII. BIBLIOGRAPHY

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