

# Montero Aranguren et al. v. Venezuela

## ABSTRACT<sup>1</sup>

*This case is about a massacre committed by the guards of the Detention Center of Catia, in Caracas, Venezuela, while a military coup is taking place in the country. During the massacre sixty-three prisoners died, fifty-two were injured and twenty-eight disappeared. Living conditions at the prison, also known as “Hell”, were inhuman and degrading, and security personnel understaffed and unprepared. State admitted responsibility at first and then tried to argue its case unsuccessfully. Eventually, the Court found violation of several articles of the American Convention.*

## I. FACTS

### A. Chronology of Events

**November 27–29, 1992:** Venezuela’s political climate is unstable, and a second coup attempts to overthrow President Carlos Andrés Pérez’s administration.<sup>2</sup> The coup is staged by a civilian military group comprised of high-ranking officers of the Armed Forces and several civilian opponents.<sup>3</sup> At the same time as the coup, and within a forty-eight-hour time span, guards at the Detention Center of Catia (*Retén e Internado Judicial de Los Flores de Catia*) in Caracas massacre the inmates.<sup>4</sup>

There are two versions of the origins of the massacre.<sup>5</sup> The first version asserts that when the guards of the Detention Center of Catia learn of the coup, they open cell doors and tell prisoners they are free to leave.<sup>6</sup> Allegedly, the guards coerce the prisoners to escape in order to utilize *ley de fuga*, a law within the State that allows prison guards to

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1. Rachel Yeung, Author; Theodore Nguyen, Editor; Kathryn Benson, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. *Montero Aranguren et al. v. Venezuela*, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 150, ¶¶ 60(1) (July 5, 2006).

3. *Id.*

4. *Id.* ¶¶ 60(16), 60(18).

5. *Id.* ¶ 60(16).

6. *Id.*

shoot and kill escaping prisoners.<sup>7</sup> When the prisoners come out of their cells, the guards open fire.<sup>8</sup>

The second version alleges that the prisoners in South Wing halls four and five break out of their cells and begin to riot.<sup>9</sup> The riot leads to a mass prison break, and the guards subsequently shoot the prisoners.<sup>10</sup> In both versions, the National Guard and Metropolitan police open fire at random, using guns, long-range firearms, and tear gas, shooting several prisoners in the side or back.<sup>11</sup> Those who are injured during the shooting are not given adequate or timely medical attention.<sup>12</sup> Some of the prisoners who are killed during the massacre are transferred to coroners' offices throughout the city, without any notice to their respective next of kin.<sup>13</sup> Mr. José León Ayala Gualdrón, a victim of the massacre, is at least one example where a prisoner is incorrectly sorted and transported to the coroners' officer, while still alive, heavily wounded and in need of medical attention.<sup>14</sup> Mr. Ayala Gualdrón dies from his untreated wounds.<sup>15</sup> Other deceased bodies are indiscriminately thrown into the adjacent Guaire River.<sup>16</sup>

The massacre results in more than sixty-three prisoner deaths, fifty-two injuries, and twenty-eight disappearances.<sup>17</sup> Upon hearing the news of the massacre, many family members rush to the perimeters of the Detention Center of Catia to locate or obtain information about their loved ones.<sup>18</sup> The Metropolitan Police refuses to communicate with the relatives and fires tear gas at the onlookers in an attempt to disperse the crowd.<sup>19</sup>

Many surviving prisoners are transferred to other detention centers over the course of the two days without notice to their family members.<sup>20</sup> Many families, such as the family of Mr. Edgar José Peña Marín, do not know whether their loved ones are dead or alive or where they

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7. *Id.* ¶ 59(A)(n).

8. *Id.* ¶ 60(16).

9. *Id.* ¶ 60(17).

10. *Id.*

11. *Id.* ¶¶ 60(19)–(20).

12. *Id.* ¶ 60(21).

13. *Id.* ¶ 60(28).

14. *Id.* ¶ 59(A)(c).

15. *Id.*

16. *Id.* ¶ 59(A)(a).

17. *Id.* ¶ 60(18).

18. *Id.* ¶ 60(27).

19. *Id.*

20. *Id.* ¶ 60(23).

are located.<sup>21</sup>

**1992-2006:** An investigation is launched into the massacre, but remains stagnant for many years.<sup>22</sup> The lack of progress is accredited to a lack of cooperation from the police, military, and prison officials.<sup>23</sup> As of 2006, the case is still in the preliminary investigation stage.<sup>24</sup> The victims' family members are denied access to the records of the case.<sup>25</sup>

### *B. Other Relevant Facts*

The massacre at the Detention Center of Catia occurs at the same time as a failed military coup for control over the State government.<sup>26</sup> In the aftermath of the prison massacre, government officials allege that the guards, in support of the individuals plotting the coup, provoked a mass escape in order to incite citywide looting.<sup>27</sup>

The Detention Center of Catia is infamous for its terrible conditions, often nicknamed "Hell" or "The Monster."<sup>28</sup> The prison was originally meant to house 600 to 750 inmates charged with common crimes.<sup>29</sup> However, by 1992, a report provided by the Detention Center's Chief of Prison Services estimates that the prison houses over 3,618 inmates, more than four times its intended capacity.<sup>30</sup> Ninety-five percent of the inmates are still awaiting trial, yet to be convicted, but are not separated from the already-convicted inmates.<sup>31</sup>

Prison overcrowding is but one of the prison's issues.<sup>32</sup> The Detention Center of Catia has a shortage of staff, and the staff members it does have are poorly trained.<sup>33</sup> Because of the overcrowding and inept staff, riots frequently break out over meager living space, a mere thirty

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21. *Id.* ¶ 60(28).

22. *Id.* ¶ 4.

23. *Id.*

24. *Id.*

25. *Id.*

26. *Id.* ¶ 60(1); see James Brooke, 'Coup Within the Coup' Cut the Toll in Venezuela, N.Y. TIMES (Dec. 6, 1992), <http://www.nytimes.com/1992/12/06/world/coup-within-the-coup-cut-the-toll-in-venezuela.html>.

27. Brooke, *supra* note 26.

28. *Prison 'Hell' Demolished in Caracas*, N.Y. TIMES (Mar. 17, 1997), <http://www.nytimes.com/1997/03/17/world/prison-hell-demolished-in-caracas.html>

29. Montero Aranguren et al. v. Venezuela, Merits, Reparations, and Costs, ¶¶ 60(4)–(5).

30. *Id.* ¶¶ 60(4), 60(10).

31. *Id.*

32. *Id.* ¶ 60(11).

33. *Id.* ¶ 60(7).

square centimeters per inmate.<sup>34</sup> These riots are often very violent, with inmates sometimes fashioning knives out of metal and using them as weapons.<sup>35</sup> Many inmates injured or in need of medical attention do not receive any, and there are numerous disease outbreaks, such as sexually transmitted diseases, influenza, and mycosis.<sup>36</sup>

Furthermore, inmates report that many of the bathrooms are dysfunctional, forcing the inmates to defecate in bags and throw them out the windows of their cells onto the yard below.<sup>37</sup> Because the yard is covered in feces, the smell is rancid and the inmates have no place to exercise.<sup>38</sup> However, the inmates are often too afraid to verbalize their concerns and complaints because they are fearful that the guards will punish them later.<sup>39</sup> In fact, the guards are known to steal, threaten, beat, and blackmail the inmates.<sup>40</sup> For example, the guards use sticks and poles to beat the inmates, pour salt water on their wounds, and break the inmates' personal property.<sup>41</sup> This harassment does not stop at the prisoners, however, but also extends to the prisoners' families.<sup>42</sup> The guards are known to strip-search prison visitors and force them to do degrading acts in order to see their family members.<sup>43</sup> The guards are known to molest female visitors and often times force them to preform sexual acts.<sup>44</sup>

On March 16, 1997, the Detention Center of Catia is demolished by order of the State President.<sup>45</sup>

## II. PROCEDURAL HISTORY

### A. *Before the Commission*

**March 12, 1996:** Comité de Familiares de Victimas de los Sucesos de

34. *Id.* ¶¶ 60(8)–(9).

35. *Human Rights in Venezuela*, HUMAN RIGHTS WATCH, 74–83 (1993), <https://www.hrw.org/report/1993/10/01/human-rights-venezuela>.

36. *Id.* at 75; *see* Montero Aranguren et al. v. Venezuela, Merits, Reparations, and Costs, ¶ 60(14).

37. Montero Aranguren et al v. Venezuela, Merits, Reparations, and Costs, ¶ 60(12).

38. *Id.* ¶ 60(8); *see* *Human Rights in Venezuela*, *supra* note 35, at 76.

39. *Human Rights in Venezuela*, *supra* note 35, at 76.

40. *Id.* at 74–75.

41. Montero Aranguren et al. v. Venezuela, Merits, Reparations, and Costs, ¶ 59(A)(f).

42. *Human Rights in Venezuela*, *supra* note 35, at 75.

43. Montero Aranguren et al. v. Venezuela, Merits, Reparations, and Costs, ¶ 59(A)(c).

44. *Id.* ¶¶ 59(A)(c)–(f).

45. *Prison 'Hell' Demolished in Caracas*, *supra* note 28.

Febrero-Marzo de 1989 (“COFAVIC”) and the Center for Justice and International Law (*Centro por la Justicia y el Derecho Internacional*, “CEJIL”) file a petition with the Inter-American Commission on Human Rights regarding the November 27, 1992 massacre at the Detention Center of Catia.<sup>46</sup>

**March 3, 2000:** The parties meet for a settlement agreement.<sup>47</sup> During this settlement agreement, the State admits to violating Article 1(1) (Obligation of Non-Discrimination), Article 2 (Domestic Legal Effects), Article 4 (Right to Life), Article 5 (Right to Humane Treatment), Article 6 (Freedom from Slavery), and Article 25 (Right to Judicial Protection) of the American Convention.<sup>48</sup>

**May 18, 2004:** The State files a brief before the Commission recanting its admission to the alleged violations, denying responsibility, and stating that the settlement agreement is unenforceable against the State.<sup>49</sup>

**October 20, 2004:** The Commission rules in Admissibility and Merits Report No. 79/04 that the State violated Article 4 (Right to Life), Article 5 (Right to Humane Treatment), Article 8 (Right to Fair Trial) and Article 25 (Right to Judicial Protection) to the detriment of the victims of the massacre and their next of kin.<sup>50</sup> Specifically, the Commission notes the State failed to investigate, try, and sentence the perpetrators of the massacre and failed to provide adequate reparations to the victims and their families.<sup>51</sup> Thus, the Commission recommended that the State rectify these violations.<sup>52</sup>

### *B. Before the Court*

**February 18, 2005:** The Commission submits the case to the Court after the State failed to adopt its recommendations.<sup>53</sup>

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46. *Montero Aranguren et al. v. Venezuela*, Merits, Reparations, and Costs, ¶ 7.

47. *Id.* ¶ 47.

48. *Id.*

49. *Id.* ¶¶ 47–48.

50. *Id.* ¶ 8.

51. *Id.*

52. *Id.*

53. *Id.* ¶ 11.

1. Violations Alleged by Commission<sup>54</sup>

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 8 (Right to Fair Trial)

Article 25 (Right to Judicial Protection)

*all in relation to:*

Article 1 (Obligation to Respect Rights)

Article 2 (Domestic Legal Effects) of the American Convention.

2. Violations Alleged by Representatives of the Victims<sup>55</sup>

Same Violations Alleged by Commission, plus:

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

Article 13 (Freedom of Thought and Expression) of the American Convention.

**August 1, 2005:** The State files its answer and a brief containing a preliminary objection, alleging that not all domestic remedies were exhausted within the State.<sup>56</sup>

**April 4, 2006:** A public hearing is held in Buenos Aires, Argentina for the Court to hear oral arguments regarding the preliminary objections, merits, reparations and costs of the case.<sup>57</sup> During the hearing, the State admitted responsibility for all the allegations set forth by the Commission and the representatives, and acknowledged accountability for the massacre.<sup>58</sup> Subsequently, the State filed a brief, which heavily referenced its own admission and acknowledgment of fault.<sup>59</sup>

**July 5, 2006:** The Court found, that by reason of estoppel, the State

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54. *Id.* ¶ 8. Commissioners Paulo Sergio Pinheiro and Florentín Meléndez and Executive Secretariat Santiago A. Canton were appointed as delegates before the Court. Mr. Juan Pablo Albán, Ms. Débora Benchoam, and Mr. Victor H. Madrigal represented the Commission as legal counsel.

55. *Id.* ¶ 14. COFAVIC and CEJIL served as representatives the victims and their next of kin.

56. *Id.* ¶ 16.

57. *Id.* ¶¶ 21, 26.

58. *Id.* ¶¶ 26, 41.

59. *Id.* ¶ 26.

could not retract its decision to admit fault.<sup>60</sup> The Court additionally found that, by acknowledging responsibility and accepting jurisdiction of the Court, the State impliedly waived its preliminary objection that the victims failed to exhaust domestic remedies.<sup>61</sup>

### III. MERITS

#### *A. Composition of the Court*<sup>62</sup>

Sergio García Ramírez, President  
Alirio Abreu Burelli, Vice President  
Antônio A. Cançado Trindade, Judge  
Cecilia Medina Quiroga, Judge  
Manuel E. Ventura Robles, Judge

Pablo Saavedra Alessandri, Secretary  
Emilia Segares Rodríguez, Deputy Secretary

#### *B. Decision on the Merits*

**July 5, 2006:** The Court issues its Judgment on the Merits.<sup>63</sup>

The Court found unanimously that Venezuela had violated:

Article 4 (Right to Life), Article 5(1) (Right to Physical, Mental, and Moral Integrity), Article 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), and Article 5(4) (Right of Minors in Detention to Be Separated from Adults) in relation to Article 1(1) of the Convention, to the detriment of the inmates,<sup>64</sup> because:

*The Court took note that an individual's Article 4 (Right to Life) rights are fundamental and that no person should be capriciously deprived of such right.<sup>65</sup> Inherent in an individual's right to life is the State's obliga-*

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60. *Id.* ¶ 49.

61. *Id.* ¶ 50.

62. Judges Oliver Jackman and Diego García-Sayán were unable to attend the deliberation and signing of the Judgment due to forces beyond their control. *Id.* ¶ 1, n.\*\*.

63. *Montero Aranguren et al v. Venezuela, Merits, Reparations, and Costs.*

64. *Id.* “Operative Paragraphs” ¶ 1.

65. *Id.* ¶¶ 63–65.

tion to protect and ensure this right to all individuals in the State's jurisdiction.<sup>66</sup> Thus, the Court ruled that the State must take all necessary steps within its power, including enacting the proper laws, to guarantee this right.<sup>67</sup>

The Court held that, generally, the State's use of lethal force or firearms is only permissible in the most extreme circumstances, such as self-defense or the defense of others from serious bodily harm or death, after all other possible ways to control the situation have been exhausted.<sup>68</sup> Even then, such force should be limited to the bare minimum needed to control the situation.<sup>69</sup> If the State's use of lethal force does not comply with these conditions, such force will be deemed unjustified and any loss of life will be considered arbitrary.<sup>70</sup>

The Court acknowledged that there were two differing stories of the massacre: either the inmates attempted a mass escape and the guards attempt to suppress them, or the guards initiated the massacre by feigning release.<sup>71</sup> The Court ruled, and the State admitted, that neither narrative constituted the extreme consequences that would justify lethal force.<sup>72</sup> Thus, because many of the victims died from gunshot wounds while in State detention, some wounds even illegally inflicted, these victims were denied their Article 4 (Right to Life) rights.<sup>73</sup>

Additionally, the Court found that the State's internal laws and regulations did not meet the minimum requirements to guarantee an individual's Article 4 (Right to Life) rights.<sup>74</sup> Specifically, the State did not have the proper laws that clearly established which officials are entitled to a firearm, when those officials are allowed to carry and discharge firearms, or what procedures the officials should follow should they discharge their firearms.<sup>75</sup> The Court ruled that the State generally failed to train and educate their officials of these limitations and subsequently

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66. *Id.* ¶ 65.

67. *Id.* ¶ 66.

68. *Id.* ¶¶ 66–69.

69. *Id.* ¶ 68.

70. *Id.*

71. *Id.* ¶ 72.

72. *Id.*

73. *Id.* ¶¶ 72–73.

74. *Id.* ¶ 76.

75. *Id.* ¶ 75.



*failed to investigate the use of firearms in the instant case.*<sup>76</sup>

*The Court ruled that inherent in Article 5 (Right to Humane Treatment) is an individual's "right to have his physical, mental, and moral integrity respected," which encompasses freedom from torture and inhumane or degrading punishment.*<sup>77</sup> *While the Court recognized that by virtue of being in detention, an inmate is bound to have some of these rights revoked, the Court ruled that any further revocation cannot exceed the inherent suffering that comes with being an inmate.*<sup>78</sup> *The Court points out three specific conditions of the Detention Center of Catia that violated this right, all of which the State acknowledged.*<sup>79</sup>

*First, the Court brought attention to the severe overcrowding of the Detention Center of Catia.*<sup>80</sup> *Even though the State did not adequately record how many inmates were in the prison, a rough estimate shows that the Detention Center of Catia housed anywhere between 2,286 to 3,618 inmates, from 254 to 402 percent over capacity.*<sup>81</sup> *Ninety-five percent of the inmates had not yet been convicted, but were commingled with convicted inmates.*<sup>82</sup> *An unfortunate consequence was the minimal lack of living space, a mere thirty centimeters per inmate.*<sup>83</sup> *The Court noted that this lack of space due to overcrowding created a lack of privacy and fostered animosity, violence and criminal dealings between inmates.*<sup>84</sup> *Additionally, solitary confinement spaces were even smaller than normal accommodations, a punishment that the Court equated to torture.*<sup>85</sup>

*Second, the Court took issue with the sanitation facilities and cleanliness at the Detention Center of Catia.*<sup>86</sup> *The Court found, and the State acknowledged, that the inmates were subject to living conditions that did not include lighting, ventilation, or functioning lavatories.*<sup>87</sup> *The in-*

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76. *Id.* ¶¶ 77–84.

77. *Id.* ¶ 85.

78. *Id.* ¶ 86.

79. *Id.* ¶ 88.

80. *Id.* ¶ 89.

81. *Id.*

82. *Id.* ¶ 60(10).

83. *Id.* ¶ 91.

84. *Id.* ¶ 92.

85. *Id.* ¶¶ 93–94.

86. *Id.* ¶¶ 95, 97.

87. *Id.*

*mates often had to defecate in front of one another and, thus, live and eat amongst fecal matter.*<sup>88</sup>

*Third, the Court found that the State did not comply with minimum standards of health care or medical assistance for inmates.*<sup>89</sup> *The Court ruled that the State had a duty to provide medical care, medication, and treatment for inmates when ill or when necessary.*<sup>90</sup> *As part of this duty, the State should have provided proper medical assistance to the inmates in the aftermath of the massacre.*<sup>91</sup>

*Taking into consideration the three aforementioned factors, the Court found that, by not providing adequate living facilities or medical assistance to the inmates, the State violated the victims' Article 5 (Right to Humane Treatment) rights.*<sup>92</sup> *Moreover, due to the disproportionate use of force used on the inmates during the massacre and the deplorable conditions of the prison, the Court found that the State violated the victims' rights under Article 4(1) (Right to Life), Article 5(1) (Right to Physical, Mental, and Moral Integrity), Article 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), and Article 5(4) (Right of Accused to Be Segregated from Convicted Persons).*<sup>93</sup>

Article 5(1) (Right to Physical, Mental, and Moral Integrity), Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), and Article 25 (Right to Judicial Protection) in relation to Article 1(1) of the Convention, to the detriment of the victims' next of kin,<sup>94</sup> because:

*The Court found that the State violated the victims' next of kin's rights under Article 5(1) (Right to Physical, Mental, and Moral Integrity) by causing the death of their loved ones, by failing to notify their families of the events, and by failing to investigate what caused the deaths.*<sup>95</sup>

*With regard to Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), the Court indicated that*

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88. *Id.* ¶¶ 99–100.

89. *Id.* ¶ 101.

90. *Id.* ¶¶ 101–102.

91. *Id.* ¶ 101.

92. *Id.* ¶ 104.

93. *Id.*

94. *Id.* ¶¶ 104, 109, “Operative Paragraphs” ¶ 2.

95. *Id.*

every person has the right to a hearing that is conducted within reasonable time by a competent and impartial tribunal.<sup>96</sup> Similarly, Article 25(1) (Right of Recourse Before a Competent Court) of the Convention provides that everyone has the right to a simple and prompt recourse.<sup>97</sup> Taken together, Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and Article 25(1) (Right of Recourse Before a Competent Court) guarantee to every individual a fair trial with proper remedies.<sup>98</sup>

The Court found, and the State admitted, that a thorough investigation into the massacre was not conducted, and that there was a lack of a trial and punishment for those responsible for the massacre.<sup>99</sup> Additionally, whatever information gathered thirteen years after the fact was not made accessible to the victims' next of kin.<sup>100</sup> Based on the forgoing, the Court found that the State violated Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and Article 25(1) (Right of Recourse Before a Competent Court).<sup>101</sup>

Taking into account the next of kin's pain and suffering due to the loss of their loved ones, the State's failure to provide adequate information, and the denial of justice, the Court found that the State violated their rights under Article 5(1) (Right to Physical, Mental, and Moral Integrity), Article 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal), and Article 25 (Right to Judicial Protection).<sup>102</sup>

Article 2 (Obligation to Give Domestic Legal Effect to Rights) in relation to Article 1(1) of the Convention, because:<sup>103</sup>

The Court found that under Article 2 (Obligation to Give Domestic Legal Effect to Rights), the State has the responsibility of implementing domestic laws that give legal weight to the articles of the American

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96. *Id.* ¶ 105.

97. *Id.* ¶ 106.

98. *See id.* ¶¶ 105–106

99. *Id.* ¶ 108; *see id.* ¶¶ 8, 53.

100. *Id.* ¶ 108.

101. *Id.* ¶ 109.

102. *Id.* ¶¶ 104, 109.

103. *Id.* ¶ 110, “Operative Paragraphs” ¶ 3.

Convention.<sup>104</sup> At the heart of the issue is the State's lack of regulation over its prison system.<sup>105</sup> While the Court appreciated that the State implemented laws to rectify the situation by the time the Judgment was rendered, the Court noted that the State lacked such laws at the time of the incident.<sup>106</sup> Thus, the Court ruled that the State lacked the regulations necessary to satisfy Article 2 (Obligation to Give Domestic Legal Effect to Rights).<sup>107</sup>

### C. Dissenting and Concurring Opinions

[None]

## IV. REPARATIONS

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

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

#### 1. Investigate the Facts

The Court ordered the State to conduct an investigation, arrest, prosecute, and convict those responsible for the massacre.<sup>108</sup> The State must provide safety guarantees to the victims, witnesses, judicial officers, prosecutors, and other law enforcement officials and use all resources necessary to bring about justice.<sup>109</sup> The State must also ensure that the victims' next of kin have access to the proceedings and an opportunity to participate in the investigation.<sup>110</sup> Furthermore, the State must conduct the investigation and proceedings according to the standards of the Manual on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions, and cannot use its domestic laws to interfere with these proceedings.<sup>111</sup> Thus, the Court stated

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104. *Id.* ¶ 110.

105. *Id.* ¶¶ 111–12.

106. *Id.* ¶¶ 111–13.

107. *Id.* ¶ 113.

108. *Id.* ¶¶ 137–38.

109. *Id.* ¶ 138.

110. *Id.* ¶ 139.

111. *Id.* ¶¶ 140–41.

that State statute of limitations defenses or domestic amnesty laws are inadmissible as to human rights violations, and the State may not use these laws and defenses to avoid compliance with the Judgment.<sup>112</sup>

2. Deliver the Bodies of Mr. José León Ayala Gualdrón and Mr. Edgar José Peña Marín to Their Next of Kin

The next of kin of two victims, Mr. Ayala Gualdrón and Mr. Peña Marín, have not received the victims' bodies for burial.<sup>113</sup> The Court ordered the State to locate and deliver the deceased to their respective next of kin within a reasonable time.<sup>114</sup>

3. Adopt Domestic Measures in Accordance with the American Convention

The State must implement the appropriate legal and administrative standards necessary to prevent further human rights violations like those that occurred at the Detention Center of Catia.<sup>115</sup> The Court specified that the State's new laws must conform to the standards dictated by the American Convention, such as implementing a safe and competent system through which inmates may report incidents of human rights violations without fear of repercussions.<sup>116</sup>

4. Conform Incarceration Conditions to International Standards

The State must adopt the necessary measures to guarantee that inmates are provided conditions within their prisons that conform to international standards.<sup>117</sup> Specifically, the Court ordered the State to ensure that the living conditions are fit for, and respect the dignity of, human beings.<sup>118</sup> In order to do so, the State must guarantee that each inmate has the minimum amount of bed space, accommodations with lighting, ventilation, lavatories that work and are private, sufficient food and health care, and rehabilitation opportunities like education.<sup>119</sup>

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112. *Id.* ¶ 141.

113. *Id.* ¶ 142.

114. *Id.*

115. *Id.* ¶ 143.

116. *Id.*

117. *Id.* ¶¶ 145–46.

118. *Id.* ¶ 146.

119. *Id.*

## 5. Educate State Agents in International Human Rights Law

The State must educate its agents in order to adequately ensure that citizens have the right to life.<sup>120</sup> These agents are to be trained and educated on human rights, the international standards with regards to inmates, and when and how to avoid excessive force.<sup>121</sup>

## 6. Publicly Acknowledge International Responsibility

The State must publicly acknowledge its international responsibility for the massacre and must ask the public for forgiveness for its actions.<sup>122</sup> This acknowledgment must be made in the presence of the victims' next of kin and the State's highest ranked officials.<sup>123</sup>

## 7. Publish the Judgment

The State must publish, at least once, a summary of the Judgment in the Official Gazette and another newspaper with nationwide publication.<sup>124</sup>

### *B. Compensation*

The Court awarded the following amounts:

#### 1. Pecuniary Damages

The Court determined that the State must compensate the victims of the massacre for loss of income.<sup>125</sup> Each victim's income is to be calculated using the State's minimum salary wage, \$2,260.46, and the years remaining until each victim reaches the age of seventy-three, the State's average life expectancy.<sup>126</sup> This sum is then deducted by 25% for personal expenses.<sup>127</sup> The Court thus awarded to the thirty-six victims a

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120. *Id.* ¶ 147.

121. *Id.* ¶¶ 147-49.

122. *Id.* ¶ 150.

123. *Id.*

124. *Id.* ¶ 151.

125. *Id.* ¶ 127.

126. *Id.*

127. *Id.*

sum ranging from \$53,572.83 to \$92,565.83.<sup>128</sup>

The victims' next of kin incurred damages trying to locate their family members, gather information, and secure justice.<sup>129</sup> Thus, the Court also awarded the next of kin \$1,000 each.<sup>130</sup>

Half of this money shall be distributed in equal parts between the children of each victim.<sup>131</sup> The second half will be paid to the victim's spouse or common-law spouse.<sup>132</sup> If the victim has a spouse but no descendants, or vice versa, the entirety of the amount will be paid to the spouse or descendants.<sup>133</sup> If the victim has neither spouse nor descendants, the entirety of the payment will be given to the victim's parents.<sup>134</sup> In the event both of the victim's parents are deceased, the sum will be distributed amongst the victim's siblings.<sup>135</sup>

## 2. Non-Pecuniary Damages

Taking into account the victims' living conditions at the detention center as well as the events surrounding the massacre, the Court ordered the State to pay each of the thirty-seven victims \$75,000.<sup>136</sup> Additionally, the Court ordered the State to pay \$25,000 to each of the victims' father, mother, spouse, common-law spouse, and child.<sup>137</sup> Finally, the Court awarded \$1,000 to each sibling of the victims.<sup>138</sup>

## 3. Costs and Expenses

The Court ordered the State to reimburse COFAVIC for the costs and expenses it incurred, domestically and in the Inter-American system, in the amount of \$2,000.<sup>139</sup> Additionally, the Court ordered the State to reimburse CEJIL a total of \$10,000 for costs and expenses it incurred in the Inter-American system.<sup>140</sup> The State must pay the reim-

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128. *Id.*

129. *Id.* ¶ 129.

130. *Id.*

131. *Id.* ¶ 122(a).

132. *Id.*

133. *Id.*

134. *Id.* ¶ 122(b).

135. *Id.*

136. *Id.* ¶ 133(a).

137. *Id.* ¶ 133(b)(i).

138. *Id.* ¶ 133(b)(ii).

139. *Id.* ¶ 153.

140. *Id.*

bursments directly to the respective organization.<sup>141</sup>

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

\$ 6,743,798.95

*C. Deadlines*

The State must investigate the massacre and prosecute the perpetrators within a reasonable time.<sup>142</sup> The State must additionally deliver the bodies of Mr. Ayala Gualdrón and Mr. Peña Marín to their respective next of kin within a reasonable time.<sup>143</sup> The State must implement domestic laws that conform to international standards to prevent future incidents of this nature within a reasonable time.<sup>144</sup>

The State must publically acknowledge fault for the incident within six months from notice of the Judgment.<sup>145</sup> Additionally, the State must publish a summary of the Judgment in the Official Gazette and in another national newspaper within six months from notice of the Judgment.<sup>146</sup>

The State must compensate the victims and their next of kin and must pay costs and expenses within one year of notice of the Judgment.<sup>147</sup>

V. INTERPRETATION AND REVISION OF JUDGMENT

[None]

VI. COMPLIANCE AND FOLLOW-UP

**November 17, 2009:** The State partially complied with its obligation to conform domestic law to international standards in order to deter future human rights violations of the same nature as the massacre.<sup>148</sup> While the

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141. *Id.*

142. *Id.* ¶ 138.

143. *Id.* ¶ 142.

144. *Id.* ¶ 144.

145. *Id.* ¶ 150.

146. *Id.* ¶ 151.

147. *Id.* ¶ 152.

148. Montero Aranguren et al. v. Venezuela, Monitoring Compliance with Judgment Order of the Court, Inter-Am. Ct. H.R. (ser. E), "Considering" ¶ 29 (Nov. 17, 2009).



State initiated several legislative reforms, none had been approved.<sup>149</sup> Thus, the Court ordered the State to inform the Court on the progress of its legislative reform.<sup>150</sup>

The State partially complied with its obligation to reform its prison conditions.<sup>151</sup> The State pointed to several initiatives it was currently pursuing, such as contemplating building another prison and the Penitentiary Humanization Plan, an endeavor aiming to improve the infrastructure, sport, work, health, and education of inmates.<sup>152</sup> The Court ordered the State to continue its project and to report to the Court such progress.<sup>153</sup>

The State partially complied with its obligation to train and educate its agents by implementing a new syllabus to educate agents about means to control prisons, such as disturbance control, and self defense.<sup>154</sup> While the Court was satisfied with the State's progress, it ordered the State to report to the Court regarding its progress with this order.<sup>155</sup>

The Court found that the State failed to comply with its obligations to conduct an investigation into the perpetrators of the massacre and to initiate proceedings to bring the perpetrators to justice.<sup>156</sup> While the State pointed out that some proceedings had been conducted, the State failed to show its relevance or importance, and the Court found that the State's overall lack of progress on the matter was unacceptable.<sup>157</sup>

The State failed to comply with the Court's order to locate and deliver the bodies of Mr. Ayala Gualdrón and Mr. Peña Marín to their respective next of kin.<sup>158</sup> While the bodies of the deceased were located, the State told the next of kin that the bodies would not be exhumed or released until an identification was completed.<sup>159</sup> However, the State failed to identify the bodies and failed to respond to the next of kin's requests for DNA tests.<sup>160</sup>

The Court found that the State made no attempt to publicly

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149. *Id.* ¶ 33.

150. *Id.* ¶ 34.

151. *Id.* ¶ 35.

152. *Id.*

153. *Id.*

154. *Id.* ¶ 44.

155. *Id.*

156. *Id.* ¶¶ 9–10.

157. *Id.* ¶¶ 16, 21.

158. *Id.* ¶ 23.

159. *Id.* ¶ 24.

160. *Id.*

acknowledge its guilt and ordered the State to fulfill this obligation within four months.<sup>161</sup> Furthermore, the Court found that the State failed to comply with its obligation to publish a summary of the Judgment in a nationally circulated newspaper.<sup>162</sup> Rather, the State's purported print date was set for the first quarter of 2010, more than two and a half years after it was ordered to do so.<sup>163</sup> While upset about the State's failure to comply with the original order, the Court allowed the publication to run in the first quarter of 2010.<sup>164</sup>

Finally, the Court found that the State failed to comply with its obligation to compensate the victims' next of kin.<sup>165</sup> The State argued that the world financial crisis made it difficult to pay the compensation and could not do so until 2011, when it could adequately incorporate the expenditure into the national budget.<sup>166</sup> However, the Court found this argument ineffective and ordered the State to compensate the next of kin before 2011.<sup>167</sup>

**August 30, 2011:** The Court found that the State did not report any progress to the Court since the November 17, 2009 compliance order, and thus, the State failed to comply with its remaining obligations.<sup>168</sup>

## VII. LIST OF DOCUMENTS

### A. *Inter-American Court*

#### 1. Preliminary Objections

[Montero Aranguren et al. v. Venezuela, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 150 \(July 5, 2006\).](#)

#### 2. Decisions on Merits, Reparations and Costs

[Montero Aranguren et al. v. Venezuela, Merits, Reparations, and Costs,](#)

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161. *Id.* ¶¶ 51–57.

162. *Id.* ¶¶ 58–60.

163. *Id.* ¶¶ 58, 61.

164. *Id.* ¶ 63.

165. *Id.* ¶ 64.

166. *Id.* ¶¶ 64–65.

167. *Id.* ¶ 70.

168. *Montero Aranguren et al. v. Venezuela, Monitoring Compliance with Judgment Order of the Court, Inter-Am. Ct. H.R. (ser. E), "Declares" ¶ 1 (Aug. 30, 2011).*

[Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 150 \(July 5, 2006\).](#)

### 3. Provisional Measures

Montero Aranguren et al. v. Venezuela, Provisional Measures, Order of the Court, Inter-Am. Ct. H.R. (ser. E) (July 5, 2006).

### 4. Compliance Monitoring

[Montero Aranguren et al. v. Venezuela, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Nov. 17, 2009\).](#)

[Montero Aranguren et al. v. Venezuela, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. \(Aug. 30, 2011\).](#)

### 5. Review and Interpretation of Judgment

[None]

#### *B. Inter-American Commission*

#### 1. Petition to the Commission

[Not available]

#### 2. Report on Admissibility

Montero Aranguren et al. v. Venezuela, Admissibility and Merits Report No. 79/04, Inter-Am. Comm'n H.R., Case No. 11.699 (Oct. 20, 2004).

#### 3. Provisional Measures

[None]

#### 4. Report on Merits

Montero Aranguren et al. v. Venezuela, Admissibility and Merits Report No. 79/04, Inter-Am. Comm'n H.R., Case No. 11.699 (Oct. 20, 2004).

## 5. Application to the Court

[Montero Aranguren et al. v. Venezuela, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 11.699 \(Feb. 24, 2005\) \(Available only in Spanish\).](#)

## VIII. BIBLIOGRAPHY

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*Prison 'Hell' Demolished in Caracas*, N.Y.TIMES (Mar. 17, 1997), <http://www.nytimes.com/1997/03/17/world/prison-hell-demolished-in-caracas.html>.