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## Rochac Hernández et al. v. El Salvador

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# Rochac Hernández et al. v. El Salvador

## ABSTRACT\*

*This case is about the forced disappearance of five children during El Salvador's Civil War. The State forcibly took thousands of children to curb rebel forces in rural areas. Unsurprisingly, the Court found violation of several articles of the American Convention, but the case is notable because it addresses Article 19 (Rights of the Child), an article of the Convention rarely discussed.*

## I. FACTS

### A. Chronology of Events

**October 1979:** The Farabundo Martí Front for National Liberation (*Frente farabundo Martí para la liberación nacional*; “FMLN”) is formed.<sup>1</sup> The Salvadoran Civil War begins.<sup>2</sup>

#### 1. Events pertaining to José Adrián Rochac Hernández

**May 17, 1975:** José is born in the canton of San José Segundo, municipality of San Martín, department of San Salvador, to Mr. Alfonso Hernández Herrera and Ms. María Silveria Rochac.<sup>3</sup> José has four brothers: Sebastián Rochac Hernández, Estanislao Rochac Hernández, Sergio Antonio Rochac Hernández, and Nicolás Alfonso Rochac Hernández, and three sisters: María Juliana Rochac Hernández, María del Tránsito Rochac Hernández, and Ana Margarita Rochac Hernández.<sup>4</sup>

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\* Kimberly Elise Barreto, Author; Michelle Gonzalez, Editor; Erin Gonzalez, Chief IACHR Editor; Cesare Romano, Faculty Advisor

1. El Salvador: Government, UPPSALA CONFLICT DATA PROGRAM, <http://ucdp.uu.se/#conflict/316> (LAST VISITED Oct. 10, 2017).

2. *Id.*

3. Rochac Hernández et al. v. El Salvador, Report on the Merits, Report No. 90/06, Inter-Am. Comm'n H.R., Case No. 731-03, ¶¶ 71-72 (Nov. 7, 2012).

4. *Id.* ¶ 73.

**Early December 1980:** The Rochac Hernández family receives multiple death threats and the armed forces command the Rochac Hernández family to abandon their homes.<sup>5</sup> Ms. Rochac is detained by soldiers on a bus for not carrying identification papers while traveling with her daughters, María Juliana and María del Tránsito.<sup>6</sup> She is released the next day because she is pregnant.<sup>7</sup> When she is released, the military tells her, “that one that you are going to have perhaps it will be a boy and can serve the fatherland...we’re going to let you go, but if there’s a shoot-out out there and a bullet kills you it’s no longer our problem.”<sup>8</sup> Ms. Rochac has the baby soon after.

**December 12, 1980:** At approximately 9:00 a.m., the Armed Forces of El Salvador (*Fuerza Armada de El Salvador*; “FAES”) and paramilitary forces carry out a raid in the canton of San José Segundo.<sup>9</sup> Mr. Hernández Herrera and two of José’s siblings, Sebastián and Estanislao, are working and not present.<sup>10</sup> Ms. Rochac keeps all of her doors closed and hides inside with her children.<sup>11</sup> The FAES break open the Rochac Hernández’s door, ask for weapons, and search the house.<sup>12</sup> After Ms. Rochac denies having any weapons in the house, the FEAS members strike her and drag her outside while she is “bleeding due to the birth of her newborn child.”<sup>13</sup> José’s older brother, Sergio, gives the newborn baby to his sister María Juliana, and follows his mother outside.<sup>14</sup> The FAES tells the remaining children to stay in the house or they will die.<sup>15</sup> The soldiers take Ms. Rochac and Sergio about thirty meters away and fire three shots, killing them both.<sup>16</sup> When he hears the shots, José cries, “where can I hide, where can I hide.”<sup>17</sup>

Following the shootings, five soldiers return to the house and tell José, “let’s go little boy...let’s go little boy, we’re going to get on the

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5. *Id.* ¶ 74.

6. *Id.* ¶ 75.

7. *Id.*

8. *Id.*

9. Rochac Hernández v. El Salvador, Admissibility Report, Report No. 90/06, Inter-Am. Comm’n H.R., Case No. 731-03, ¶ 6 (Oct. 21, 2006).

10. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 77.

11. *Id.*

12. *Id.* ¶ 78.

13. *Id.*

14. *Id.*

15. *Id.* ¶ 79.

16. Rochac Hernández v. El Salvador, Admissibility Report, ¶ 6; Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 79.

17. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 79.

horsey.”<sup>18</sup> The soldiers take 5-year-old José to trucks on a nearby highway, leaving his three sisters and the newborn baby behind.<sup>19</sup> María Juliana identifies one of the soldiers as a local known as “El Pacho.”<sup>20</sup> Mrs. Dolores López Beltrán witnesses the soldiers whisk José away to the outskirts of San José Segundo.<sup>21</sup> Mr. Jesús Beltrán, José’s relative, sees soldiers lift José into a military truck.<sup>22</sup>

The three sisters stay in their home with the newborn baby until their neighbor, Tina Martínez, enters.<sup>23</sup> Ms. Martínez informs the children that the soldiers assassinated their mother and brother, and asks that they place a blanket over the bodies.<sup>24</sup> María del Tránsito, 9 years old, covers the bodies and sees that her mother was shot in the jaw and her brother Sergio was shot in the forehead.<sup>25</sup>

When Mr. Hernández Herrera, Sebastián, and Estanislao return, the family flees to the home of Mr. Hernández Herrera’s mother in the town of San Bartolomé Perulapía.<sup>26</sup>

**December 13, 1980:** Mr. José Román Quijano witnesses soldiers take José, barefoot and looking lost, with a small animal to the nearby Air Force base in Perulapía.<sup>27</sup> This is the last time José is ever seen.<sup>28</sup>

The Rochac Hernández family does not look for José during the war out of fear of retaliation from the State.<sup>29</sup> After the war ends, the family tells their story to the Truth Commission.<sup>30</sup>

**May 29, 1996:** Mr. Hernández Herrera, José’s father, seeks help from the Association for the Search of Missing Girls and Boys (*Asociación Pro Búsqueda de Niñas y Niños Desaparecidos*; “ASMGB”) in finding his son.<sup>31</sup>

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18. *Id.* ¶ 80.

19. Rochac Hernández v. El Salvador, Admissibility Report, ¶ 6; Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 36.

20. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 80.

21. *Id.* ¶ 83.

22. *Id.* ¶ 80.

23. *Id.*

24. *Id.*

25. *Id.*

26. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 81.

27. *Id.* ¶¶ 83-84.

28. *Id.* ¶ 85.

29. *Id.* ¶ 86.

30. *Id.*

31. Rochac Hernández v. El Salvador, Admissibility Report, ¶ 8.

**May 31, 1996:** Mr. Hernández Herrera seeks help from the Public Prosecutor's Office for the Defense of Human Rights.<sup>32</sup>

The ASMGB submits several cases of children, including José, who disappeared during the Salvadoran Civil War to the Office of the Human Rights Ombudsperson (*Procuraduría para la Defensa de los Derechos Humanos*; "OHRO").<sup>33</sup>

**April 10, 2002:** Mr. Hernández Herrera files a formal request with the Attorney General's Office to investigate José's whereabouts.<sup>34</sup>

**April 12, 2002:** The Unit on Women and Children of the Soyapango Sub-Regional Office of the Office of the Attorney General of the Republic requests from the ASMGB information on Jose's disappearance.<sup>35</sup>

**April 16, 2002:** The ASMGB submits the requested information on José's disappearance, and lists María Juliana and Mrs. López Beltrán as witnesses.<sup>36</sup>

**October 16, 2002:** After receiving no response from the Attorney General's Office, Mr. Hernández Herrera files a *habeas corpus* motion with the Constitutional Chamber of the Supreme Court of Justice.<sup>37</sup> A judge, who is given broad powers to order information from State and private parties, is appointed to expedite the case.<sup>38</sup> The judge finds that there are no State records from the day of the military raid, and that José was not deprived of his liberty by the armed forces.<sup>39</sup>

**March 3, 2003:** The Constitutional Law Chamber dismisses Mr. Hernández Herrera's *habeas corpus* petition, stating he provided no evidence that the forced disappearance occurred.<sup>40</sup> The Chamber permits Mr. Hernández Herrera to file a new *habeas corpus* petition if he gathers new information.<sup>41</sup>

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32. *Id.*

33. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 87.

34. Rochac Hernández v. El Salvador, Admissibility Report, ¶ 8.

35. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 90.

36. *Id.*

37. Rochac Hernández v. El Salvador, Admissibility Report, ¶ 8.

38. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 94.

39. *Id.* ¶ 95.

40. Rochac Hernández v. El Salvador, Admissibility Report, ¶ 11; Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 96.

41. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 96.

**August 28, 2003:** The State sends an investigator and a prosecutor to the site of José’s disappearance, but they are unable to gather any information as most of the witnesses are deceased or have left the area.<sup>42</sup>

**September 7, 2004:** The OHRO issues a report detailing the disappearances of 139 children and recommends that the Office of the Attorney General investigate their disappearances, including José’s.<sup>43</sup>

## 2. Events pertaining to Santos Ernesto Salinas

**November 28, 1972:** Santos is born in the canton of San Antonio Achilquiquito to Ms. María Adela Iraheta and Mr. Manuel Eugenio Salinas.<sup>44</sup> The members of the Salinas family are Mr. Salinas, Ms. Iraheta, their children Amparo Salinas, Estela Salinas, Josefina Salinas, and Santos, and Ms. Iraheta’s two other children, Julio Iraheta and Felipe Flores Iraheta.<sup>45</sup>

**October 15, 1981:** A guerilla force destroys an important strategic structure for the State’s armed forces, Golden Bridge, causing the State’s military reaction.<sup>46</sup>

**October 25, 1981:** Roughly fifteen military members conduct a sweep search to “settle accounts” in the canton of San Nicolás de Lempa, municipality of Tecoluca, department of San Vicente.<sup>47</sup> This area is designated a highly conflictive zone.<sup>48</sup> The purpose of the operation is to corner and fight the guerilla forces that destroyed the Golden Bridge.<sup>49</sup>

9-year-old Santos Ernesto is standing outside of his home with his father, Mr. Salinas, and Mr. Wilbur Torres.<sup>50</sup> Approaching soldiers order Mr. Salinas to leave or die, and force him to leave Santos behind.<sup>51</sup> Santos and Mr. Torres flee to a nearby store belonging to Mr.

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42. Rochac Hernández v. El Salvador, Admissibility Report, ¶ 18.

43. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 88.

44. *Id.* ¶¶ 97-98.

45. *Id.* ¶ 98.

46. Salinas v. El Salvador, Admissibility Report, Report No. 10/08, Inter-Am. Comm’n H.R., Case No. 733-03, ¶ 7 (Mar. 5, 2008).

47. *Id.* ¶ 7.

48. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 35.

49. *Id.* ¶ 100.

50. *Id.* ¶ 101.

51. *Id.*

Torres's aunt, Tomasa Torres.<sup>52</sup> The Atlacatl Immediate Reaction Infantry Battalion of the Armed Forces of El Salvador ("Atlacatl") and the National Guard forcibly enter and detain everyone in the shop, including Santos.<sup>53</sup> Mrs. Torres's neighbors watch as the armed forces take everyone, except the children, to the riverbank and kill them.<sup>54</sup> The soldiers capture Santos and take him to an unknown location.<sup>55</sup> Mrs. Josefa Sanchez, a resident of the neighborhood, sees Santos and another child taken away by the soldiers in nothing but their underwear.<sup>56</sup> Santos is never seen again.<sup>57</sup>

After the attack, Santos's family permanently moves to Tecoluca, department of San Vicente.<sup>58</sup> They begin searching for him, but stop because they are intimidated by the soldiers' presence in the area.<sup>59</sup> They are unable to go to the riverbed because of gunfire<sup>60</sup> and do not report the disappearance to official agencies for fear of retaliation.<sup>61</sup>

**August 2002:** Mrs. Iraheta attempts to file a complaint regarding Santos's disappearance at the Office of the Attorney General of the Republic in the city of San Vicente.<sup>62</sup> The State argues the complaint was never officially received because Mrs. Iraheta was required to file her complaint in the central offices of the Attorney General of the Republic, which are located in the city of San Salvador.<sup>63</sup> ASMGB also attempts to file a complaint with the Attorney General.<sup>64</sup>

**October 17, 2002:** Mrs. Iraheta and the ASMGB file a *habeas corpus* petition with the Constitutional Chamber of the Supreme Court of Justice.<sup>65</sup> An executing judge, who is appointed to expedite the case, decides that the petition is insufficient because no investigative steps

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52. *Id.*

53. *Salinas v. El Salvador*, Admissibility Report, ¶ 8.

54. *Id.*

55. *Id.*

56. *Id.* 8; *Rochac Hernández et al. v. El Salvador*, Report on the Merits, ¶ 35.

57. *Rochac Hernández et al. v. El Salvador*, Report on the Merits, ¶ 102.

58. *Id.* ¶ 103.

59. *Salinas v. El Salvador*, Admissibility Report, ¶ 9.

60. *Id.*

61. *Rochac Hernández et al. v. El Salvador*, Report on the Merits, ¶ 103.

62. *Id.* ¶ 40.

63. *Id.*

64. *Id.*

65. *Id.* ¶ 103.

have been taken.<sup>66</sup> The judge fails to take any investigative steps himself and does not interview any of the proposed witnesses.<sup>67</sup>

**March 3, 2003:** The Constitutional Chamber denies Mrs. Iraheta's *habeas corpus* petition for insufficient evidence to support the probability of the alleged forced disappearance.<sup>68</sup> The Chamber permits Mrs. Iraheta to file a new petition if she discovers new information.<sup>69</sup>

### 3. Events pertaining to Emelinda Lorena Hernández

**March 18, 1981:** Emelinda is born in the jurisdiction of Meanguera, department of Morazán, to Ms. María Adela Hernández and Mr. Juan de la Cruz Sánchez.<sup>70</sup> The Hernández Sánchez family members are Mr. de la Cruz Sánchez, Ms. Hernández, their children Joel Alcides Hernández, Juan Evangelista Hernández, José Cristino Hernández, Eligorio Hernández, Rosa Ofelia Hernández, and Emelinda, Emelinda's grandmother Valentina Hernández, and Ms. Valentina Hernández's partner, Mr. Santiago Pérez.<sup>71</sup>

**Late November–Early December, 1981:** The Hernández Sánchez family flees from their home in the canton of La Joya to the forest on a nearby mountain to hide from the armed forces.<sup>72</sup> They hide for approximately twelve days.<sup>73</sup>

**December 8–16, 1981:** The Atlacatl conducts an extensive military operation in the canton of La Joya, jurisdiction of Meanguera, department of Morazán.<sup>74</sup> The operation, called "Operation Rescue," also known as the Massacres of El Mozote and nearby places, results in the Armed Forces killing over 1,000 people.<sup>75</sup> It is recognized as one of the State's bloodiest and largest scorched earth operations.<sup>76</sup>

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66. *Id.* ¶ 106.

67. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 107.

68. *Id.* ¶ 122.

69. *Id.* ¶ 108.

70. *Id.* ¶ 109.

71. *Id.*

72. Hernández v. El Salvador, Admissibility Report, Report No. 11/08, Inter-Am. Comm'n H.R., Case No. 723-03, ¶ 11 (Mar. 5, 2008).

73. *Id.*

74. *Id.* ¶ 10.

75. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 110.

76. *Id.* ¶ 34.



**December 11, 1981:** Emelinda begins suffering from fatigue while hiding in the mountains.<sup>77</sup> Her parents take her back into the town to be cared for by Mrs. Marta Ramírez, a family acquaintance.<sup>78</sup>

**December 12, 1981:** The Hernández Sánchez family hears shots coming from La Joya.<sup>79</sup> Emelinda is guarded by Mrs. Ramírez during the attack.<sup>80</sup> She is only 11 months and 15 days old.<sup>81</sup>

Later that night, Emelinda's father returns to the town and discovers Mrs. Ramírez and her four children were murdered, but finds no sign of Emelinda other than her shoes and mantilla (a traditional Spanish lace or silk veil).<sup>82</sup> However, numerous witnesses see armed forces carrying away children.<sup>83</sup> Emelinda is never seen again.<sup>84</sup>

**Approx. 1993:** Mrs. Hernández brings the case of her daughter's disappearance before the Truth Commission.<sup>85</sup> However, the Truth Commission's mandate ends before it can open an investigation into Emelinda's disappearance.<sup>86</sup>

**Approx. 1994:** Mrs. Hernández seeks help from the ASMGB in investigating her daughter's whereabouts.<sup>87</sup>

**May 31, 1996:** The ASMGB submits several cases of children, including Emelinda, who disappeared during the Salvadoran Civil War to the OHRO.<sup>88</sup>

**November 15, 2002:** Mrs. Hernández files a *habeas corpus* petition with the Constitutional Chamber of the Supreme Court of Justice.<sup>89</sup> An executing judge, appointed to expedite the case, reports that because there is no file on Emelinda with the Department of Human Rights of

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77. Hernández v. El Salvador, Admissibility Report, ¶ 11.

78. *Id.*

79. *Id.* ¶ 12.

80. *Id.* ¶ 2.

81. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 34.

82. Hernández v. El Salvador, Admissibility Report, ¶ 2.

83. *Id.*

84. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 114.

85. Hernández v. El Salvador, Admissibility Report, ¶ 15.

86. *Id.*

87. *Id.*

88. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 115.

89. Hernández v. El Salvador, Admissibility Report, ¶ 16.

the Ministry of Defense, there is no violation of the law.<sup>90</sup> The judge refuses to hear offered testimony or take any other steps in the case.<sup>91</sup>

**March 3, 2003:** The Constitutional Chamber dismisses Mrs. Hernández's *habeas corpus* petition, stating that Mrs. Hernández failed to sufficiently prove the probability of the alleged forced disappearance.<sup>92</sup> The Chamber allows Mrs. Hernández to file a new petition if she discovers new information.<sup>93</sup>

**September 7, 2004:** The OHRO issues a report detailing the disappearances of 139 children and recommending that the Office of the Attorney General investigate the disappearances of the children in ASMGB's report, including Emelinda.<sup>94</sup>

#### 4. Events pertaining to Manuel Antonio Bonilla and Ricardo Ayala Abarca

**December 7, 1971:** Manuel is born in the canton of Cerros de San Pedro, municipality of San Esteban Catarina, department of San Vicente, to Mr. José de la Paz Bonilla and Ms. María de los Ángeles Osorio.<sup>95</sup> Ricardo is born to Ms. Petronila Abarca Alvarado, but there is no legal evidence of his birth.<sup>96</sup>

The Bonilla family members are: Mr. Bonilla, Ms. De los Ángeles Osorio, their children José Arístides Bonilla, María Inés Bonilla, and Manuel, Manuel's grandmother, Ms. María Josefa Rosales, and Manuel's aunt and uncle, Mrs. María Esperanza Alvarado and Mr. Luis Alberto Alvarado.<sup>97</sup>

The Abarca family members are: Ms. Abarca Alvarado, her children Ester Ayala Abarca, Daniel Ayala Abarca, José Humberto Ayala Abarca, Osmín Abarca, and Ricardo, and Ricardo's grandmother, Ms. Paula Alvarado.<sup>98</sup>

**August 19–24 1982:** The Atlacatl and the State's Fifth Infantry Brigade conduct the 6,000 troop "Lieutenant Colonel Mario Azenón Palma

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90. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶¶ 119-120.

91. *Id.* ¶ 121.

92. *Id.* ¶ 122.

93. *Id.*

94. *Id.* ¶ 116.

95. *Id.* ¶ 123.

96. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 124.

97. *Id.* ¶ 123.

98. *Id.* ¶ 124.

Operation” in Quebreda Seca, road to Los Conejos, canton of Amatitán Abajo, jurisdiction of San Esteban Caterina, department of San Vicente.<sup>99</sup> This operation is also known as the El Calabozo Massacre, “one of the worst massacres committed by the Salvadoran armed forces during the armed conflict.”<sup>100</sup> It is directed by the Chief of the Joint Chiefs of Staff of the Armed Forces and the Ministry of Defense.<sup>101</sup>

On the first day of the operation, dozens of families are forced to hide in the nearby mountains.<sup>102</sup> 11-year-old Manuel and his family flee in heavy rain, walking day and night.<sup>103</sup> The Bonilla family is separated during a shootout near the village of Guayabillas, and later meets up with 13-year-old Ricardo, who is carrying his six-year-old little sister, Ester.<sup>104</sup>

After three days of walking, the Bonilla family and the Ayala children stop outside the outskirts of Quebrada Seca to eat sugar cane and rest, as they have no food.<sup>105</sup> Manuel’s parents and sister decide to keep moving forward and tells the rest of the group to meet them ahead.<sup>106</sup> However, they see military forces ahead and both groups hide.<sup>107</sup> Nevertheless, the armed forces find Manuel and Ricardo’s group and open fire.<sup>108</sup> Some escape but the military captures Manuel, Ricardo, Ester, Mrs. María Esperanza Alvarado, Mrs. María Josefa Rosales, and Mr. Mauricio Osorio Alvarado.<sup>109</sup> The soldiers take the group with them for a few kilometers before releasing Ms. Josefa Rosales, Ester, and Mr. Osorio Alvarado.<sup>110</sup> Marta Abarca later testifies she sees many soldiers take her cousin, Ricardo, to the Cerros of San Pedro, along with Manuel and another woman.<sup>111</sup> They are never seen again.<sup>112</sup>

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99. Bonilla Osorio and Ayala Abarca v. El Salvador, Admissibility Report, Report No. 66/08, Inter-Am. Comm’n H.R., Case No. 1072-03, ¶ 2 (Jul. 25, 2008).

100. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 37.

101. *Id.* ¶ 126.

102. *Id.* ¶ 128; Bonilla Osorio and Ayala Abarca v. El Salvador, Admissibility Report, ¶ 13.

103. Bonilla Osorio and Ayala Abarca v. El Salvador, Admissibility Report, ¶ 13.

104. *Id.* ¶ 14.

105. *Id.* ¶ 15.

106. *Id.*

107. *Id.*

108. *Id.*

109. Bonilla Osorio and Ayala Abarca v. El Salvador, Admissibility Report, ¶ 15.

110. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 130.

111. *Id.* ¶ 37.

112. Bonilla Osorio and Ayala Abarca v. El Salvador, Admissibility Report, ¶ 15.

Manuel and Ricardo's names later appear in the Truth Commission's report on a list of homicides that occurred on August 18, 1982.<sup>113</sup>

**May 31, 1996:** The ASMGB files various cases with the Office of the Human Rights Ombudsperson regarding the forced disappearances of missing children, including those of Manuel and Ricardo.<sup>114</sup>

**February 18, 2003:** Mrs. Abarca Alvarado, Ricardo's mother, files a *habeas corpus* petition with the Constitutional Law Chamber of the Supreme Court of Justice, but the petition is dismissed for insufficient evidence.<sup>115</sup> An executing judge makes an inquiry to the Chief of the High Command.<sup>116</sup> The Chief tells him that no records exist documenting Ricardo's possible deprivation of liberty.<sup>117</sup>

**February 27, 2003:** Mrs. María de los Ángeles Osorio, Manuel's mother, files a *habeas corpus* petition with the Constitutional Law Chamber of the Supreme Court of Justice,<sup>118</sup> but the petition is dismissed for insufficient evidence.<sup>119</sup> An executing judge makes an inquiry to the Chief of the High Command.<sup>120</sup> The Chief tells him that no records exist documenting the possible deprivation of liberty of Manuel, and that there is no active investigation into his disappearance.<sup>121</sup>

**March 6 and May 26, 2003:** The Constitutional Chamber dismisses Mrs. Abarca Alvarado and Mrs. de los Ángeles Osorio's *habeas corpus* petitions because they did not claim enough elements to show the probability of the alleged forced disappearance.<sup>122</sup> The Chamber permits both mothers to submit new petitions if they find new information.<sup>123</sup>

**September 7, 2004:** The OHRO issues a report detailing the disappearances of 139 children and recommending that the Office of the

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113. *Id.* ¶ 19.

114. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 133.

115. Bonilla Osorio and Ayala Abarca v. El Salvador, Admissibility Report, ¶ 20.

116. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶¶ 136-137.

117. *Id.* ¶ 137.

118. Bonilla Osorio and Ayala Abarca v. El Salvador, Admissibility Report, ¶ 20.

119. *Id.*

120. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶¶ 136-139.

121. *Id.* ¶ 139.

122. *Id.* ¶¶ 138, 140.

123. *Id.*

Attorney General investigate the disappearances of the children in ASMGB's report, including Ricardo and Manuel.<sup>124</sup>

### *B. Other Relevant Facts*

During the Salvadorian Civil War, the State military deliberately abducts children from their homes in a "systematic pattern of forced disappearances."<sup>125</sup> This tactic, part of a strategy called "taking the water from the fish," is used to strike terror into civilians by forcing families to separate.<sup>126</sup> The largest number of forced disappearances of children occurs between 1980 and 1984, the same years in which the State conducts its bloodiest operations.<sup>127</sup> Moreover, the disappearances have a "particularly strong impact on the rural population," who live in areas identified as conflict zones for the State to conduct its large-scale military operations.<sup>128</sup> The rural areas most affected by the violence and forced disappearances of children are Chalatenango, San Salvador, San Vicente, Morazán, Usulután, Cabañas, Cuscatlán and La Libertad.<sup>129</sup>

The soldiers abduct the children for a variety of reasons, including: to prevent their incorporation into guerilla groups, to scare families that are sympathetic to the FMLN, and to use them as mascots and trophies of war.<sup>130</sup> These children are raised by the soldiers, given away, sold to illegal adoption networks, raped, and killed.<sup>131</sup> The soldiers change the children's identities by registering them under new names and ages.<sup>132</sup> The number of children abducted is unknown, and many parents never discover their child's fate.<sup>133</sup>

After the civil war ends, over 22,000 complaints alleging serious acts of violence are submitted.<sup>134</sup> 60 percent of the complaints regard extrajudicial executions, over 25 percent allege forced disappearances, and over 20 percent concern torture.<sup>135</sup> In all the testimony regarding these complaints, 85 percent of the testators attribute the violence to the

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124. *Id.* ¶ 134.

125. *Soldiers Stole Children During El Salvador's War*, USA TODAY (Feb. 22, 2013) <http://usat.ly/15a6VbD>.

126. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 32.

127. *Id.*

128. *Id.*

129. *Id.* ¶ 68.

130. Larry Rohter, *El Salvador's Stolen Children Face a War's Darkest Secret*, N.Y. TIMES (Aug. 5, 1996) <http://www.nytimes.com/1996/08/05/world/el-salvador-s-stolen-children-face-a-war-s-darkest-secret.html>.

131. Soldiers, *supra* note 126.

132. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 68.

133. Soldiers, *supra* note 126.

134. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 66.

135. *Id.*

State, allied paramilitary groups, and death squads working with the State.<sup>136</sup> 60 percent of the complaints accuse the State's armed forces of violence, while 25 percent pointed to members of the State's security forces.<sup>137</sup> Over 75 percent of the complaints concerned acts of violence that occurred between 1980 and 1983.<sup>138</sup> 95 percent of the complaints alleged acts of violence in rural areas of the State.<sup>139</sup> Only five percent of the complaints accuse the FMLN of violence.<sup>140</sup>

**1983:** The Inter-American Commission of Human Rights acknowledges a crisis of violence, unlawful executions, and forced disappearances in the State.<sup>141</sup>

**January 16, 1992:** The Chapultepec Peace Agreement is signed, ending the Salvadoran Civil War.<sup>142</sup> The Agreement establishes a Truth Commission to investigate serious acts of violence that occurred during the war.<sup>143</sup>

**January 23, 1992:** The State's Legislative Assembly passes the National Reconciliation Law, granting wide-ranging amnesties for common and political legal transgressions.<sup>144</sup>

**March 15, 1993:** The Truth Commission publishes *From Madness to Hope: The 12-Year War in El Salvador*, and names security forces, allied paramilitary groups, and death squads as those responsible for most of the human rights violations during the Civil War.<sup>145</sup> The Truth Commission names individuals who helped perpetrate, order, or cover up the violations, and recommends their dismissal.<sup>146</sup> It reports that in the period of 1980 to 1983, “violence became systematic and terror and distrust reigned among the civilian population. The fragmentation of

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136. *Id.*

137. *Id.*

138. *Id.* ¶ 67.

139. *Id.*

140. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 66.

141. *Id.* ¶ 62.

142. See U.N. GAOR, 46th Sess., U.N. Doc. A/46/864 (Jan. 30, 1992).

143. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 65.

144. *Farabundo Martí National Liberation Front Frente Farabundo Martí para la Liberación Nacional (FMLN)*, GLOBALSECURITY.ORG, <https://www.globalsecurity.org/military/world/para/fmln.htm> (LAST VISITED Oct. 10, 2017).

145. Daniel Cerqueira and Leonor Arteaga, *Challenging the Amnesty Law in El Salvador: Domestic and International Alternatives to Bring an End to Impunity*, DUE PROCESS OF LAW FOUND. 1 (June 2016).

146. *Id.* at 4.

any opposition or dissident movement by means of arbitrary arrests, murders and selective and indiscriminate disappearances of leaders became common practice.”<sup>147</sup>

**March 20, 1993:** The Legislative Assembly adopts the General Amnesty Law for the Consolidation of Peace, which critics argue prevents victims of human rights violations from obtaining justice.<sup>148</sup>

**March 26, 1993:** The Inter-American Commission on Human Rights notifies the State that it finds the new General Amnesty Law incompatible with the American Convention because it allows the State to ignore serious human rights violations.<sup>149</sup>

**June 6, 1995:** The State accepts the contentious jurisdiction of the Inter-American Court of Human Rights.<sup>150</sup>

**Approx. April 1998:** The Attorney General of the State is given the authority to conduct criminal investigations, including investigations of human rights violations.<sup>151</sup>

**October 5, 2004:** The State issues Executive Decree 45, establishing the Inter-Institutional Commission to Trace Missing Children in El Salvador (“Tracing Commission”)<sup>152</sup> pursuant to the Court’s order in the case of *Serrano Cruz Sisters v. El Salvador*.<sup>153</sup> However, the Tracing Commission is unsuccessful.

**January 15, 2010:** Due to the Tracing Commission’s failure to produce any results, the State establishes the National Commission for the Search of Disappeared Children.<sup>154</sup>

**May 2011:** The State’s Search Association reports that it received 881 complaints of disappeared children.<sup>155</sup> Of these cases, the Search Associations resolves 363 cases by locating either the living child or the

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147. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 65.

148. Cerqueira and Arteaga, *supra* note 146, at 6.

149. *Id.* at 7.

150. Rochac Hernández et al. v. El Salvador, Victims’ Legal Assistance Fund, Inter-Am. Ct. H.R. (ser. C) No. 285, “Considering That” ¶ 1 (Dec. 12, 2013).

151. Cerqueira and Arteaga, *supra* note 146, at 5.

152. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 69.

153. *Id.* ¶ 51.

154. *Id.* ¶ 69.

155. *Id.* ¶ 68.

child's remains.<sup>156</sup> Additionally, the Search Association successfully reunites 224 victims with their families.<sup>157</sup>

## II. PROCEDURAL HISTORY

### A. Before the Commission

**September 11, 2003:** ASMGB submits three petitions on behalf of José, Emelinda, and Santos to the Commission.<sup>158</sup> The petitions allege that during the State's Civil War, the State was internationally responsible for the children's forced disappearances, as well as the subsequent failure to investigate, reprimand, and provide reparations for the forced disappearances.<sup>159</sup> The petitioners also allege that they requested information on the investigation into José's disappearance three times but never received any updates.<sup>160</sup>

**December 8, 2003:** The ASMGB submits a petition on behalf of Manuel and Ricardo to the Commission alleging the same violations as the petitions concerning José, Emelinda, and Santos.<sup>161</sup>

**October 21, 2006:** The Commission adopts Admissibility Report No. 90/06 in José's case, finding possible violations of Articles 1(1) (Obligation of Non-Discrimination), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 17 (Rights of the Family), 18 (Right to a Name and to Surname of Parents), 19 (Rights of the Child), and 25 (Right to Judicial Protection) of the American Convention.<sup>162</sup> The Commission finds that domestic remedies have not properly functioned for investigating forced disappearances<sup>163</sup> and the State has provided no information indicating that the investigators took all necessary steps to find José.<sup>164</sup>

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156. *Id.* ¶ 68.

157. *Id.* ¶ 68.

158. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 1.

159. *Id.* ¶ 2.

160. *Id.* ¶ 92.

161. *Id.* ¶¶ 1-2.

162. The State raises the same arguments, and the Commission reaches the same conclusion, for Santos, Emelinda, Manuel and Ricardo's Admissibility Reports. *See* Rochac Hernández v. El Salvador, Admissibility Report; Hernández v. El Salvador, Admissibility Report; Salinas v. El Salvador, Admissibility Report; Bonilla Osorio and Ayala Abarca v. El Salvador, Admissibility Report.

163. Rochac Hernández v. El Salvador, Admissibility Report, ¶ 27.

164. *Id.* ¶ 32.



**November 9, 2006:** The State offers to pursue a friendly settlement in José's case.<sup>165</sup>

**March 5, 2008:** The Commission adopts Admissibility Report No. 10/08 in Santos's case,<sup>166</sup> and Admissibility Report No. 11/08 in Emelinda's case.<sup>167</sup> The Commission finds possible violations of Articles 1(1) (Obligation of Non-Discrimination), 2 (Obligation to Give Domestic Legal Effect to Rights), 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 17 (Rights of the Family), 19 (Rights of the Child), and 25 (Right to Judicial Protection) of the American Convention.<sup>168</sup>

**March 18, 2008:** The State offers to pursue a friendly settlement in Santos and Emelinda's cases.<sup>169</sup>

**July 25, 2008:** The Commission adopts Admissibility Report No. 66/08 in Manuel and Ricardo's case, finding possible violations of Articles 1(1) (Obligation of Non-Discrimination), 2 (Obligation to Give Domestic Legal Effect to Rights), 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 17 (Rights of the Family), 19 (Rights of the Child), and 25 (Right to Judicial Protection) of the American Convention.<sup>170</sup>

**August 4, 2008:** The State offers to pursue a friendly settlement in Manuel and Ricardo's case.<sup>171</sup>

**November 6, 2009:** The Commission holds a joint public hearing on the merits on the four individual cases.<sup>172</sup> The State recognizes a pattern of forced disappearances during the Civil War and sends its "most sincere apologies" to the victims and their families, admitting international responsibility and acknowledging all the facts as alleged in the petitions

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165. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 6.

166. See Hernández v. El Salvador, Admissibility Report.

167. See Salinas v. El Salvador, Admissibility Report.

168. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 3.

169. *Id.* ¶¶ 9, 13.

170. See Bonilla Osorio and Ayala Abarca v. El Salvador, Admissibility Report.

171. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 16.

172. *Id.* ¶ 22.

as true.<sup>173</sup> The State also offers to provide the victims' families "dignified and humane treatment."<sup>174</sup>

Additionally, the State informs the Commission it has initiated a dialogue process through the Ministry of Foreign Relations with ASMGB in order to provide reparation for the victims of forced disappearances by the State.<sup>175</sup> The State further notifies the Commission that it extended invitations to representatives of the Center for Justice and International Law (CEJIL) to participate in the dialogue.<sup>176</sup>

**April 29, 2010:** The Commission joins the four individual cases under Article 29(1) of its Rules of Procedure.<sup>177</sup>

**June 4, 2012:** The Commission intervenes and terminates the friendly settlement procedure, announcing it will consider the case on the merits.<sup>178</sup>

**August 3, 2012:** The Commission requests information from the petitioners regarding which close family members of José, Emelinda, Santos, Ricardo, and Manuel suffered from the alleged human rights violations, but the petitioners fail to send the information before the Report on the Merits is published.<sup>179</sup>

**November 7, 2012:** The Commission adopts Report on the Merits No. 90/06 and finds the State violated Articles 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 17 (Rights of the Family), 19 (Rights of the Child), and 25 (Right to Judicial Protection), all in relation to Article 1(1) (Obligation of Non-Discrimination) of the American Convention, to the detriment of José, Santos, Emelinda, Manuel, and Ricardo.<sup>180</sup> The Commission further finds that the State violated Articles 5 (Right to Humane Treatment), 8 (Right to a Fair Trial), 17 (Rights of the Family), and 25 (Right to Judicial Protection) of the American Convention to the detriment of the immediate family

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173. *Id.* ¶¶ 18, 60.

174. *Id.* ¶ 54.

175. *Id.* ¶ 55.

176. *Id.*

177. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 23.

178. *Id.* ¶ 29.

179. *Id.* ¶ 30.

180. *Id.* ¶ 236.

members of José, Santos, Emelinda, Manuel, and Ricardo.<sup>181</sup> However, the Commission found the State did not violate Article 18 (Right to a Name and to Surname of Parents) of the Convention.<sup>182</sup>

The Commission recommends that the State: (1) conduct an impartial, effective, and thorough investigation into the fate or location of José, Santos, Emelinda, Manuel, and Ricardo, and to reunite them with their families regardless of whether they are found dead or alive; (2) conduct a proper investigation to find and reprimand those who aided or are responsible for the human rights violations; (3) make material and non-material reparations to the victims; (4) establish the genetic information system previously ordered by the Court in *Serrano Cruz Sisters v. El Salvador*; and (5) implement an integral protection system for children.<sup>183</sup>

### *B. Before the Court*

**March 21, 2013:** The Commission submits the case to the Court after the State failed to adopt its recommendations.<sup>184</sup>

#### 1. Violations Alleged by Commission<sup>185</sup>

Article 3 (Right to Juridical Personality)

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 7 (Right to Personal Liberty)

Article 8 (Right to a Fair Trial)

Article 17 (Rights of the Family)

Article 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attack on Honor, and Dignity)

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181. The Commission specifically names the following family members as victims of the alleged acts by the State: Alfonso Hernández, Sebastián Rochac Hernández, Estanislao Rochac Hernández, María Juliana Rochac Hernández, María del Tránsito Rochac Hernández, Ana Margarita Rochac Hernández, Nicolás Alfonso Rochac Hernández, María Adela Iraheta (deceased 2005), Amparo Salinas, Estela Salinas, Josefina Salinas, Julio Iraheta, Felipe Flores Iraheta, María Adela Hernández, Juan de la Cruz Sánchez (deceased), Joel Alcides Hernández, Valentina Hernández, Santiago Perez, Juan Evangelista, José Cristino Hernández, Eligorio Hernández, Rosa Ofelia Hernández, José de la Paz Bonilla, María de los Ángeles Osorio, Petrolina Abarca Alvarado, José Arístides Bonilla, María Inés Bonilla, María Josefa Rosales, María Esperanza Alvarado, Luis Alberto Alvarado, Ester Ayala Abarca, Paula Alvarado, Daniel Abarca, José Humberto Abarca, Osmín Abarca, and Manuel Eugenio Salinas. *Id.*

182. *Id.* ¶ 4.

183. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 237.

184. Rochac Hernández et al. v. El Salvador, Victims' Legal Assistance Fund, "Having Seen" ¶ 1.

185. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 236.

Article 19 (Rights of the Child)

Article 25 (Right to Judicial Protection)

*all in relation to:*

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

## 2. Violations Alleged by Representatives of the Victims<sup>186</sup>

Same Violations Alleged by Commission.

**July 24, 2013:** The representatives request access to the Victim’s Legal Assistance Fund.<sup>187</sup>

**November 11, 2013:** The State relinquishes its right to raise preliminary objections and acknowledges international responsibility.<sup>188</sup>

**December 12, 2013:** The President of the Court grants the victims access to the Legal Assistance Fund.<sup>189</sup>

**April 1, 2014:** A public hearing is held.<sup>190</sup> The Court requests that the petitioners and their representatives submit identification documents and, where necessary, death certificates of the family member affected by the children’s disappearances.<sup>191</sup>

**May 28, 2014:** The State submits a certificate of ongoing proceedings pertaining to Emelinda in the Meanguera Peace Court in the Department of Morazán.<sup>192</sup>

**September 26, 2014:** The Court requests the State to submit a report on the ongoing criminal investigations of the disappearances of José,

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186. The representatives also allege the State violated their “Right to Truth”; ASMGB served as representative of José Adrian Rochac Hernández, Santos Ernestos Salinas, Emelinda Lorena Hernández, Manuel Antonio Bonilla, Ricardo Ayala Abarca, and their next of kin. Rochac Hernández et al. v. El Salvador, Report on the Merits, ¶ 1; Rochac Hernández et al. v. El Salvador, Merits, Reparations and Costs, Inter-Am. Ct. H.R. (ser. C) No. 285, ¶ 5 (Oct. 14 2014).

187. *Id.*

188. Rochac Hernández et al. v. El Salvador, Provisional Measures, Order of the President of the Court, Inter-Am. Ct. H.R. (ser. E) “Viewed,” ¶ 6 (Mar. 3 2014).

189. Rochac Hernández et al. v. El Salvador, Victims’ Legal Assistance Fund, “Declares,” ¶ 1.

190. Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 10.

191. *Id.*

192. *Id.* ¶ 13.

Santos, Emelinda, Manuel, and Ricardo.<sup>193</sup> However, the State fails to provide the requested information in the time allotted.<sup>194</sup>

### III. MERITS

#### A. *Composition of the Court*<sup>195</sup>

Humberto Antonio Sierra, President  
 Roberto F. Caldas, Vice President  
 Manuel E. Ventura, Judge  
 Diego Garcia-Sayán, Judge  
 Eduardo Vio Grossi, Judge  
 Eduardo Ferrer MacGregor Poisot, Judge  
 Pablo Saavedra Alessandri, Secretary  
 Emilia Segares Rodriguez, Deputy Secretary

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

**October 14, 2014:** The Court issues its Judgment on Merits, Reparations, and Costs.<sup>196</sup>

The Court decided unanimously:

To accept the State's acknowledgement of international responsibility,<sup>197</sup> because:

*The State acknowledged during the public hearing that all the facts alleged by the Commission and the victims' representatives are true.<sup>198</sup> The Court found that this acknowledgement covered all events related to this case occurring between 1980 and 2004.<sup>199</sup> Furthermore, the Court found the State acknowledged that the disappearances of the children here occurred during a systematic pattern of disappearances.<sup>200</sup>*

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193. *Id.*

194. *Id.*

195. Judge Alberto Pérez participated during all procedural stages of the case, but was not present for the deliberation and signing of the judgment for reasons of *force majeure*. *Id.* n.\*.

196. *See* Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs.

197. "Declares," ¶ 1.

198. *Id.* ¶ 26.

199. *Id.*

200. *Id.*

*Additionally, the Court found that the State acknowledged that it violated Articles 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 17 (Rights of the Family), and 19 (Rights of the Child), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of José, Santos, Emelinda, Manuel, and Ricardo, as well as Articles 5 (Right to Humane Treatment), 8 (Right to a Fair Trial), 17 (Rights of the Family), and 25 (Right to Judicial Protection), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of the children's families.*<sup>201</sup>

*Finally, the Court determined that the State's apology to the forcibly disappeared children and their families was highly symbolic and indicated the State would not repeat such human rights violations and is willing to make reparations.*<sup>202</sup>

The Court found unanimously that the State had violated:

Articles 7 (Right to Personal Liberty), 5 (Right to Humane Treatment), 4(1) (Prohibition of Arbitrary Deprivation of Life), and 3 (Right to Juridical Personality) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of José, Santos, Emelinda, Manuel, and Ricardo,<sup>203</sup> because:

*Both the prohibition of forced disappearances and the duties to investigate and punish those responsible for forced disappearances are jus cogens principles in the human rights system.*<sup>204</sup> *The law does not permit any deviation from these principles.*<sup>205</sup> *Non-compliance with the law is per se a violation of the Convention in addition to any related violations resulting from the abduction.*<sup>206</sup>

*The State acknowledged that members of its armed forces abducted José, Santos, Emelinda, Manuel, and Ricardo while conducting various counterinsurgency operations during the internal armed conflict.*<sup>207</sup>

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201. *Id.* ¶ 27.

202. Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 36.

203. *Id.* “Declares” ¶ 2.

204. *Id.* ¶ 92.

205. *Id.*

206. *Id.* ¶ 94.

207. *Id.* ¶ 93.

*These disappearances were a part of the State's "systematic pattern of forced disappearances of children" during the Salvadoran Civil War.<sup>208</sup> This pattern constituted multiple and continuous violations of the children's rights to personal integrity, personal liberty, life and recognition of legal personality.<sup>209</sup>*

*Moreover, the children are still considered forcibly disappeared as the State has failed to locate any of them.<sup>210</sup> Therefore, the Court found that the State was responsible for the forced disappearances of José, Santos, Emelinda, Manuel, and Ricardo, and consequently violated Articles 7 (Right to Personal Liberty), 5 (Right to Humane Treatment), 4(1) (Prohibition of Arbitrary Deprivation of Life), and 3 (Right to Juridical Personality) in relation to Article 1(1) (Obligation of Non-Discrimination) of the American Convention.<sup>211</sup>*

Articles 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attack on Honor, and Dignity) and 17 (Rights of the Family), in relation to Articles 19 (Rights of the Child) and 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of José, Santos, Emelinda, Manuel, and Ricardo, and in relation to Article 1(1) (Obligation of Non-Discrimination) to the detriment of their relatives,<sup>212</sup> because:

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208. Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs, ¶¶ 96-97.

209. *Id.* ¶ 96.

210. *Id.* ¶ 93.

211. *Id.* ¶ 96.

212. *Id.* "Declares," ¶ 3. The Court identified the following as family members of the victims: The family of José Adrián Rochac Hernández: Alfonso Hernández Herrera (father), Sebastian Rochac Hernandez (brother), Tanislao Rochac Hernandez (brother), María Juliana Rochac Hernandez (sister), María del Transito Rochac Hernandez (sister), Ana Margarita Rochac Hernandez (sister), and Nicolas Alfonso Torres Hernandez (brother); the family of Santos Ernestos Salinas: María Adela Iraheta (mother), Julio Antonio Flores Iraheta (brother), Felipe Flores Iraheta (brother), María Estela Salinas de Figueroa (Sister), Amparo Hernandez Salinas (sister) and Josefa Salinas Iraheta (sister); the family of Emelinda Lorena Hernández: María Adela Hernández (mother), Jose Juan de Cruz Sánchez (father), Joel Alcides Hernandez Sanchez (brother), Valentina Hernández (Maternal grandmother), Santiago Perez (maternal grandfather), Juan Evangelista Hernández Pérez (uncle mother), José Cristino Hernández (maternal uncle), Eligorio Hernández (maternal uncle) and Rosa Ofelia Hernández (maternal aunt); the family of Manuel Antonio Bonilla Osorio: Maria degli Angeli (mother), Jose de la Paz Bonilla (father), José Aristides Bonilla Osorio (brother), María Inés Bonilla de Galan (Sister), María Josefa Rosales (maternal grandmother), María Esperanza Alvarado (aunt), and Luis Alberto Alvarado (uncle); and the family of Ricardo Abarca Ayala: Petronila Abarca Alvarado (mother), Daniel Ayala Abarca (brother), José Humberto Abarca Ayala (brother), Ester Abarca Ayala (sister), Osmin Abarca Ayala (brother) and Paula Alvarado (grandmother). *Id.* ¶ 34.

*Article 17 (Rights of the Family) recognizes that family is a critical part of society and should therefore be protected by the State.<sup>213</sup> This requires that the State must implement measures to protect children and the strength and development of a family unit, an important element of a child's family life.<sup>214</sup> The separation of children from their families is a violation of Article 17 (Rights of the Family).<sup>215</sup> Article 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attacks on Honor, and Dignity), which recognizes that everyone has a right to be protected from abusive or arbitrary interference of family life, is an implicit right to family protection.<sup>216</sup>*

*Children are generally persons who are not involved in hostilities, and therefore should be treated humanely, and should not be attacked.<sup>217</sup> The State is therefore obligated to provide special protection based on age, including care and assistance, because children are more vulnerable to human rights violations during armed conflicts.<sup>218</sup> Accordingly, the State had a duty to protect civilians, particularly children, from violations of their rights during its Civil War.<sup>219</sup> This includes the obligation to reunite families who were separated by an internal armed conflict.<sup>220</sup>*

*Instead, the State here abused its powers and used State structures and facilities to conduct forced disappearances of children as a part of its scheme of systematic repression of parts of the populations that were considered to be guerillas or supporters of the FMLN.<sup>221</sup> These abusive practices interfered with privacy, family, family protection, and the enjoyment of family relationships.<sup>222</sup>*

*Additionally, the State failed to use all reasonable means to find the five children and reunite them with their families.<sup>223</sup> Specifically, the Court noted that: (1) over thirty years have passed since the children's*

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213. *Id.* ¶ 104.

214. Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 104.

215. *Id.*

216. *Id.* ¶ 105.

217. *Id.* ¶ 110.

218. *Id.*

219. *Id.* ¶ 111.

220. Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 110.

221. *Id.* ¶ 111.

222. *Id.*

223. *Id.* ¶ 112.



*disappearances, and none of them have been found; (2) the State excessively delayed criminal investigations into the disappearances; (3) the State established the National Search Commission to find the children in 2011; and (4) the State failed to comply with the Court's request to provide information on steps taken to find the five children.*<sup>224</sup> *Because of this, the families cannot start the healing process from the disappearances of their children because the children's whereabouts are still unknown, and the families are still suffering from a collective war trauma.*<sup>225</sup>

*Therefore, the Court found that the State violated Articles 11(2) (Prohibition of Arbitrary Interference with Private Life, Family, Home, Correspondence, and of Unlawful Attack on Honor, and Dignity) and 17 (Rights of the Family) in relation to Articles 19 (Rights of the Child) and 1(1) (Obligation of Non-Discrimination) of the American Convention by interfering in the family life of José, Santos, Emelinda, Manuel and Ricardo, by kidnapping them and infringing on their right to remain with their families and establish family relationships.*<sup>226</sup> *The Court additionally found that these violations also constitute a violation of the inherent right to identity.*<sup>227</sup>

Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of the families of José, Santos, Emelinda, Manuel, and Ricardo,<sup>228</sup> because:

*The State admitted international responsibility for the violations to José, Santos, Emelinda, Manuel, Ricardo, and their families.*<sup>229</sup> *Family members of victims of human rights violations can be victims themselves, especially in cases of forced disappearance where the victim's family suffers damage to their mental and moral integrity.*<sup>230</sup> *For example, the children's disappearances caused significant amounts of physical and emotional pain, the family structure was permanently damaged by the forced removal of a family member, and the State's*

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224. *Id.*

225. *Id.* ¶ 114.

226. Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 112.

227. *Id.* ¶ 117.

228. *Id.* "Declares," ¶ 4.

229. *Id.* ¶ 120.

230. *Id.* ¶ 119.

*failure to cooperate or investigate the whereabouts of the children or their kidnappers aggravated the families' suffering.*<sup>231</sup>

*The families were deprived of the truth regarding the location or fate of their child, which constituted cruel and inhumane treatment to close relatives.*<sup>232</sup> *The refusal of the State to investigate or provide information into the disappearances of the five children further exacerbated the families' suffering.*<sup>233</sup> *The Court thus decided that the violation of the families' personal integrity caused by the forced disappearances was further compounded by the deprivation of truth and the indifference of the State in finding the truth.*<sup>234</sup> *Moreover, the families' suffering, anguish, insecurity, frustration, and impotence are still ongoing.*<sup>235</sup>

*Therefore, the Court found that the State violated Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) in relation to Article 1(1) (Obligation of Non-Discrimination) of the American Convention to the detriment of the families of José, Santos, Emelinda, Manuel and Ricardo.*<sup>236</sup>

Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of José, Santos, Emelinda, Manuel, Ricardo, and their families,<sup>237</sup> because:

*The right of access to justice includes effective investigations and the reasonable, timely determination of criminal liability.*<sup>238</sup> *A delay in the investigation may in itself violate judicial guarantees.*<sup>239</sup> *In regards to investigations of forced disappearances, States must diligently conduct a comprehensive investigation into the whereabouts of the victim and identify and sanction those responsible.*<sup>240</sup> *The State's investigation*

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231. *Id.* ¶ 121.

232. Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 122.

233. *Id.*

234. *Id.*

235. *Id.* ¶ 123.

236. *Id.* ¶ 125.

237. *Id.* “Declares,” ¶ 5.

238. Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 139.

239. *Id.*

240. *Id.*

*obligation was amplified here because the victims were all young children.<sup>241</sup> Accordingly, the State was required to use all of its resources to locate the children.<sup>242</sup> Additionally, the right to judicial guarantees also encompasses the families' right to know the truth.<sup>243</sup>*

*The families of the children initiated three types of proceedings in the State: (1) human rights violations investigations with the Ombudsman for the Defense of Human Rights; (2) criminal investigations with the State prosecutor; and (3) writs of habeas corpus before the Constitutional Chamber of the Supreme Court.<sup>244</sup>*

*First, the ASMGB filed an initial complaint in 1996 before the Ombudsman for the Defense of Human Rights identifying 141 forcibly disappeared children during the armed conflict.<sup>245</sup> In 1998 and 2003, the Ombudsman issued rulings that found the Armed Forces of El Salvador responsible for the disappearances and required the State to conduct appropriate investigations.<sup>246</sup>*

*Additionally, multiple complaints were filed, rulings issued, and new information regarding the forced disappearances was being introduced constantly.<sup>247</sup> The Attorney General ordered decisions about the cases to be made, yet there was no evidence that criminal investigations were initiated in compliance with the order.<sup>248</sup> Accordingly, the Court found that the State breached its duty to investigate ex officio the forced disappearances of José, Santos, Emelinda, Manuel, and Ricardo, because the State had knowledge of the forced disappearances and failed to reasonably act.<sup>249</sup>*

*Next, the State opened a criminal investigation pertaining to José in 2003 and investigations into the other children in 2009.<sup>250</sup> However, the State took six years to begin its initial investigation into the disappearance of José<sup>251</sup> and did not utilize all available resources*

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241. *Id.*

242. *Id.*

243. *Id.* ¶ 140.

244. Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 136.

245. *Id.* ¶ 141.

246. *Id.*

247. *Id.*

248. *Id.*

249. *Id.* ¶ 143.

250. Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 144.

251. *Id.* ¶ 145.

when looking for him.<sup>252</sup> For instance, the State failed to inspect newspapers possibly containing information about the soldiers involved in the military operations, and failed to refer to any compiled information about the military units operating during the Civil War.<sup>253</sup> Additionally, the State failed to interview witness or to verify child adoption files.<sup>254</sup> Because of this, the State failed to act with due diligence regarding its obligation to locate those responsible for the missing children.<sup>255</sup>

The State authorities were obligated to properly and efficiently investigate the disappearances of the children, including using resources to find and prosecute the perpetrators, as well as locate the children or determine their fate.<sup>256</sup> Yet even though thirty years have passed since the disappearances, and twelve years have passed since the first investigation, the criminal proceedings are still in the early stages.<sup>257</sup> Because the State failed to effectively investigate the forced disappearances and accepted international responsibility for this failure, the Court found that the State violated Articles 8(1) (Right to a Hearing Within Reasonable Time by a Competent and Independent Tribunal) and 25(1) (Right of Recourse Before a Competent Court) in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention to the detriment of José, Santos, Emelinda, Manuel, Ricardo, and their families.<sup>258</sup>

Article 7(6) (Right to Have Recourse Before a Competent Court), in relation to Article 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of José, Santos, Emelinda, Manuel, Ricardo, and their families,<sup>259</sup> because:

Habeas corpus petitions were filed for each missing child<sup>260</sup> and all were dismissed for a lack of evidence proving some probability that the State violated human liberties.<sup>261</sup> The Court found that the Constitutional Chamber of the State imposed a disproportionate burden

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252. *Id.* ¶ 148.

253. *Id.* ¶ 149.

254. *Id.* ¶ 147.

255. *Id.* ¶ 150.

256. Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 159.

257. *Id.* ¶ 160.

258. *Id.* ¶ 161.

259. *Id.* “Declares,” ¶ 6.

260. *Id.* ¶ 163.

261. *Id.* ¶ 165.

*of proof on the petitioners, as they were consistently denied access to information necessary to meet their burden of proof.*<sup>262</sup> Accordingly, the Court found that the habeas corpus process was ineffective and merely illusory.<sup>263</sup> Thus, the State violated Article 7(6) (*Right to Have Recourse Before a Competent Court*) of the Convention.<sup>264</sup>

### *C. Dissenting and Concurring Opinions*

[None]

## VI. REPARATIONS

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

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

#### 1. Research, Identify, Prosecute, and Punish all Persons Materially and Intellectually Responsible

The State must diligently continue with its open investigations, and must open necessary investigations to identify, prosecute, and punish the persons responsible for the disappearances of José, Santos, Emelinda, Manuel, and Ricardo, and all other forced disappearances of children.<sup>265</sup>

Also, the State shall adopt measures to achieve more effective and coherent communication between State bodies authorized to investigate and monitor the cases, and State bodies responsible for organizing and maintaining databases on forced disappearance.<sup>266</sup> For example, the State must implement protocols for action, and train officials investigating serious human rights violations how to use available legal elements, technical, and scientific data.<sup>267</sup> Further, the State must guarantee the involved justice system bodies have all financial, logistic, human, scientific, and other necessary resources to conduct their duties impartially, independently, and properly, and take all necessary measures to guarantee a system of proper protection and safety for judicial figures, victims and their families, and witnesses, and ensure

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262. Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 167.

263. *Id.* ¶ 169.

264. *Id.*

265. *Id.* ¶ 188.

266. *Id.*

267. *Id.*

public officials or other individuals do not delay or hinder investigations.<sup>268</sup>

Finally, the State shall ensure the victims and their families have full and open access during all investigative and prosecutorial stages.<sup>269</sup>

## 2. Determine the Whereabouts of José, Santos, Emelinda, Manuel, and Ricardo

The State shall rigorously and systematically take every effort possible to locate José, Santos, Emelinda, Manuel, and Ricardo, using all resources available, including cooperation from other States and international organizations.<sup>270</sup> The families shall be informed of the State's efforts.<sup>271</sup>

The investigating body must be impartial and independent, have all necessary resources, have all necessary power and willingness to adopt measures to further investigations and evidence gathering, and be able to ensure other State bodies will cooperate with its investigations.<sup>272</sup>

If the children are found alive, the State shall pay for the costs of all authentic identification methods, any necessary psychosocial care, restoring their identities, and, should the child desire, to reunite them with their family.<sup>273</sup> If the children are found dead, the State shall pay for the remains to be returned to the families as well as all funeral expenses.<sup>274</sup>

## 3. Ensure Public Access to Military Records Containing Information Useful for Determining the Whereabouts of the Missing Children

The State shall adopt necessary and appropriate measures granting judicial figures and operators systematic public access to all files containing useful and relevant research into serious human rights violations.<sup>275</sup>

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268. Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 189.

269. *Id.* ¶ 191.

270. *Id.* ¶ 197.

271. *Id.*

272. *Id.*

273. *Id.* ¶ 199.

274. Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 199.

275. *Id.* ¶ 209.

#### 4. Apply Internal Adequacy Regulations

The State shall adopt adequate measures guaranteeing the General Amnesty Law for the Consolidation of Peace will not be an obstacle to the investigations and prosecution of those responsible.<sup>276</sup>

#### 5. Provide Comprehensive Psychological and Psychiatric Medical Assistance to Victims

The State shall promptly provide adequate and effective medical, psychological, and psychiatric rehabilitation for the victims of the forced disappearances free of charge through its specialized medical institutions.<sup>277</sup> If the State does not have these institutions, it shall utilize private institutions.<sup>278</sup> These services shall be provided as close as possible to the homes of the victims.<sup>279</sup> If the victims live in another State, the State shall grant \$7,500 to cover medical, psychological, and psychiatric treatment.<sup>280</sup> If a child is found in another State and does not want to return to the State, the State shall grant \$7,500 to cover treatment, medicines, and other related expenses.<sup>281</sup>

#### 6. Publicly Acknowledge International Responsibility

The State shall publicly recognize its international responsibility for the forced disappearances of children.<sup>282</sup> The recognition shall occur at a public ceremony attended by government officials and the victims or their representatives.<sup>283</sup> The State shall cover all necessary travel costs for the victims or their representatives.<sup>284</sup>

#### 7. Publish the Judgment

The State shall publish the official summary of this judgment in its Official Journal and in one nationally circulating newspaper.<sup>285</sup> Additionally, the State shall publish the judgment in its entirety on an official national website and on the State's military website for one year

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276. *Id.* ¶ 213.

277. *Id.* ¶ 220.

278. *Id.*

279. *Id.*

280. Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 221.

281. *Id.* ¶ 223.

282. *Id.* ¶ 225.

283. *Id.*

284. *Id.*

285. *Id.* ¶ 227.

and make it publicly accessible.<sup>286</sup> The Court also found that the judgment is a *per se* form of reparation.<sup>287</sup>

8. Construct a “Garden Museum” to Honor the Memory of Forcedly Missing Children

The State shall build a garden museum to preserve the collective memory of the forced disappearances of children.<sup>288</sup>

9. Implement Human Rights Education and Training

The State shall implement permanent human rights education programs for prosecutors, judges, military, police, and officials in charge of victims and their families.<sup>289</sup> These programs shall include the issue of the forced disappearances of children during the State’s Civil War and information on the Inter-American system.<sup>290</sup>

*B. Compensation*

The Court awarded the following amounts:

1. Pecuniary Damages

The Court awarded \$5,000 to each parent and \$1,000 to each sibling, aunt, uncle, and grandparent of the victims as compensation for the families’ personal searches into the disappearances, as well as for the family relationships damaged as a result of the disappearances.<sup>291</sup> If any of the beneficiaries become deceased before the State pays the damages, the State shall pay the amount to the appropriate heir.<sup>292</sup>

2. Non-Pecuniary Damages

The Court awarded José, Santos, Emelinda, Manuel, and Ricardo \$80,000 each for mental, physical, and moral impairment resulting from abandonment, intense fear, loss, anguish, uncertainty, and pain.<sup>293</sup> The

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286. Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 227.

287. *Id.* “Orders,” ¶ 7.

288. *Id.* ¶ 236.

289. *Id.* ¶ 244.

290. *Id.*

291. *Id.* ¶ 225.

292. The Court stated that Tanislao Rochac Hernández, María Adela Iraheta, Josefa Salinas Iraheta, José Juan de la Cruz Sánchez, and José de la Paz Bonilla all passed before the judgment was issued. This term also applies to non-pecuniary damages and costs and expenses. Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 274.

293. *Id.* ¶ 258.



award shall be deposited in a State bank with lenient conditions.<sup>294</sup> If the money has not been claimed after ten years, it will be released to the parents or their next of kin.<sup>295</sup> The parents' successors shall have two years to claim the money or it will be returned to the State.<sup>296</sup>

The Court awarded \$50,000 to each parent and \$10,000 to each siblings, aunt, uncle, and grandparent to compensate for psychological damage, the irreversible damage to their households, uncertainty of the missing children's location, and emotional damage accumulated over three decades from the State's lack of cooperation and impunity.<sup>297</sup>

### 3. Costs and Expenses

The Court awarded \$180,000 to ASMGB for their work in attempting to locate the children and the costs of litigation, to be delivered directly to the organization's representative.<sup>298</sup> The Court left itself the option of requiring the State to pay more reasonable procedural costs to the families of the victims during the next compliance monitoring.<sup>299</sup>

The Court awarded \$4,134.29 to the Victims Legal Assistance Fund for the necessary costs associated with the litigation.<sup>300</sup>

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

\$ 1,277,134.29

### *C. Deadlines*

The State must locate José, Santos, Emelinda, Manuel, and Ricardo as soon as possible.<sup>301</sup>

The State must ensure access to military records containing information useful for determining the whereabouts of the missing children as soon as possible.<sup>302</sup>

The State must research, investigate, prosecute and punish all those materially and intellectually responsible for the forced

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294. *Id.* ¶ 272.

295. *Id.*

296. *Id.*

297. *Id.* ¶ 258.

298. Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 267.

299. *Id.*

300. *Id.* ¶ 271.

301. *Id.* ¶ 197.

302. *Id.* ¶ 209.

disappearances of children, through open investigations and effective measures, within a reasonable time.<sup>303</sup>

The State shall reimburse the Victims' Legal Assistance Fund within ninety days.<sup>304</sup>

The State must implement permanent human rights programs within a reasonable time.<sup>305</sup>

The State must pay the children \$7,500 to cover psychiatric and medical care if they do not want to return to El Salvador within six months of the children's location.<sup>306</sup>

The State shall publish the judgment within six months.<sup>307</sup>

The State must publicly acknowledge international responsibility for the forced disappearances of children within one year.<sup>308</sup>

The State must pay all pecuniary and non-pecuniary damages and all costs and expenses within one year.<sup>309</sup>

The State shall build a "garden museum" honoring the children who were forcibly disappeared within five years.<sup>310</sup>

The State must submit a monitoring and compliance report to the Court within one year of the judgment.<sup>311</sup>

## V. INTERPRETATION AND REVISION OF JUDGMENT

[NONE]

## VI. COMPLIANCE AND FOLLOW-UP

**June 23, 2015:** The Court recognized that the State reimbursed the Victims' Legal Assistance Fund, but did so 64 days late and the payment did not contain the default interest accumulated.<sup>312</sup> Therefore, the Court ordered the State to pay the interest as soon as possible.<sup>313</sup>

**February 9, 2017:** The Court noted that the National Search Commission determined Santos was executed the same day he was kidnapped and his body fell into a nearby river, making acquiring his

303. *Id.* ¶¶ 188-189.

304. Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 271.

305. *Id.* ¶ 244.

306. *Id.* ¶ 223.

307. *Id.* ¶ 227.

308. *Id.* ¶ 225.

309. *Id.* ¶ 273.

310. Rochac Hernández et al. v. El Salvador, Merits, Reparations, and Costs, ¶ 236.

311. *Id.* "Orders," ¶ 18.

312. Rochac Hernández et al. v. El Salvador, Reimbursement of the Victims' Legal Assistance Fund, Inter-Am. Ct. H.R. (ser. C) No. 285, "Considering That" ¶ 3 (June 23, 2015).

313. *Id.*

remains impossible.<sup>314</sup> The Court therefore declared that the State completely complied with its obligation to locate Santos,<sup>315</sup> but its obligations in determining the locations of the other children were still pending.<sup>316</sup>

With respect to the investigation into the whereabouts of José, Emelinda, Manuel, and Ricardo, the Court requested that the State: (1) report on the progress of the dialogue with a person found named José N., who could possibly be José Adrián Rochac Hernández; and (2) report on the due diligence, advances, and timetable for future steps in the search for Emelinda, Manuel, and Ricardo.<sup>317</sup>

The Court determined the State is complying with its obligation to provide medical, psychological, and psychiatric care for the victims,<sup>318</sup> as well as complied with its obligations to publicly recognize its international responsibility for the forced disappearances,<sup>319</sup> to publish the judgment,<sup>320</sup> and to pay costs and expenses to ASMGB.<sup>321</sup>

The Court requested the State to provide updated information on the status of its criminal investigation into the forced disappearances,<sup>322</sup> the status of human rights education programs,<sup>323</sup> the status of the State's payment of pecuniary and non-pecuniary damages to the victims and their families,<sup>324</sup> and the status of the "garden museum."<sup>325</sup>

Finally, the Court stated it would assess the State's compliance with its obligation to provide judicial operators public access to relevant files regarding human rights violations during its Civil War<sup>326</sup> at a future hearing.<sup>327</sup>

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314. Rochac Hernández et al. v. El Salvador, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Considering That," ¶ 4 (Feb. 9, 2017).

315. *Id.* "Considering That" ¶ 5.

316. *Id.* "Considering That" ¶ 4.

317. *Id.* "Considering That" ¶ 17.

318. *Id.* "Considering That" ¶ 10.

319. *Id.* "Considering That" ¶ 12.

320. Rochac Hernández et al. v. El Salvador, Monitoring Compliance with Judgment, Order of the Court "Considering That" ¶ 14.

321. *Id.* "Considering That" ¶ 16.

322. *Id.* "Considering That" ¶ 17.

323. *Id.*

324. *Id.*

325. *Id.*

326. Rochac Hernández et al. v. El Salvador, Monitoring Compliance with Judgment, Order of the Court "Considering That" ¶ 19.

327. *Id.*

## VII. LIST OF DOCUMENTS

*A. Inter-American Court*

## 1. Preliminary Objections

[None]

## 2. Decisions on Merits, Reparations and Costs

Rochac Hernández et al. v. El Salvador, Merits, Reparations and Costs, Inter-Am. Ct. H.R. (ser. C) No. 285, (Oct. 14 2014).

Rochac Hernández et al. v. El Salvador, Victims' Legal Assistance Fund, Inter-Am. Ct. H.R. (ser. C) No. 285, (Dec. 12, 2013).

Rochac Hernández et al. v. El Salvador, Reimbursement of the Victims' Legal Assistance Fund, Inter-Am. Ct. H.R. (ser. C) No. 285, (June 23, 2015).

## 3. Provisional Measures

Rochac Hernández et al. v. El Salvador, Provisional Measures, Order of the President of the Court, Inter-Am. Ct. H.R. (ser. E) (Mar. 3 2014).

## 4. Compliance Monitoring

Rochac Hernández et al. v. El Salvador, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. (Feb. 9, 2017).

## 5. Review and Interpretation of Judgment

[None]

*B. Inter-American Commission*

## 1. Petition to the Commission

[Not Available]

## 2. Report on Admissibility

Rochac Hernández v. El Salvador, Admissibility Report, Report No. 90/06, Inter-Am. Comm'n H.R., Case No. 731-03 (Oct. 21, 2006).

Hernández v. El Salvador, Admissibility Report, Report No. 11/08, Inter-Am. Comm'n H.R., Case No. 723-03 (Mar. 5, 2008).

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### 3. Provisional Measures

[None]

### 4. Report on Merits

Rochac Hernández et al. v. El Salvador, Report on the Merits, Report No. 90/06, Inter-Am. Comm'n H.R., Case No. 731-03 (Nov. 7, 2012).

### 5. Application to the Court

[None]

## VIII. BIBLIOGRAPHY

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## IX. CITATIONS TO LEGAL SCHOLARSHIP

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