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Flores Bedregal et al. v. Bolivia

Douglas Clark

LMU Loyola Law School, Los Angeles

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Flores Bedregal et al. v. Bolivia

Cover Page Footnote

Douglas Clark, Author; Aria Soeprono, Editor; Emily Bernstein and Davina Shoumer, Senior IACHR Editors; Sophia Suarez, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

Flores Bedregal et al. v. Bolivia

ABSTRACT¹

This case is about Bolivia's failure to adequately investigate and prosecute the murder and forced disappearance of an opposition politician during the coup of General Luis García Meza Tejada in 1980. Eventually, the Court found Bolivia in violation of several articles of the American Convention.

I. FACTS

A. Chronology of Events

February 4, 1953: Mr. Juan Carlos Flores Bedregal is born in La Paz, Bolivia.² He has four sisters named Verónica, Liliana Teresa, Eliana Isabela, and Olga Flores Bedregal.³

1970: Mr. Flores Bedregal starts medical school and participates as a student leader in various activities.⁴

1973: Mr. Flores Bedregal becomes an active member in the Revolutionary Workers Party.⁵

1979: The Unidad Democrática y Popular (The Democratic and Popular Union, “UDP”) nominates Mr. Flores Bedregal as candidate for the Chuquisaca department alternate deputy member of Congress, and he wins the election.⁶

¹ Douglas Clark, Author; Aria Soeprono, Editor; Emily Bernstein and Davina Shoumer, Senior IACHR Editors; Sophia Suarez, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

² Flores Bedregal et al. v. Bolivia, Report on Merits, Report No. 60/18, Inter-Am. Comm’n H.R., Case No. 12.709, ¶ 26 (May 8, 2018).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

January 1980: Mr. Flores Bedregal starts working as the alternate deputy member of Congress for the Chuquisaca department.⁷ Mr. Flores Bedregal also serves on the National Committee for the Defense of Democracy (“CONADE”), which is comprised of several political, religious, and human rights groups, including a political party known as the Central Obrera Boliviana (“COB”).⁸

July 17, 1980: General Luis García Meza Tejada leads a military coup d’etat, taking the Presidential Palace by force and forcing the interim Constitutional President to resign.⁹ A military junta assumes full powers of the functions for the executive, legislative, judicial and constituent powers.¹⁰ Subsequently, the *de facto* government’s security forces and paramilitary groups inflict oppression and perpetrate serious human rights violations in ways that favor the systematic practices of illegal detentions, torture, and forced disappearances.¹¹

That same day, during operation “Avispón” (“Hornet”), the military violently takes over the COB headquarters where CONADE is meeting.¹² During the attack, military and paramilitary forces force CONADE leaders, including Mr. Flores Bedregal, out of the building with their hands up.¹³ The attackers recognize a prominent political leader, Marcelo Quiroga Santa Cruz, who they separate from the group and subsequently execute.¹⁴

Additionally, the attackers recognize Mr. Flores Bedregal and shoot him an indeterminate number of times.¹⁵ The State asserts that Mr. Flores Bedregal is killed during this attack and that his body is found in a ravine and taken to the local morgue, where it is then stolen.¹⁶ Mr. Flores Bedregal’s family asserts that his body is taken to the local hospital, disappears, and still has yet to be found.¹⁷

⁷ Flores Bedregal et al. v. Bolivia, Report on Merits ¶ 26.

⁸ *Id.* ¶¶ 23, 26.

⁹ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 467, ¶ 40 (Oct. 17, 2022).

¹⁰ Flores Bedregal et al. v. Bolivia, Report on Merits, ¶ 19.

¹¹ *Id.* ¶ 21.

¹² Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 40.

¹³ *Id.* ¶¶ 40-41, 80.

¹⁴ *Id.* ¶ 41.

¹⁵ *Id.*

¹⁶ *Id.* ¶¶ 41-42; Flores Bedregal et al. v. Bolivia, Report on Merits ¶ 30.

¹⁷ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 43.

1982-1986: After Bolivia restores its democracy, the State agrees to investigate the crimes committed under General Meza Tejada's de facto government.¹⁸

1983-1984: Mr. Flores Bedregal's family members visit various government offices to locate him.¹⁹

1984: The new government establishes the National Commission on Disappeared Persons and conducts initial procedures to locate Mr. Flores Bedregal or his remains.²⁰

February 25, 1986: After an investigation, the National Congress submits the case to Bolivia's Supreme Court of Justice.²¹

1992: Mr. Flores Bedregal's sisters request that three corpses from La Paz, which were previously exhumed during the initial investigation, be exhumed a second time but they are again confirmed not to be Mr. Flores Bedregal's remains.²²

April 15, 1993: The Supreme Court of Bolivia finds that during the Avispón operation, the COB building was captured by illegal force which resulted in the arrest of 50 trade union and political leaders, and two deaths including that of Mr. Flores Bedregal.²³ The Supreme Court convicts General Meza Tejada and his collaborators for eight crimes, including murder, sedition, armed uprising, and deprivation of liberty.²⁴

November 17, 1998: The Human Rights Commission of the Chamber of Deputies orders criminal charges brought against people for the atrocities committed during coup d'état.²⁵

February 18, 1999: The Third Court of Criminal Investigation in La Paz initiates a proceeding against individuals involved in the coup.²⁶ An

¹⁸ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 45.

¹⁹ Flores Bedregal et al. v. Bolivia, Report on Merits, ¶ 34.

²⁰ *Id.*; Flores Bedregal et al. v. Bolivia, Admissibility Report, Report No. 65/09, Inter-Am. Comm'n H.R., Case No. 616.06, ¶ 15 (Aug. 4, 2009).

²¹ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 36.

²² *Id.* ¶ 68.

²³ Flores Bedregal et al. v. Bolivia, Report on Merits, ¶ 28.

²⁴ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 45.

²⁵ Flores Bedregal et al. v. Bolivia, Report on Merits, ¶ 39.

²⁶ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 47.

ordinary criminal proceeding is initiated for the coup that occurred on July 17, 1980, for the murder of three individuals: Marcelo Quiroga Santa Cruz, Mr. Flores Bedregal, and Gualberto Vega Yapura.²⁷

April 18, 2001: The Third Court of Criminal Investigation issues the final investigation order to arrest the accused individuals.²⁸

September 13, 2002: The Flores Bedregal sisters intervene in the criminal proceedings and request that the assailants of the 1980 coup be convicted of crimes including: murder, torture, conspiracy, armed uprising against Bolivia's sovereignty, false testimony, and forced disappearances including that of Mr. Flores Bedregal.²⁹

May 15, 2006: The Flores Bedregal sisters make several requests of the Bolivian Justice and National Defense Ministers, which include: (1) the monitoring of the Public Ministry's process against those criminally involved because the hearings were consistently being delayed; and (2) a declassification of files and information from the Minister of Defense about the soldiers involved in the coup.³⁰

August 22, 2006: To clarify the possible location of Mr. Flores Bedregal's remains, his family's lawyer requests that the Ministry of Defense declassify documents related to the 1980 coup.³¹

December 12, 2007: The Second Criminal Court issues a conviction against multiple defendants, ruling that Franz Pizarro Solano, Felipe Froilán Molina, and José Luis Ormachea España illegally participated in the July 1980 coup.³² Although impossible to determine the direct perpetrator responsible for Mr. Flores Bedregal's death, his death is nonetheless proven.³³ The three defendants' participation in the illegal seizure of the COB directly and indirectly contributed to Mr. Flores Bedregal's torture, death, and the disappearance of his body.³⁴ The Second Criminal Court sentences the defendants to 30 years in prison.³⁵

²⁷ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 46.

²⁸ *Id.* ¶ 47.

²⁹ *Id.* ¶ 49.

³⁰ *Id.* ¶ 50.

³¹ *Id.* ¶ 51.

³² *Id.*

³³ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 52.

³⁴ *Id.*

³⁵ *Id.*

Other defendants are acquitted for similar charges due to insufficient evidence.³⁶

May 8, 2008: Mrs. Olga Flores Bedregal submits a complaint against the prosecutor on the criminal case because of the unreasonable delays to the Human Rights Commission of the Chamber of Deputies and the prosecutor is sanctioned.³⁷

March 12, 2010: The Prosecutor for the Bolivian Attorney General's Office requests the Supreme Court of Justice to accept Mr. Flores Bedregal sisters' continued calls to declassify files.³⁸

2013: The Second Criminal Enforcement Court of La Paz issues arrest warrants against collaborators Felipe Froilán Molina Bustamante, José Luis Ormachea España, and Franz Pizarro Solano for the July 1980 coup, in an enforcement of the judgment from the Second Criminal Court.³⁹

B. Other Relevant Facts

[None]

II. PROCEDURAL HISTORY

A. Before the Commission

June 14, 2006: Mr. Flores Bedregal's sister files a petition before the Commission.⁴⁰

August 4, 2009: The Commission issues Admissibility Report No. 65/09, which declares the petition admissible.⁴¹ The Commission finds admissibility with regards to Articles 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Personal Integrity), 7 (Right to Personal

³⁶ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 53.

³⁷ *Id.* ¶ 56.

³⁸ *Id.* ¶ 59

³⁹ Flores Bedregal et al. v. Bolivia, Report on Merits, ¶ 53.

⁴⁰ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 2(a).

⁴¹ Flores Bedregal et al. v. Bolivia, Admissibility Report, ¶ 4.

Freedom), and 8 (Judicial Guarantees) of the American Convention.⁴² The Commission finds the alleged violation of Article 24 (Equal Protection) of the American Convention inadmissible.⁴³ By virtue of the principle *iura novit curia*, the Commission adds possible violations of Articles 13 (Freedom of Thought and Expression) and 25 (Judicial Protection) of the American Convention, and Articles 1 (Obligation to Adopt Measures) and 3 (Obligation to Adopt Legislative Measures) of the Inter-American Convention on Forced Disappearance of Persons (“IACFDP”).⁴⁴

August 14, 2009: The parties are notified of the adoption of the Admissibility Report and are encouraged to attempt a friendly settlement.⁴⁵

May 8, 2018: The Commission issues the Report on Merits No. 60/18.⁴⁶ In this report, the Commission concludes that the State is responsible for the violation of Articles 3 (Right to Juridical Personality), 4.1 (Prohibition of Arbitrary Deprivation of Life), 5.1 (Right to Physical, Mental, and Moral Integrity), 5.2 (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), 7 (Right to Personal Freedom), 8.1 (Right to a Hearing Within Reasonable Time by a Competent Tribunal), 13 (Freedom of Thought and Expression), 16 (Freedom of Association), 23 (Right to Participate in Government), and 25.1 (Right of Recourse Before a Competent Court) of the American Convention to the detriment of Mr. Flores Bedregal and his sisters.⁴⁷

The Commission additionally concludes the State is responsible for the violation of Articles 1(a) (Prohibition of Practicing, Tolerating or Permitting Forced Disappearances), 1(b) (Duty to Punish Forced Disappearances), and 3 (Obligation to Adopt Legislative Measures) of the IACFDP.

The Commission recommends that the State: (1) conduct an impartial and thorough investigation to discover the whereabouts of Mr. Flores Bedregal’s body, and as applicable, take proper steps to return his body to his family; (2) carry out, in a timely manner, proper

⁴² Flores Bedregal et al. v. Bolivia, Admissibility Report, ¶ 4.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Flores Bedregal et al. v. Bolivia, Report on Merits, ¶ 2.

⁴⁶ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 2(c).

⁴⁷ Flores Bedregal et al. v. Bolivia, Report on Merits, ¶ 5.

domestic proceedings pursuant to the Report on Merits' findings of human rights violations in the State, including identifying and punishing those responsible; (3) provide reparations for the human rights violations and adopt measures to memorialize Mr. Flores Bedregal's life and his position as a political and social leader; (4) arrange for any applicable healthcare for Mr. Flores Bedregal's family; (5) comply with the recommendations laid out in the Report on Merits, including making information regarding the present case available to Mr. Flores Bedregal's family; and (6) adopt measures to ensure the same events do not occur again in the future.⁴⁸

July 18, 2018: The Commission's Merits Report notifies the Bolivian State that it has two months to report its compliance with the recommendations.⁴⁹

B. *Before the Court*

October 18, 2018: The Commission submits the case to the Court, after the State failed to adopt its recommendations.⁵⁰

May 13, 2019: The State submits its answering brief and disputes the Commission's allegations.⁵¹ The State claims that the Court lacks jurisdiction based on temporal and subject matter jurisdiction, and that the victims have not exhausted domestic remedies related to their request for reparation.⁵²

Before October 17, 2022: The Court receives three *amicus curiae* briefs from the Robert F. Kennedy Human Rights, the Legal Clinic on Information Freedoms and Transparency of the Universidad del Pacifico, and the Ankawa International Center for Human Rights.⁵³

⁴⁸ Flores Bedregal et al. v. Bolivia, Report on Merits, "The Inter-American Commission on Human Rights Recommends that the State of Bolivia," ¶¶ 1-6.

⁴⁹ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 2(d).

⁵⁰ *Id.* ¶ 1.

⁵¹ *Id.* ¶ 5.

⁵² *Id.* ¶¶ 15-16, 24.

⁵³ *Id.* ¶ 8.

1. Violations Alleged by Commission⁵⁴

Article 3 (Right to Judicial Personality)

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

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

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

Article 7(1) (Right to Personal Liberty and Security)

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

Article 13 (Freedom of Thought and Expression)

Article 16 (Freedom of Association)

Article 23 (Right to Participate in Government)

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

all in relation to:

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

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

Article 1(a) (Prohibition of Practicing, Tolerating or Permitting Forced Disappearances)

Article 1(b) (Duty to Punish Forced Disappearances)

Article 3 (Obligation to Adopt Legislative Measures) of the IACFDP.

2. Violations Alleged by Representatives of the Victims⁵⁵

Same Violations Alleged by the Commission.

III. MERITS

A. *Composition of the Court*

Ricardo C. Pérez Manrique, President

Humberto Antonio Sierra Porte, Vice-President

Eduardo Ferrer Mac-Gregor Poisot, Judge

Nancy Hernandez Lopez, Judge

Veronica Gomez, Judge

Patricia Perez Goldberg, Judge

⁵⁴ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 2.

⁵⁵ *Id.*

Rodrigo Mudrovitsch, Judge

Pablo Saavedra Alessandri, Secretary
Romina I. Sijniensky, Deputy Secretary

B. Decision on the Merits

October 17, 2022: The Court issues its Judgment on Preliminary Objections, Merits, Reparations, and Costs.⁵⁶

The Court unanimously rejected Bolivia’s preliminary objections:

The State contended that: (1) the Court did not have jurisdiction to rule on the alleged violation of Mr. Flores Bedregal’s right to life, freedom, and judicial protection because the domestic courts had already ruled on the issue; (2) the Court did not have subject matter jurisdiction to hear claims under the IACFDP because the case dealt with homicide, not a forced disappearance; and (3) the Petitioners failed to exhaust all domestic remedies.⁵⁷ Regarding the jurisdictional issues, the Court reasoned that determination depended on substantive fact analysis so it was not appropriate to dispose of the issues at the preliminary objections stage.⁵⁸ The Court rejected the State’s preliminary objection that the Petitioners had not yet exhausted all domestic remedies because the State’s silence during admissibility procedures waived any claim lack of exhaustion of domestic remedies and it was therefore untimely.⁵⁹

The Court found unanimously that Bolivia had violated:

Articles 3 (Right to Judicial Personality), 4(1) (Right to Life), 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment), and 7(1) (Right to Personal Liberty and Security), in relation to Articles 1(1) (Obligation of Non-Discrimination) of the Convention, to the detriment of Mr. Flores Bedregal,⁶⁰ because:

⁵⁶ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 13.

⁵⁷ *Id.* ¶¶ 15-16.

⁵⁸ *Id.* ¶ 22.

⁵⁹ *Id.* ¶ 30.

⁶⁰ *Id.* “Declares,” ¶ 3.

The Court emphasized the specific elements for determining whether a forced disappearance occurred: (1) the participation of the State or its agents; (2) the victim's deprivation of liberty; and (3) the failure to acknowledge any arrest occurred, provide the location of the victim, or what occurred to him.⁶¹ Because the detention of Mr. Flores Bedregal occurred during the illegal takeover of the COB, the perpetrators were under the control of General Luis Garcia Meza, who had functionally taken over the State government.⁶² Thus, the agents deprived Mr. Flores Bedregal of liberty while taking over the COB.⁶³ The refusal to acknowledge or reveal the location of Mr. Flores Bedregal is proven because the agents involved with Mr. Flores Bedregal's detention lied about Mr. Flores Bedregal's location and refused to give any accurate details.⁶⁴ The false statements provided by the defendants in December 2007 further proved the third element of a forced disappearance.⁶⁵ Thus, the Court ruled that the agents that perpetrated the July 1980 coup are responsible for the forced disappearance of Mr. Flores Bedregal.⁶⁶ The Court concluded that Mr. Flores Bedregal was, in fact, deprived of liberty by state agents.⁶⁷ Therefore Bolivia was responsible for Mr. Flores Bedregal's forced disappearance, and for the continued violations regarding rights providing recognition of legal personality, life, personal integrity, and personal freedom.

Articles 8(1) (Judicial Guarantees to a Fair Trial and Hearing), 25(1) (Right to Judicial Protection), in relation to Articles 1(1) (Obligation of Non-Discrimination) and 2 of the Convention, to the detriment of Olga Beatriz, Verónica, Eliana Isabela, and Lilian Teresa Flores Bedregal,⁶⁸ because:

The State failed to make any substantial efforts in investigating and charging those responsible for several years after the coup occurred.⁶⁹ The following factors are relevant when evaluating whether a delay was reasonable: (1) the complexity of the case; (2) the parties' activities; (3)

⁶¹ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 83.

⁶² *Id.* ¶ 84.

⁶³ *Id.* ¶ 85.

⁶⁴ *Id.* ¶ 86.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 86-87.

⁶⁸ *Id.* "Declares" ¶ 4.

⁶⁹ *Id.* ¶¶ 108-109.

*the judicial authorities' conduct; and (4) the impact on the victims.*⁷⁰ Here, hearings were consistently delayed and actions by the prosecutor seemed to intentionally further suspend proceedings.⁷¹ The Court asserted that Mr. Flores Bedregal's sisters' requests would not have hindered proceedings, but actually would have facilitated the speed of proceedings.⁷² The Court found that the State was responsible for the lack of diligence in the investigation into his disappearance and for the delay in the investigation, trial, and punishment of the agents responsible.⁷³

The State ratified the IACFDP in 1999.⁷⁴ For years before and after this ratification, the Flores Bedregal sisters asked State authorities to investigate the forced disappearance of their brother, with none occurring even though the State's proper government was reinstated soon after the coup.⁷⁵ The Court thus emphasized that the investigation and judicial process regarding Mr. Flores Bedregal failed to comply with the seriousness of the violations alleged because of the rigorous and systematic search that must occur according to the Court's standards.⁷⁶ The State's mere determination that Mr. Flores Bedregal was a victim of the 1980 coup was not sufficient enough to satisfy the due diligence requirements as laid out by the Court.⁷⁷ The Court highlighted that searching for a missing person must be carried out in a diligent, efficient, and comprehensive manner, which it was not here.⁷⁸ As a result, the Court found that the investigation lacked due diligence, that there was an excessive delay in proceedings, and that the State failed to adopt domestic provisions to protect Mr. Flores Bedregal and his family's rights.⁷⁹

Articles 13(1) (Freedom of Thought and Expression) and 8(1) (Judicial Guarantees to a Fair Trial and Hearing) of the American Convention on Human Rights, in relation Articles 1(1) (Obligation of Non-Discrimination) and 2 of the Convention, to the detriment of Olga

⁷⁰ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 106.

⁷¹ *Id.* ¶ 110.

⁷² *Id.*

⁷³ *Id.* ¶¶ 110-111.

⁷⁴ *Id.* ¶ 113.

⁷⁵ *Id.* ¶ 114.

⁷⁶ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 115, 117.

⁷⁷ *Id.* ¶ 120.

⁷⁸ *Id.* ¶ 121.

⁷⁹ *Id.* ¶¶ 121-122.

Beatriz, Verónica, Eliana Isabela, and Lilian Teresa Flores Bedregal,⁸⁰ because:

The Court noted that the State, through the Armed Forces Command, was required to allow access to family members whose relatives were victims of military regimes pursuant to a domestic State law.⁸¹ Upon requesting information, Verónica Flores Bedregal was told without reason that the request needed to include (1) the legitimate interest for the request; (2) the specific dates of the coup; (3) a confidentiality agreement; and (4) comply with any other formality required.⁸² However, the State neither provided clarification on the additional requirements upon request nor provided a reason as to why such additional requirements were necessary.⁸³ Importantly, the Court explained that Bolivia did not guarantee Mr. Flores Bedregal's sisters access to information according to Ministerial Resolution No. 316/09, which provides access to victims and their families of military dictatorships to the information of the Armed Forces.⁸⁴ Instead, the Court noted that Bolivia hindered access to relevant information regarding the truth of Mr. Flores Bedregal's fate.⁸⁵

Furthermore, the Court recognized that access to information within the Armed Forces Command archives is essential to determining state responsibility and satisfying the right to knowing the truth about forced disappearances by the military.⁸⁶ Thus, the State must declassify the files.⁸⁷ Additionally, the authorities must guarantee access to information to the relatives of the victims of forced disappearance of persons and to society as a whole in order to ensure the right to the truth.⁸⁸ As a result, Mr. Flores Bedregal's sisters faced judicial and administrative obstacles in their requests for information regarding the his location.⁸⁹

The Court further found that the obligation to maintain the confidentiality of the information given by the Armed Forces

⁸⁰ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, "Declares" ¶ 5.

⁸¹ *Id.* ¶¶ 144.

⁸² *Id.* ¶¶ 149-150.

⁸³ *Id.* 150.

⁸⁴ *Id.* ¶¶ 151-152.

⁸⁵ *Id.* ¶ 155.

⁸⁶ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 152-153.

⁸⁷ *Id.* ¶ 154.

⁸⁸ *Id.* ¶¶ 154-155.

⁸⁹ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 152.

Command impacts the judicial function, preventing information from being utilized by judicial authorities.⁹⁰ In view of this, the Court determined that the norm conflicts with the judicial independence principle of Article 8.1.⁹¹

Article 5(1) (Right to Physical, Mental, and Moral Integrity), 5(2) (Right to Humane Treatment: No Torture or Cruel Inhumane Punishment or Treatment) of the American Convention on Human Rights, in relation to article 1.1 of said instrument, to the detriment of Olga Beatriz, Verónica, Eliana Isabela, and Lilian Teresa Flores Bedregal,⁹² because:

The Court noted that the relatives of the victims of human rights violations can be considered victims.⁹³ Likewise, the Court found human rights violations regarding the right to personal integrity toward the detriment of the relatives of victims.⁹⁴ Specifically, the Court decided forced disappearance is also applicable to the immediate family members of Mr. Flores Bedregal, unless the contrary is illustrated by the circumstances of this case.⁹⁵ The Court acknowledged that the violation toward the right to psychological and moral integrity regarding Mr. Flores Bedregal's family members is a direct consequence.⁹⁶ The suffering increased due to the State's refusal to provide information about the location of Mr. Flores Bedregal.⁹⁷ The effects will continue if the lack of clarification regarding the location of Mr. Flores Bedregal is not eventually resolved.⁹⁸ Here, the Court expressed that the expert opinion provided by affidavit references the impaired psychological effects to Mr. Flores Bedregal's family, caused by his forced disappearance.⁹⁹ The Court relied on an expert report illustrating that Mr. Flores Bedregal's sisters have suffered chronic psychological damage and suffer from suffering, anguish and depression.¹⁰⁰

⁹⁰ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 154.

⁹¹ *Id.*

⁹² *Id.* "Declares" ¶ 6.

⁹³ *Id.* ¶ 162.

⁹⁴ *Id.*

⁹⁵ *Id.* ¶¶ 159-160.

⁹⁶ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 160-161.

⁹⁷ *Id.* ¶¶ 162-163.

⁹⁸ *Id.* ¶ 160.

⁹⁹ *Id.* ¶ 162.

¹⁰⁰ *Id.* ¶¶ 163-165.

Ultimately, the Court determined that since the forced disappearance of Mr. Flores Bedregal was proven, the ramifications on the personal integrity of Mr. Flores Bedregal's sisters are also considered proven because they are a direct consequence of the forced disappearance.¹⁰¹ The Court was persuaded by the demonstration of an emotional bond and the emotional consequences by Mr. Flores Bedregal's sisters after his disappearance. Essentially, due to more than four decades worth of lack of clarity on Mr. Flores Bedregal's disappearance Mr. Flores Bedregal's sisters grieving process was altered.¹⁰² Thus, the Court established in its jurisprudence that the violation of the right to the truth about the fate of Mr. Flores Bedregal's forced disappearance constituted cruel, inhumane, and degrading treatment to his immediate family members.¹⁰³

Article 16 (Freedom of Association) and 23 (Right to Participate in Government) of the American Convention on Human Rights,¹⁰⁴ because:

Due to the role of Mr. Flores Bedregal as a substitute deputy member of Congress for the Chuquisaca department, the Court indicated that just because the State had forced a disappearance of Mr. Flores Bedregal to prevent his legitimate exercises of his rights does not necessarily constitute a permanent violation of his rights.¹⁰⁵ Thus, the Court held that Bolivia was not responsible for violations against political rights and the right of association.¹⁰⁶

C. Dissenting and Concurring Opinions

[None]

IV. REPARATIONS

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

¹⁰¹ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶¶ 160-161.

¹⁰² *Id.* ¶¶ 166-167.

¹⁰³ *Id.* ¶ 167.

¹⁰⁴ *Id.* "Declares" ¶ 7.

¹⁰⁵ *Id.* ¶ 88.

¹⁰⁶ *Id.*

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

1. Judgment as a Form of Reparation

The Court noted that the Judgment itself is a form of reparation.¹⁰⁷

2. Investigate the Disappearance and Death

Due to the criminal process for investigating missing persons from the General Meza Tejada regime, the State must promptly continue and promote the investigations necessary to determine the events of Mr. Flores Bedregal's case.¹⁰⁸ In doing so, all people responsible for Mr. Flores Bedregal's forced disappearance must be punished and the results of this process must be publicly disclosed to the Bolivian society.¹⁰⁹

3. Investigate the Whereabouts of Mr. Flores Bedregal's Remains

To alleviate the anguish of Mr. Flores Bedregal's family, the whereabouts or remains of Mr. Flores Bedregal must be identified.¹¹⁰ The State must systematically carry out the search for the remains and location of Mr. Flores Bedregal.¹¹¹ The procedures involved in conducting the search must be disclosed to Mr. Flores Bedregal's family.¹¹² Mr. Flores Bedregal's family must also be involved in the participating strategy of the search.¹¹³ Once the search confirms the death of Mr. Flores Bedregal, he must be delivered to his family and the State must cover funeral costs.¹¹⁴

¹⁰⁷ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, "And Orders" ¶ 8.

¹⁰⁸ *Id.* "And Orders" ¶ 9.

¹⁰⁹ *Id.* ¶¶ 178-179.

¹¹⁰ *Id.* ¶ 186.

¹¹¹ *Id.*

¹¹² *Id.* ¶ 185.

¹¹³ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 186.

¹¹⁴ *Id.* ¶ 187.

4. Provide Victims with Medical and Psychological Rehabilitation

The State must provide free medical and psychological treatment to Mr. Flores Bedregal's family.¹¹⁵ Mr. Flores Bedregal's family must also have priority to immediately access health benefits.¹¹⁶ This must be provided within six months from the judgment.¹¹⁷

5. Publish the Judgment

The State must publish an official summary of this Judgment in a national media or official newspaper within one year of this Judgment.¹¹⁸ This Judgment must also be made available to the public for at least a year on the official website of the Bolivian Ministry of Defense, Bolivian Attorney General, and Bolivian Judicial Branch.¹¹⁹

6. Accept Responsibility

The State must make a public act of recognition of international responsibility toward the forced disappearance of Mr. Flores Bedregal.¹²⁰ The public recognition must be done in a public ceremony with the attendance of the Senior State officials and Mr. Flores Bedregal's family.¹²¹ Additionally, the State must publicize its recognition through radio, television, and social media outlets.¹²²

7. Strengthen Information Access

The State must adopt legislative and administrative measures necessary to strengthen the access to information in cases involving human rights violations because the State prevented Mr. Flores Bedregal's family from accessing relevant information clarifying his forced disappearance.¹²³ Specifically, the Organic Law of the Armed

¹¹⁵ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 189.

¹¹⁶ *Id.*

¹¹⁷ *Id.*

¹¹⁸ *Id.* "And Orders" ¶ 12.

¹¹⁹ *Id.* ¶ 191.

¹²⁰ *Id.* ¶ 193.

¹²¹ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 193.

¹²² *Id.*

¹²³ *Id.* ¶ 197.

Forces Article 98 violated international standards by preventing access to information on forced disappearances.¹²⁴

8. Lift Confidentiality on Documents

The State must, within one year of the judgment, remove any classifications on documents related to Mr. Flores Bedregal.¹²⁵

9. Allow Open Access to the Truth Commission Report

Further, in order to remove any material obstacles regarding the Library of the Plurinational Legislative Assembly, the State must establish and allow open access to the Truth Commission Report.¹²⁶

B. Compensation

The Court awarded the following amounts:

1. Pecuniary Damages

With respect to pecuniary damages, the Court awarded \$15,000 to Mr. Flores Bedregal's family, for presumed expenses associated with the case.¹²⁷

2. Non-Pecuniary Damages

The Court awarded \$100,000 in loss of income damages that must be also equally divided among the family members of Mr. Flores Bedregal.¹²⁸ The Court ordered \$100,000 to compensate for the human rights violations against Mr. Flores Bedregal, which is to be split equally among members of his family.¹²⁹ In addition, the Court awarded \$50,000 for the pain and suffering of Mr. Flores Bedregal's sisters

¹²⁴ *Flores Bedregal et al. v. Bolivia*, Preliminary Objections, Merits, Reparations, and Costs, ¶ 197.

¹²⁵ *Id.* "And Orders" ¶ 15.

¹²⁶ *Id.* ¶ 199.

¹²⁷ *Id.* ¶¶ 205-206.

¹²⁸ *Id.* ¶ 209.

¹²⁹ *Id.* ¶ 213.

resulting from lack of access to information regarding the forced disappearance of Mr. Flores Bedregal.¹³⁰

3. Costs and Expenses

The Court ordered the State to pay Mr. Flores Bedregal's sisters \$40,000 for legal costs at the national level, as well as \$16,050 for legal costs at the international level.¹³¹

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

\$321,050 USD

C. Deadlines

The State must pay the compensation costs for pecuniary and non-pecuniary damages and reimburse the costs and expenses directly to Mr. Flores Bedregal's family within the period of one year beginning after this Judgment is submitted.¹³²

V. INTERPRETATION AND REVISION OF JUDGMENT

[NONE]

VI. COMPLIANCE AND FOLLOW-UP

[NONE]

VII. LIST OF DOCUMENTS

A. Inter-American Court

1. Preliminary Objections

[None]

¹³⁰ Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, ¶ 214.

¹³¹ *Id.* ¶ 219.

¹³² *Id.* "And it Has" ¶ 17.

2. Decisions on Merits, Reparations and Costs

Flores Bedregal et al. v. Bolivia, Preliminary Objections, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 467 (Oct. 17, 2022).

3. Provisional Measures

[None]

4. Compliance Monitoring

[None]

5. Review and Interpretation of Judgment

[None]

B. Inter-American Commission

1. Petition to the Commission

[None]

2. Report on Admissibility

Flores Bedregal et al. v. Bolivia, Admissibility Report, Report No. 65/09, Inter-Am. Comm'n H.R., Case No. 616.06 (Aug. 4, 2009).

3. Provisional Measures

[None]

4. Report on Merits

Flores Bedregal et al. v. Bolivia, Report on Merits, Report No. 60/18, Inter-Am. Comm'n H.R., Case No. 12.709 (May 8, 2018).

5. Application to the Court

Flores Bedregal et al. v. Bolivia, Petition to the Court, Inter-Am. Comm'n H.R., Case No. 12.709 (Oct. 18, 2018).

VIII. BIBLIOGRAPHY

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