

INTER-AMERICAN COURT OF HUMAN RIGHTS

**VELASQUEZ RODRIGUEZ CASE
COMPENSATORY DAMAGES**

JUDGMENT OF JULY 21, 1989
(ART. 63 (1)
AMERICAN CONVENTION ON HUMAN RIGHTS)

In the Velásquez Rodríguez case,

the Inter-American Court of Human Rights, composed of the following judges:

Héctor Gros-Espiell, President
Héctor Fix-Zamudio, Vice-President
Rodolfo E. Piza E., Judge
Pedro Nikken, Judge
Rafael Nieto-Navia, Judge
Rigoberto Espinal-Irías, Judge **ad hoc**

Also present:

Manuel E. Ventura-Robles, interim Secretary

pursuant to Article 63 (1) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention"), Article 44 (1) of the Court's Rules of Procedure, and in accord with the judgment on the merits of July 29, 1988, the Court enters the following judgment in the instant case brought by the Inter-American Commission on Human Rights against the State of Honduras.

1. The Inter-American Commission on Human Rights (hereinafter "the Commission") submitted this case to the Inter-American Court of Human Rights (hereinafter "the Court") on April 24, 1986. It originated in a complaint (No. 7920), against the State of Honduras (hereinafter "Honduras" or "the Government"), lodged with the Secretariat of the Commission on October 7, 1981.
2. In its judgment on the merits of July 29, 1988, the Court

5. Decides that Honduras is hereby required to pay fair compensation to the next-of-kin of the victim.

6. Decides that the form and amount of such compensation, failing agreement between Honduras and the Commission within six months of the date of this judgment, shall be settled by the Court and, for that purpose, retains jurisdiction of the case.

(Velásquez Rodríguez Case, Judgment of July 29, 1988. Series C No. 4, para. 194).

I

3. The Court has jurisdiction to order the payment of fair compensation to the injured party in the instant case. Honduras ratified the Convention on September 8, 1977, and recognized the contentious jurisdiction of the Court on September 9, 1981, by depositing the instrument referred to in Article 62 of the Convention. The Commission submitted the case to the Court pursuant to Articles 61 of the Convention and 50 (1) and 50 (2) of its Regulations, and the Court decided the case on July 29, 1988.

II

4. By Resolution of January 20, 1989, the Court decided:

1. To authorize the President, should the State and the Commission fail to submit an agreement within the allotted time period, to consult with the Permanent Commission of the Court, to initiate whatever studies and name whatever experts might be convenient, so the Court will have the elements of judgment necessary to set the form and amount of compensation.

2. To authorize the President, should it be necessary, to obtain the opinion of the victim's family, the Inter-American Commission on Human Rights, and the Government of Honduras.

3. To authorize the President, should it be necessary, and following consultation with the Permanent Commission of the Court, to set a hearing in this matter.

5. On January 24, 1989, the Agent gave the Secretariat a copy of the agreement signed by the Government and the Commission on the previous day in Honduras, and according to which:

FIRST: The Government of Honduras reiterates its decision to implement fully the judgment entered by the Illustrious Inter-American Court of Human Rights, in conformity with the terms of that judgment.

SECOND: The Government of Honduras and the Commission recognize that the only beneficiaries of the compensation fixed by the Court are the wife of Manfredo Velásquez, Mrs. Emma Guzmán Urbina, and the children of the marriage, Héctor Ricardo Velásquez Guzmán, Nadia Waleska Velásquez Guzmán and Herling Lizzett Velásquez Guzmán. The children shall be recognized as beneficiaries as soon as they fulfill the prerequisites of Honduran law to be considered the legal heirs of Manfredo Velásquez.

THIRD: The Government of Honduras believes that the best way to carry out the Court's "order to pay just compensation to the next of kin of the victim" is by granting them the most favorable benefits that Honduran legislation provides for Hondurans in the case of accidental death.

FOURTH: The Commission recognizes the Government's offer as an important step toward the just compensation of the victim's family, but believes that it should also create for the benefit of the heirs a fund whose amount and form of payment should be determined by the Inter-American Court of Human Rights, taking into account the requirements of international law and those of Honduran legislation.

6. The attorneys recognized as counselors or advisers to the Commission (hereinafter "the attorneys") asked the Court for a public hearing to receive a psychiatric report on the moral damages suffered by the victim's family and the testimony of one of the experts on the methods and conclusions of the report.

7. Citing paragraph 2 of the Resolution of January 20, 1989, Mrs. Emma Guzmán de Velásquez, the wife of Angel Manfredo Velásquez Rodríguez (also known as Manfredo Velásquez), submitted a pleading dated February 26, 1989, in which she asked the Court to order the Government to comply with the following points:

- 1) An end to forced disappearances in Honduras.
- 2) An investigation of each of the 150 cases.
- 3) A complete and truthful public report on what happened to the disappeared persons.
- 4) The trial and punishment of those responsible for this practice.
- 5) A public undertaking to respect human rights, especially the rights to life, liberty, and integrity of the person.
- 6) A public act to honor and dignify the memory of the disappeared. A street, park, elementary school, high school, or hospital could be named for the victims of disappearances.
- 7) The demobilization and disbanding of the repressive bodies especially created to kidnap, torture, make disappear and assassinate.

- 8) Guarantees to respect the work of humanitarian and family organizations and public recognition of their social function.
- 9) An end to all forms of overt or indirect aggression or pressure against the families of the disappeared and public recognition of their honor.
- 10) The establishment of a fund for the primary, secondary, and university education of the children of the disappeared.
- 11) Guaranteed employment for the children of the disappeared who are of working age.
- 12) The establishment of a retirement fund for the parents of the disappeared.

8. As required by the Resolution of January 20, 1989, the Commission submitted its opinion on March 1, 1989. It asserted that the just compensation to be paid by Honduras to the family of Manfredo Velásquez should include the following:

1. The adoption of measures by the State of Honduras which express its emphatic condemnation of the facts that gave rise to the Court's judgment. In particular, it should be established that the Government has an obligation to carry out an exhaustive investigation of the circumstances of the disappearance of Manfredo Velásquez and bring charges against anyone responsible for the disappearance.
2. The granting to the wife and children of Manfredo Velásquez of the following benefits:
 - a) Payment to the wife of Manfredo Velásquez, Mrs. Emma Guzmán Urbina, of the highest pension recognized by Honduran law.
 - b) Payment to the children of Manfredo Velásquez, Héctor Ricardo, Nadia Waleska and Herling Lizzett Velásquez Guzmán, of a pension or subsidy until they complete their university education, and
 - c) Title to an adequate house, equivalent to the house of a middle class professional family.
3. Payment to the wife and children of Manfredo Velásquez of a cash amount corresponding to the resultant damages, loss of earnings, and emotional harm suffered by the family of Manfredo Velásquez, to be determined by the Illustrious Court based upon the expert opinion offered by the victim's family.

9. On March 10, 1989, the attorneys submitted a pleading in which they assert that, in conformity with Article 63 of the Convention, reparation should be moral as well as monetary.

The measures they request as moral reparation are the following:

- A public condemnation of the practice of involuntary disappearances carried out between 1981 and 1984;

- An expression of solidarity with the victims of that practice, including Manfredo Velásquez. Public homage to those victims by naming a street, thoroughfare, school or other public place after them;
- An exhaustive investigation of the phenomenon of involuntary disappearances in Honduras, with special attention to the fate of each of the disappeared. The resulting information should be made known to the family and the public;
- Prosecution and appropriate punishment of those responsible for inciting, planning, implementing or covering up disappearances, in accord with the laws and procedures of Honduras.

In their opinion, the cash indemnity paid to the family of Manfredo Velásquez should include the following: damages, two hundred thousand lempiras; loss of earnings, two million four hundred and twenty-two thousand four hundred and twenty lempiras; emotional damages, four million eight hundred and forty-five thousand lempiras; and punitive damages, two million four hundred and twenty-two thousand lempiras.

They especially request

that Emma Guzmán de Velásquez and her minor children, Héctor Ricardo, Nadia and Herling Velásquez Guzmán, be recognized as the beneficiaries, and that the Government of Honduras be ordered to adopt special legislation making that determination, in order to facilitate the payment of indemnity without the need for judicial proceedings for a declaration of absence, presumed death or declaration of heirship. For that purpose, we formally state on behalf of those persons that there are no other persons with a superior claim to inherit from Manfredo Velásquez.

Moreover, they ask the Court to establish deadlines within which the Government should make moral reparation, and to reserve the right to see that they are met. Regarding the monetary reparation, they ask the Court to set "a deadline of 90 days for the execution of the judgment, and that a lump-sum payment be made prior to that date to Emma Guzmán de Velásquez."

10. On March 10, 1989, the Delegate of the Commission submitted a clinical report prepared by a team of psychiatrists on the state of health of the family of Manfredo Velásquez.

11. The Agent informed the Court on March 14, 1989 that, in payment of the indemnity, his Government was willing to apply the Honduran law of the National Social Security Institute for Teachers (Instituto Nacional de Previsión del Magisterio), which it considered the most favorable law in this case because it establishes the right to payment of thirty-seven thousand and eighty lempiras in life insurance, and four thousand one hundred and twenty lempiras as a severance benefit. In addition, the Government offered a voluntary contribution toward the indemnity to bring the total to one hundred and fifty thousand lempiras.

12. On March 15, 1989, the Court held a public audience to hear the parties regarding the indemnity to be awarded.

The following persons were present:

- a) in representation of the Government of Honduras,
Ambassador Edgardo Sevilla Idiáquez, Agent
 - b) in representation of the Inter-American Commission on Human Rights,
Dr. Edmundo Vargas Carreño, Delegate
Dr. Claudio Grossman, Adviser
 - c) called by the Commission, Dr. Federico Allodi, a psychiatrist, testified to the emotional harm suffered by the family of the victim.
13. As instructed by its President, the Secretariat of the Court addressed the Government on April 3, 1989, to request the following information to be duly certified by the appropriate officials:
1. The dates of birth of Manfredo Velásquez Rodríguez and Saúl Godínez Cruz, with their civil status at the time of disappearance as established by Honduran law;
 2. The position or positions they held and the salaries or other income they received, either from the government, government entities or private institutions, together with their social security status or equivalent, and their income tax statements, if any;
 3. Academic or professional degrees or special qualifications relevant to their financial and social situation at the time of disappearance, and the title to any property in their name;
 4. The names and status of their wives; and those of any concubines recognized in any official document; the age of the former and the latter at the time of the disappearances; any property in their name or other sources of income, and the conjugal property rights of the wives (community property and others);
 5. The names and civil status of their children, those of the marriage and any outside the marriage; their ages at the time of the disappearances; whether they were students, and whether any are physically or mentally handicapped;
 6. The names and civil status of their parents, their ages at the time of the disappearances; whether they had or have property or income of their own, and whether they were or are dependents of the disappeared;
 7. The names, civil status, ages and situation of any other possible claimants under Honduran law at the time of the disappearances, or any other person recognized as a dependent in social security documents, tax statements or other documents which might contain that information;
 8. Whether the disappeared had life insurance or other personal insurance, in what amount, the period of coverage, and the names of the beneficiaries;
 9. Mortuary tables for men and women and commutation schedules (the latter are used for future tax discounts in return for prompt payment) effective in Honduras at the time of the disappearances;

10. Certified copies of Honduran legislation regarding: a) legal heirs as defined by civil and labor law; b) conjugal property rights (community property or other); c) beneficiaries with rights to support payments, showing the criteria used to determine support; d) beneficiaries of any government pensions based upon death or permanent disability; e) Honduran legislative and jurisprudential criteria for indemnification for death, accidental or non-accidental.

14. On April 26, 1989, the Government submitted its response to the Commission's submission of March 1, 1989 (**supra** 8). The pleading also refers to matters that, in its opinion, should be taken into account in the indemnification of the family of Manfredo Velásquez. Regarding measures to express its condemnation of the facts that gave rise to the judgment and its obligation to investigate the disappearance of Manfredo Velásquez and prosecute those responsible, the Government believes the Court's judgment of July 29, 1988 "is very clear and precise regarding the obligation of Honduras to pay damages, which is to pay just compensation to the family of the victim, and nothing more" (underlined in the original). Insofar as the benefits the Commission believes should be paid to the wife of Manfredo Velásquez, the Government believes that such payment "is only admissible insofar as whatever may be provided for by the system to which Mr. VELASQUEZ RODRIGUEZ may have been affiliated." It asserts that damages, loss of earnings, and emotional harm are inadmissible because their purpose "is not merely to compensate the VELASQUEZ RODRIGUEZ family, but . . . to pay the expenses of the intense media campaign waged against Honduras within and outside the country by national and foreign associations, and to pay the fees of lawyers and other professionals who cooperated with the Commission in this case."

15. In reply to point 2 of the Court's communication of April 3, 1989 (**supra** 13), the Government submitted on May 19, 1989 various documents and resolutions containing the information requested.

16. In response to points 2 and 9, the Government submitted the following information on May 26, 1989:

- a) Certification by the Secretary of the General Tax Office (Dirección General de Tributación) according to which Mssrs. MANFREDO VELASQUEZ RODRIGUEZ AND SAUL GODINEZ CRUZ did not file tax returns in 1979, 1980 and 1981.
- b) Mortuary Tables CSO 1958, commutation values at 7%, used by the Superintendent of Banks and Insurance (Superintendencia de Bancos y Seguros).

17. On that same date, in compliance with point 10, the Government submitted the following documentation:

1. Provisions on inheritance upon death and **inter vivos** gifts, contained in Book III of the 1906 Civil Code of Honduras.
2. Regulatory provisions of the Social Security Law applicable in Honduras when an insured person dies (Resolution No. 193, December 17, 1971).
3. Provisions of the Family Code: Duties and Rights arising from Marriage, Informal Union, Economic Relationship, Family Patrimony, Paternity and Parent-Child Relationship (Decree No. 76-84).

4. Provisions of the Law of Military Social Security (Decree No. 905).
5. Retirement Law for the Judicial Branch (Decree No. 114 of the National Congress, May 5, 1954).
6. Law of Retirement and Pensions for Employees and Officials of the Executive Branch.
7. Law of the National Institute of Social Security for Teachers.

18. In reference to information requested but not yet submitted, the Government stated on June 13, 1989 that it

... has sent notes to various institutions and only a few have replied; nevertheless, despite the difficulties, the documents we have requested will be sent opportunely as they arrive.

Likewise, I also inform you that in regard to numbers 4, 5, and 6 of the note of the Honorable Court, my Government believes it will be impossible to send certain documents which are very personal, and, therefore, suggests that this information should be presented by the Inter-American Commission or by the legal representatives of the plaintiffs against the State of Honduras.

19. Amici curiae pleadings were submitted by the Central American Association of Relatives of the Detained-Disappeared (Asociación Centroamericana de Familiares de Detenidos-Desaparecidos) and the following twelve jurists: Jean-Denis Archambault, Alejandro Artucio, Alfredo Etcheberry, Gustavo Gallón Giraldo, Diego García Sayán, Alejandro M. Garro, Robert K. Goldman, Jorge Mera, Denis Racicot, Joaquín Ruiz Giménez, Arturo Valencia Zea and Eugenio Raúl Zaffaroni.

III

20. The first question the Court must resolve is related to the implementation of resolatory point number 6 of the judgment on the merits, according to which it gave Honduras and the Commission six months from the date of the judgment of July 29, 1988, to reach an agreement on the form and amount of just compensation to be paid to the family of Manfredo Velásquez (**Velásquez Rodríguez Case, supra 2**).

21. In its pleading of March 1, 1989, the Commission reported on its attempts to reach an agreement with the Government. According to the Commission, only at the end of the six-month period was it possible to meet in the city of Tegucigalpa with a commission named by the President of the Republic of Honduras "to negotiate and determine the amount and form of payment of the compensation awarded in the Inter-American Court's judgment of July 29, 1988."

22. According to the record of that meeting (**supra 5**), the parties agreed only on the recognition of the beneficiaries of the compensation. The remaining points are simple declarations which establish no

criteria for fixing the amount of the compensation and, even less, for payment. Therefore, resolatory point number 6 of the judgment on the merits of July 29, 1988, was not carried out.

IV

23. The written and oral arguments made to the Court show substantial differences of opinion insofar as the scope, bases and amount of the compensation. Some arguments refer to the need to rely upon the internal law of Honduras, or part of it, in determining or paying the indemnity.

24. Because of those disagreements and in order to implement the judgment on the merits of July 29, 1988, the Court must now define the scope and content of the just compensation to be paid by the Government to the family of Manfredo Velásquez.

25. It is a principle of international law, which jurisprudence has considered "even a general concept of law," that every violation of an international obligation which results in harm creates a duty to make adequate reparation. Compensation, on the other hand, is the most usual way of doing so (**Factory at Chorzów**, Jurisdiction, Judgment No. 8, 1927, P.C.I.J., Series A, No. 9, p. 21 and **Factory at Chorzów**, Merits, Judgment No. 13, 1928, P.C.I.J., Series A, No. 17, p. 29; **Reparation for Injuries Suffered in the Service of the United Nations**, Advisory Opinion, I.C.J. Reports 1949, p. 184).

26. Reparation of harm brought about by the violation of an international obligation consists in full restitution (**restitutio in integrum**), which includes the restoration of the prior situation, the reparation of the consequences of the violation, and indemnification for patrimonial and non-patrimonial damages, including emotional harm.

27. As to emotional harm, the Court holds that indemnity may be awarded under international law and, in particular, in the case of human rights violations. Indemnification must be based upon the principles of equity.

28. Indemnification for human rights violations is supported by international instruments of a universal and regional character. The Human Rights Committee, created by the International Covenant of Civil and Political Rights of the United Nations, has repeatedly called for, based on the Optional Protocol, indemnification for the violation of human rights recognized in the Covenant (see, for example, communications 4/1977; 6/1977; 11/1977; 132/1982; 138/1983; 147/1983; 161/1983; 188/1984; 194/1985; etc., Reports of the Human Rights Committee, United Nations). The European Court of Human Rights has reached the same conclusion based upon Article 50 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

29. Article 63 (1) of the American Convention provides as follows:

1. If the Court finds that there has been a violation of a right or freedom protected by this Convention, the Court shall rule that the injured party be ensured the enjoyment of his right or freedom that was violated. It shall also rule, if appropriate, that the consequences of the measure or situation that constituted the breach of such right or freedom be remedied and that fair compensation be paid to the injured party.

30. This article does not refer to or limit the ability to ensure the effectiveness of the means of reparation available under the internal law of the State Party responsible for the violation, so it is not limited by the defects, imperfections or deficiencies of national law, but functions independently of it.

31. This implies that, in order to fix the corresponding indemnity, the Court must rely upon the American Convention and the applicable principles of international law.

V

32. The Commission and the attorneys maintain that, in implementing the judgment, the Court should order the Government to take some measures, such as the investigation of the facts related to the involuntary disappearance of Manfredo Velásquez; the punishment of those responsible; a public statement condemning that practice; the revindication of the victim, and other similar measures.

33. Measures of this type would constitute a part of the reparation of the consequences of the violation of rights or freedoms and not a part of the indemnity, in accordance with Article 63 (1) of the Convention.

34. However, in its judgment on the merits (**Velásquez Rodríguez Case, supra 2**, para. 181), the Court has already pointed out the Government's continuing duty to investigate so long as the fate of a disappeared person is unknown (**supra 32**). The duty to investigate is in addition to the duties to prevent involuntary disappearances and to punish those directly responsible (**Velásquez Rodríguez Case, supra 2**, para. 174).

35. Although these obligations were not expressly incorporated into the resolatory part of the judgment on the merits, it is a principle of procedural law that the bases of a judicial decision are a part of the same. Consequently, the Court declares that those obligations on the part of Honduras continue until they are fully carried out.

36. Otherwise, the Court understands that the judgment on the merits of July 29, 1988, is in itself a type of reparation and moral satisfaction of significance and importance for the families of the victims.

37. The attorneys also request the payment by the Government of punitive damages as part of the indemnity, because this case involved extremely serious violations of human rights.

38. The expression "fair compensation," used in Article 63 (1) of the Convention to refer to a part of the reparation and to the "injured party," is compensatory and not punitive. Although some domestic courts, particularly the Anglo-American, award damages in amounts meant to deter or to serve as an example, this principle is not applicable in international law at this time.

39. Because of the foregoing, the Court believes, then, that the fair compensation, described as "compensatory" in the judgment on the merits of July 29, 1988, includes reparation to the family of the victim of the material and moral damages they suffered because of the involuntary disappearance of Manfredo Velásquez.

VI

40. Having defined the scope and limitations of the fair compensation referred to in resolatory point number 6 of the judgment on the merits, the Court now turns to the bases for the payment of the same.

41. In this regard, the attorneys ask for compensation for patrimonial damages within the concept of damages and include in the latter the expenses of the family related to the investigation of the whereabouts of Manfredo Velásquez.

42. The Court cannot grant that request in the present case. Though it is theoretically correct that those expenses come within the definition of damages, they cannot be awarded in the instant case because they were not pleaded or proven opportunely. No estimate or proof of expenses related to the investigation of the whereabouts of the victim was submitted during the trial. Likewise, with regard to litigation expenses in bringing the matter before the Court, the judgment on the merits already denied an award of costs because there was no pleading to support the request (**Velásquez Rodríguez Case, supra** 2, para. 193).

43. The Government argues that the compensation should be on the basis of the most favorable treatment possible for the family of Manfredo Velásquez under Honduran law, which is that provided by the Law of the National Institute of Social Security for Teachers in the case of accidental death. According to the Government, the family would be entitled to a total of forty-one thousand two hundred lempiras, to which it would contribute an additional amount to bring the compensation to one hundred and fifty thousand lempiras.

44. The Commission does not propose an amount, but rather asserts that the compensation should include two elements: a) the greatest benefits that Honduran legislation allows nationals in cases of this type and which, according to the Commission, are those granted by the Institute of Military Pensions, and b) a cash amount which should be set according to what is provided for by Honduran and international law.

45. The attorneys believe that the basis should be the loss of earnings, calculated according to the income that Manfredo Velásquez received at the time of his kidnapping, at the age of 35, his studies toward a degree as an economist, which would have allowed him to work as a professional, and the possible promotions, Christmas bonuses, allowances and other benefits he would have been entitled to at retirement. They calculate an amount which in thirty years would be one million six hundred and fifty-one thousand six hundred and fifty lempiras. They add to that the retirement benefits for ten years, according to life expectancy in Honduras for a person of that social class, calculated at seven hundred and seventy thousand seven hundred and sixty lempiras, which gives a total amount of two million four hundred and twenty-two thousand four hundred and twenty lempiras.

46. The Court notes that the disappearance of Manfredo Velásquez cannot be considered an accidental death for the purposes of compensation, given that it is the result of serious acts imputable to Honduras. The amount of compensation cannot, therefore, be based upon guidelines such as life insurance, but must be calculated as a loss of earnings based upon the income the victim would have received up to the time of his possible natural death. In that sense, one can take as a point of departure the salary that, according to the certification of the Honduran Vice-Minister of Planning on October 19, 1988, Manfredo Velásquez was receiving at the time of his disappearance (1,030 lempiras per month) and calculate the amount he would have received at the time of his obligatory retirement at the age of sixty, as provided by Article 69 of the Law of the National Institute of Social Security for Teachers and

which the Government itself considers the most favorable. At retirement, he would have been entitled to a pension until his death.

47. However, the calculation of the loss of earnings must consider two distinct situations. When the beneficiary of the indemnity is a victim who is totally and permanently disabled, the compensation should include all he failed to receive, together with appropriate adjustments based upon his probable life expectancy. In that circumstance, the only income for the victim is what he would have received, but will not receive, as earnings.

48. If the beneficiaries of the compensation are the family members, the situation is different. In principle, the family members have an actual or future possibility of working or receiving income on their own. The children, who should be guaranteed the possibility of an education which might extend to the age of twenty-five, could, for example, begin to work at that time. It is not correct, then, in these cases, to adhere to rigid criteria, more appropriate to the situation described in the above paragraph, but rather to arrive at a prudent estimate of the damages, given the circumstances of each case.

49. Based upon a prudent estimate of the possible income of the victim for the rest of his probable life and on the fact that, in this case, the compensation is for the exclusive benefit of the family of Manfredo Velásquez identified at trial, the Court sets the loss of earnings in the amount of five hundred thousand lempiras to be paid to the wife and to the children of Manfredo Velásquez as set out below.

50. The Court must now consider the question of the indemnification of the moral damages (**supra** 27), which is primarily the result of the psychological impact suffered by the family of Manfredo Velásquez because of the violation of the rights and freedoms guaranteed by the American Convention, especially by the dramatic characteristics of the involuntary disappearance of persons.

51. The moral damages are demonstrated by expert documentary evidence and the testimony of Dr. Federico Allodi (**supra** 12), psychiatrist and Professor of Psychology at the University of Toronto, Canada. According to his testimony, the above doctor examined the wife of Manfredo Velásquez, Mrs. Emma Guzmán Urbina de Velásquez and his children, Héctor Ricardo, Herling Lizzett and Nadia Waleska Velásquez. According to those examinations, they had symptoms of fright, anguish, depression and withdrawal, all because of the disappearance of the head of the family. The Government could not disprove the existence of psychological problems that affect the family of the victim. The Court finds that the disappearance of Manfredo Velásquez produced harmful psychological impacts among his immediate family which should be indemnified as moral damages.

52. The Court believes the Government should pay compensation for moral damages in the amount of two hundred and fifty thousand lempiras, to be paid to the wife and children of Manfredo Velásquez as specified below.

VII

53. With regard to entitlement to receive the compensation, the representative of the Government and of the Commission, in the document they signed on January 23, 1989, recognized as the sole beneficiaries of that compensation the wife of Manfredo Velásquez, Mrs. Emma Guzmán Urbina and the children of that marriage, Héctor Ricardo, Nadia Waleska and Herling Lizzett Velásquez Guzmán. They

added that their right could only be enforced once they had fulfilled the requirements of Honduran law to be recognized as heirs of the victim.

54. As previously stated, the obligation to indemnify is not derived from internal law, but from violation of the American Convention. It is the result of an international obligation. To demand indemnification, the family members of Manfredo Velásquez need only show their family relationship. They are not required to follow the procedure of Honduran inheritance law.

55. At the hearing of October 2, 1987, Zenaida Velásquez Rodríguez, referred to four children of her brother, Manfredo Velásquez, but in the document signed by the Commission and the Government on January 23, 1989, only three children are mentioned. Nor was any proof of the existence of a fourth child found in the Government's reply to point 5 of the request made by the Secretariat of the Court on April 3, 1989 (*supra* 13). Should there be a fourth child, he would be entitled to a proportionate share of the indemnity the Court has awarded to the children of the victim.

VIII

56. The Court now determines how the Government is to pay compensation to the family of Manfredo Velásquez.

57. Payment of the seven hundred and fifty thousand lempiras awarded by the Court must be carried out within ninety days from the date of notification of the judgment, free from any tax that might eventually be considered applicable. Nevertheless, the Government may pay in six equal monthly installments, the first being payable within ninety days and the remainder in successive months. In this case, the balance shall be incremented by the appropriate interest, which shall be at the interest rates current at the moment in Honduras.

58. One-fourth of the indemnity is awarded to the wife who shall receive that sum directly. The remaining three-fourths shall be distributed among the children. With the funds from the award to the children, a trust fund shall be set up in the Central Bank of Honduras under the most favorable conditions permitted by Honduran banking practice. The children shall receive monthly payments from this trust fund, and at the age of twenty-five shall receive their proportionate part.

59. The Court shall supervise the implementation of the compensatory damages at all of its stages. The case shall be closed when the Government has fully complied with the instant judgment.

IX

60. **THEREFORE,**

THE COURT,

unanimously

1. Awards seven hundred and fifty thousand lempiras in compensatory damages to be paid to the family of Angel Manfredo Velásquez Rodríguez by the State of Honduras.

unanimously

2. Decides that the amount of the award corresponding to the wife of Angel Manfredo Velásquez Rodríguez shall be one hundred and eighty-seven thousand five hundred lempiras.

unanimously

3. Decides that the amount of the award corresponding to the children of Angel Manfredo Velásquez Rodríguez shall be five hundred and sixty-two thousand five hundred lempiras.

unanimously

4. Orders that the form and means of payment of the indemnity shall be those specified in paragraphs 57 and 58 of this judgment.

unanimously

5. Decides that the Court shall supervise the indemnification ordered and shall close the file only when the compensation has been paid.

Done in Spanish and in English, the Spanish text being authentic, at the seat of the Court in San José, Costa Rica, this twenty-first day of July, 1989.

Héctor Gros-Espiell
President

Héctor Fix-Zamudio

Pedro Nikken

Rodolfo E. Piza E.

Rafael Nieto-Navia

Rigoberto Espinal-Irías

Manuel E. Ventura-Robles
interim Secretary

Judge Thomas Buergenthal was unable to participate in the preparation and signing of the judgment because of reasons of health.