

Inter-American Court of Human Rights

Case of Benavides-Cevallos v. Ecuador

Judgment of June 19, 1998 (Merits, Reparations and Costs)

In the Benavides Cevallos case,

The Inter-American Court of Human Rights, composed of the following Judges*:

Antônio A. Cançado Trindade, President;
Hernán Salgado-Pesantes, Judge;
Máximo Pacheco-Gómez, Judge;
Oliver Jackman, Judge;
Alirio Abreu-Burelli, Judge;
Sergio García-Ramírez, Judge and
Carlos Vicente de Roux-Rengifo, Judge.

Also present:

Manuel E. Ventura Robles, Secretary and
Víctor M. Rodríguez Rescía, Deputy Secretary *a.i.*,

pursuant to Articles 55 and 57 of its Rules of Procedure (hereinafter "the Rules of Procedure"), enters the following judgment in the case brought by the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") against the Republic of Ecuador (hereinafter "Ecuador" or "the State".)

I INTRODUCTION TO THE CASE

1. The Commission filed the application in the instant case with the Court on March 21, 1996, wherein it invoked Articles 50 and 51 of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") and Articles 26 *et seq.* of the Rules of Procedure in effect at that time¹. The Commission

* Pursuant to Article 4.3 of the Rules of Procedure, on September 16, 1997, the President of the Court, Judge Hernán Salgado Pesantes, because he is an Ecuadorian national, relinquished the Presidency for this particular case to the Vice President of the Court, Judge Antônio A. Cançado Trindade.

¹ Rules of Procedure of the Inter-American Court of Human Rights. Approved by the Court at its XXIII regular session, held on January 9 through 18, 1991, and amended on January 23, 1993, July 16, 1993, and December 2, 1995.

brought this case for the Court to determine whether Ecuador had 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) and 25 (Right to Judicial Protection), all in relation to Article 1(1) (Obligation to Respect Rights) of the Convention, by virtue of the fact that Ms. Consuelo Benavides-Cevallos

... was arrested and unlawfully and arbitrarily detained, tortured and murdered by agents of the State. She was held in secret, without a court order, court authorization or court supervision. The State agents involved and the government institutions with which they were associated undertook a systematic campaign to deny these crimes and any responsibility on the State's part. Through efforts made by the Benavides family and the Multiparty Investigation Committee appointed by the National Congress, these crimes came to light three years after the fact, and the body of Consuelo Benavides was located and identified. Although both the crimes and the cover-up were revealed in this way, the intellectual and material authors responsible for them have not been brought to justice. Many of the details surrounding the fate of Consuelo Benavides have never been clarified, and the family has received neither an acknowledgment of the State's responsibility nor any form of reparation for the damages she suffered.

II COMPETENCE OF THE COURT

2. The Court is competent to hear the instant case. Ecuador has been a State Party to the American Convention since December 28, 1977, and accepted the Court's binding jurisdiction on July 24, 1984.

III PROCEEDINGS BEFORE THE COMMISSION

3. In response to a petition filed on August 22, 1988, the Commission opened case No. 10.476 on October 24, 1989, the date on which the pertinent information was sent to Ecuador.

4. On February 21, 1990, the State presented its reply, wherein it informed the Commission that a military legal proceeding had been instituted on October 30, 1987, in the Military Criminal Court of the Third Naval District, to ascertain the individual responsibility for the facts denounced. The State indicated that it would forward that court's ruling to the Commission as soon as it was obtained.

5. On September 17, 1994, the Commission held a hearing in which the petitioners and a representative of the State participated.

6. During the on-site visit the Commission conducted in Ecuador from November 7 through 11, 1994, it requested that the State supply information on various matters, one of which was the instant case.

7. The procedure to reach a friendly settlement in this case, which started on November 23, 1994, was unsuccessful.

8. On September 12, 1995, the Commission approved Report 21/95 and forwarded it to the State on October 5 of that year, with the request that within 60 days, it supply information on the measures adopted to comply with its recommendations. In that report, the Commission's finding was as follows:

1. Based on the information and observations stated above, that the State of Ecuador has violated Articles 3, 4, 5, 7, 8 and 25 of the American Convention, and has failed to uphold its obligation established in Article 1.
2. To recommend to the Government of Ecuador that it:
 - a. Undertake a prompt, impartial and effective investigation of the facts denounced so that the circumstances of the violations found may be fully detailed in an officially sanctioned account of the detention, torture, and murder of Consuelo Benavides.
 - b. Adopt the measures to submit the individuals responsible for the violations in the instant case to the appropriate judicial processes [...]
 - c. Redress the consequences of the violation of the rights enunciated, including the payment of fair compensation to those who have suffered harm as a result of the foregoing violations.
3. To transmit this report to the Government of Ecuador and to provide the Government with 60 days to implement the recommendations contained herein. The 60-day period shall begin as of the date this report is transmitted. During the 60 days in question the Government may not publish this report, in keeping with Article 50 of the American Convention on Human Rights.
4. To present the instant case to the Inter-American Court of Human Rights, in accordance with Article 51 of the American Convention, if before sixty (60) days as of transmittal of this document the Government has not put into practice the aforementioned recommendations.

9. On December 4 and 14, 1995, the State forwarded to the Commission documents relating to the domestic proceedings, including two judgments sent on December 14. The final confirmation of this process came on December 5 of that year, wherein the individuals responsible for the unlawful and arbitrary detention of Ms. Benavides Cevallos were convicted. In acknowledging receipt of the documents in question, the Commission informed Ecuador that it had filed after the deadline set to be in compliance with the recommendations contained in Report 21/95 and that "if it intended the December 14, 1995 transmission as a request for reconsideration of the case, that intention should have been made explicit." On December 20, 1995, the State expressly requested that the Commission reconsider its finding based on the court rulings submitted, which in its view demonstrated "the Ecuadorian authorities interest in clearing up this case."

10. The Commission agreed to Ecuador's request and scheduled reconsideration of its report for its 91st. regular session. During this session, the Commission found that the State had not complied with the recommendations contained in Report 21/95 and decided to file an application with the Court.

IV PROCEEDINGS BEFORE THE COURT

11. The application for the instant case was filed with the Court on March 21, 1996. The Commission designated Mr. Oscar Luján-Fappiano and Mr. Robert Goldman as its delegates; Mr. David J. Padilla and Ms. Elizabeth H. Abi-Mershed as its attorneys; and Mr. Alejandro Ponce-Villacis, Mr. William Clark Harrell, Mr. Richard Wilson and Ms. Karen Musalo as assistants. In keeping with Article 22.2 of the Rules of Procedure in effect at that time, the Commission advised that the persons assisting the delegates were the attorneys retained by the victims' next of kin. On January 6, 1997, the Commission advised the Court that Ms. Karen Musalo would no longer be participating in the case.

12. The Secretariat of the Court (hereinafter "the Secretariat") gave the State notice of the application and its attachments on April 12, 1996, once they had been reviewed by the President of the Court (hereinafter "the President"). On May 7 of that year, Ecuador requested a two-month extension to file preliminary objections and its counter-memorial, inasmuch as the initial notification of the application was in English. The President extended by two months the deadlines Ecuador had been given to file preliminary objections and its answer to the application.

13. On May 9, 1996, the State designated Ambassador Mauricio Pérez-Martínez as its agent and, on May 29 of that year, designated Mr. Manuel Badillo G. as alternate agent. On April 3, 1997, Ecuador advised that Counsel Laura Donoso de León had been designated agent to replace Ambassador Pérez-Martínez.

14. On September 2, 1996, Ecuador submitted to the Court a request for another extension to file its answer to the application and preliminary objections. On instructions from the President, the Secretariat informed the State that the deadline for filing preliminary objections could not be extended, since it had expired on July 12, 1996; the deadline for filing the answer to the application was extended by one month.

15. On October 1, 1996, Ecuador submitted its answer to the application, wherein it requested that the application be dismissed as inadmissible and that the case be closed.

16. On October 17, 1996, on instructions from the President, the Secretariat informed the State and the Commission that they were to advise the Court, by no later than November 1 of that year, whether they considered other steps in the written proceedings to be necessary, pursuant to Article 29.2 of the Rules of Procedure then in force.

17. On October 31, 1996, the Commission and the State informed the Court that they considered that other steps in the written proceedings were necessary. For that reason, the President set December 11, 1996, as the deadline for the Commission to file its additional pleadings. He also determined that the State was to file its rejoinder within one month of the date on which the Commission's additional pleadings were transmitted to it.

18. On December 10, 1996, the Commission requested that the Court extend the deadline for filing its additional pleadings until January 6, 1997, a request that the President granted.

19. On January 6, 1997, the Commission presented its submissions, which reiterated the pleadings contained in the application and stated that there was no doubt that the persons who had brutally abused and murdered Ms. Benavides Cevallos were State agents, that the State had not acknowledged its responsibility in these events and that the measures that had been taken did not comply with the obligations pending in the instant case.

20. On January 29, 1997, the State presented a copy of file from the criminal proceedings conducted in the Supreme Court of Justice of Ecuador into the events in the instant case.

21. On March 6, 1997, Ecuador requested that the President extend the deadline for presenting its rejoinder to the Commission's additional written pleadings until May 20 of that year. The President granted the requested extension.

22. On May 19, 1997, Ecuador presented its rejoinder, wherein it stated that:

[it has] ensured a thorough investigation into the arbitrary imprisonment, torture and death of Professor Consuelo Benavides and adopted the measures necessary to guarantee reparations for the injury caused to the Benavides Cevallos family, including, as stated, compensation for material and moral damages to her parents who, under Ecuadorian law, are her sole legitimate heirs.

23. On June 24, 1997, the Commission petitioned the Court to schedule a hearing on the merits of the case as soon as possible and to forward to the Commission a copy of the proceedings in criminal trial No. 19-92, which the Supreme Court of Justice had conducted into the events that motivated this case.

24. On January 22, 1998, Amnesty International filed an *amicus curiae* brief².

25. On March 13, 1998, the Commission informed the Court that at its 98th. regular session, it had met with representatives of the State, who had presented a friendly settlement proposal. It further informed the Court that it would examine that proposal bearing in mind the petitioners' observations, and that in its view that analysis ought not prejudice the proceedings in the instant case.

26. On March 30, 1998, the President summoned Ecuador and the Commission to a public hearing to be held at the seat of the Court on June 11 of that year, for the purpose of taking testimony from the witnesses and experts offered by the Commission.

27. On June 1, 1998, the State informed the Court that it had reached an agreement with the parents of Ms. Benavides Cevallos and that it would present a notarized copy of the document containing that agreement. It requested that the

² As is the practice of the Court with documents of this nature, the brief filed by Amnesty International was not formally introduced into the case file.

public hearing convened by the President be suspended. The following day, the Commission informed the Court that it had studied the proposed friendly settlement and that, in its view, the proposal needed to be examined during the hearing convened by the President for June 11, 1998.

28. On June 3, 1998, on instructions from the President, the Secretariat advised the State and the Commission that the hearing scheduled for June 11, 1998, would be held as planned and that there the Court would take up the terms of the proposed friendly settlement.

29. On June 4, 1998, the State submitted to the Court a certified copy of the settlement agreement that it had concluded with Mr. Luis Benavides Enriquez and Ms. Rosa Maria Cevallos, parents of Ms. Benavides Cevallos, on February 20, 1998.

30. On June 5, 1998, the Commission sent various documents to the Court, all related to the proposed friendly settlement.

31. That same day, the organization Rights International filed an *amicus curiae*³ brief.

32. At its seat on June 11, 1998, the Court held two public hearings into the instant case.

There appeared before the Court:

For the State of Ecuador:

Laura Donoso de León, Agent and
Francisco Proaño A., Ambassador;

For the Inter-American Commission:

Robert Goldman, Delegate;
Elizabeth Abi-Mershed, Attorney;
Alejandro Ponce Villacís, Assistant and
Richard Wilson, Assistant;

And as representative of the victim's next of kin:

Robert Goldman, who served in this capacity during the second hearing by virtue of a special power of attorney given by the victim's brother and sister, who were present for the hearing.

³ As is the practice of the Court with documents of this nature, the brief filed by Rights International was not formally introduced into the case file.

33. At the first hearing, the President informed the State and the Commission that the Court had taken cognizance of the February 20, 1998 agreement mentioned above (*supra*, paragraphs 25, 27 and 29) wherein the State acknowledged its international responsibility in the instant case. He also advised that the Court would examine the following points: first, the observations from the State on its acknowledgment of responsibility; second, the opinion of the Commission on the subject; third, the opinion of the victim's next of kin or their representative in that regard; and fourth, the friendly settlement proposed by the State. The first two points would be discussed at the first hearing, and the second two at the second hearing.

V ACQUIESCENCE

34. Article 52.2 of the Rules of Procedure stipulates that:

[i]f the respondent informs the Court of its acquiescence in the claims of the party that has brought the case, the Court shall decide, after hearing the opinions of the latter and the representatives of the victims or their next of kin, whether such acquiescence and its juridical effects are acceptable. In that event, the Court shall determine the appropriate reparations and indemnities.

35. During the first public hearing the Court held on June 11, 1998, the agent for Ecuador said the following:

I wish to state for the record that my country accepts and acknowledges its responsibility in the disappearance and death of Professor Consuelo Benavides Cevallos [...and that] the name of Professor Benavides has also been cleared in all the spoken and written media in [Ecuador], as the struggle that her family has waged for so many years to bring the truth to light has been publicized at all levels. The agreement already reached with the Benavides family is fundamental and incontrovertible evidence of the Ecuadorian State's good faith and of its desire to make reparations for all the damages and injury caused to the Benavides Cevallos family.

The Ambassador of Ecuador added that:

[t]he finding of the proceedings conducted in the Supreme Court of Justice of Ecuador was that on December 4, 1985, Ms. Consuelo Benavides was unlawfully and arbitrarily detained by members of the Ecuadorian Marine Corps in Quininde, Esmeraldas Province, for purposes of investigation into alleged subversive activities associated with the "ALFARO VIVE CARAJÓ" guerilla group.

On December 13, 1985, her body was found in Rocafuerte parish, Esmeraldas county.

Given these facts, the respective criminal proceedings were instituted with the various judicial bodies, and the finding was that Consuelo Benavides was unlawfully and arbitrarily detained, tortured and murdered by agents of the Ecuadorian State.

[...] The acts perpetrated by agents of the Ecuadorian State Marine Corps violated the Constitution and [its] domestic laws, and the American Convention on Human Rights to which [said] country is party. [...] Articles 1, 3, 4, 5, 7, 8 and 25 of the American Convention on Human Rights were violated.

[...]

The proceedings in the domestic courts were riddled with unwarranted delays, technicalities, inefficiency, and denial of justice. The Ecuadorian State was unable to

show that its official agents were not the perpetrators of the unlawful and arbitrary detention, torture and murder of Consuelo Benavides, nor could it deny that those actions were in violation of Ecuador's Constitution and laws and respect for human rights.

Consequently, the Ecuadorian State acknowledges its responsibility in the events in question and undertakes to make reparations through the friendly settlement arrangement provided for in Article 45 of the Regulations of the Inter-American Commission on Human Rights, which serves as a mediator vis-à-vis the Court for states that have accepted the Court's jurisdiction, and especially inasmuch as the instant case is being heard by the Court.

[...] The Ecuadorian State has also decided to acknowledge to the Inter-American Commission on Human Rights that its official agents were responsible for the arrest, unlawful detention, torture and murder of Consuelo Benavides Cevallos and, in accordance with Articles 23 and 25 of the Constitution of the Republic, has decided to undertake responsibility for these events [...].

36. In this connection, the delegate for the Commission stated that it had:

[...] determined that Consuelo Benavides was arbitrarily and illegally arrested and detained, tortured and murdered by agents of the Ecuadorian State in December of 1985. The State agents, who were connected to government agencies, engaged [...] in a systematic campaign to cover up the crimes and deny the responsibility of the State. It was not until three years after Consuelo's disappearance that her family finally learned of her fate.

Because of their relentless efforts and the efforts of the multiparty investigation committee appointed by the National Congress of Ecuador, the crimes were brought to light in December of 1988. However, even with the crimes and the cover-up finally being revealed, the intellectual and material authors most responsible were not brought to justice.

It was on the basis of the gravity of the violations, the failure of the State to address the cover-up through a proper investigation and prosecution, and a denial of justice which had wrapped the perpetrators in impunity in violation of Articles 1, 3, 4, 5, 7, 8 and 25 of the American Convention, that the Commission submitted the case to the jurisdiction of this Honorable Court. We have just heard from the distinguished delegates of the State of Ecuador, an unequivocal acknowledgment [...] of each and every one of the violations alleged by the Inter-American Commission on Human Rights.

Consequently, from the position or point of view of the Commission with respect to this phase of the proceeding, there is no material disagreement.⁴

37. Once the State and the Commission had made their statements on the first two points (*supra*, para. 33), the President adjourned the first hearing so that the Court might deliberate on the procedure to be followed in addressing the remaining two points.

38. The second public hearing began that same June 11, 1998. The President informed the State and the Commission that the Court had taken note of Ecuador's acknowledgement of international responsibility for violations of Articles 1, 3, 4, 5, 7, 8 and 25 of the American Convention and of the Inter-American Commission's

4 In English in the original.

concurrence with that acknowledgment, expressed at the previous hearing. The Court then invited the representative of the victim's next of kin to present their observations.

39. The delegate of the Inter-American Commission clarified that he would also serve as the representative of the victim's next of kin who were present for the hearing, by virtue of a special power of attorney given for that purpose before the Secretary of the Court. That power of attorney was as follows:

In the presence of [...] Manuel E. Ventura-Robles, Secretary of the Inter-American Court of Human Rights, Nelly Guadalupe Benavides-Cevallos, passport no. SD eighty-two, zero five two, and Alfonso Benavides Cevallos, passport no. SI twenty-five, six hundred and fifty eight, hereby declare that:

1) They are brother and sister to Ms. Consuelo Benavides Cevallos, as shown in affidavits submitted in the proceedings being conducted at the Inter-American Court of Human Rights between the Inter-American Commission on Human Rights and the State of Ecuador in connection with the events whose victim was Ms. Consuelo Benavides Cevallos.

2) That in that capacity they grant a special power of attorney to Mr. Robert K. Goldman, delegate of the Inter-American Commission on Human Rights in the instant case, so that he might serve as their legal representative, with full powers, during the acquiescence and friendly settlement phase being conducted before the Inter-American Court of Human Rights, pursuant to Articles 52.2 and 53 of its Rules of Procedure.

Statement: They further declare that they recognize their parents, Luis Darío Benavides Enriquez and Sofía Rosa María Cevallos, as the sole beneficiaries of any pecuniary damages agreed to before this Court.

Speaking as the representative of the victim's next of kin, he stated that the State had unequivocally admitted all the violations that were alleged in the application and that, as a consequence, there was no disagreement on the merits of the case.

40. Also, as delegate of the Commission, he stated that the Commission concurred with the agreement concluded between the State and the next of kin of Ms. Benavides Cevallos.

41. The text of the agreement introduced by the State makes it clear and unequivocal that it is willing to acquiesce in the claims in the Commission's application.

42. Having heard the opinion of the Commission and of the victim's next of kin (Article 52.2 of the Rules of Procedure) (*supra*, paragraphs 36 and 39), the Court finds that there is no controversy between the State and the Commission as to the material facts of the instant case (*Cf. Garrido and Baigorria Case*, Judgment of February 2, 1996. Series C No. 26, para. 27.) Consequently, the Court takes as proven the facts recounted in paragraphs 35 and 36 of this judgment.

43. The Court notes that the documents presented by the State and its statements made during the public hearings make express reference to those provisions of the American Convention that the State acknowledges it violated. From this information and from the facts now established, the Court finds that the State, as it has expressly acknowledged, has incurred international responsibility for

violations of the rights of Ms. Benavides Cevallos that are protected under 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) and 25 (Right to Judicial Protection), all in relation to Article 1(1) (Obligation to Respect Rights) of the American Convention.

VI APPLICATION OF ARTICLE 63(1)

44. Article 63(1) of the American Convention provides that:

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 should 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.

45. In its application, the Commission requested that the Court order the State to adopt:

- a. the measures necessary to establish the individual responsibility for the violations found, and to impose the corresponding sanctions on them, and
- b. the measures necessary to remedy the violations established and make reparations for their consequences, including an action to clear the name of Ms. Benavides Cevallos, and payment of fair compensation to those who have suffered as a consequence of those violations.

46. It is obvious that in the instant case the Court cannot order that the violated right or freedom be restored to the victim. On the other hand, reparations for the consequences of the situation created by the violations of those rights are in order (*supra*, para. 43.)

47. Inasmuch as the State's responsibility has been established (*supra*, para. 43), the Court considers that Ecuador must continue the investigations to punish the persons responsible for the human rights violations referred to in this judgment.

48. To determine reparations, the Court took cognizance of the pertinent aspects of the February 20, 1998 agreement. In the document in question, the State made the following commitments and the following statements:

1. In accordance with Articles 1045 and 1052 of the Civil Code, a lump-sum compensation of US\$1,000,000.00 (one million United States dollars) or its equivalent in national currency shall be delivered to Mr. Luis Dario Benavides-Enriquez and Ms. Sofia Rosa Maria-Cevallos, the parents of Consuelo Benavides-Cevallos and, in the absence of spouse and children, her sole heirs. Although there are no conditions to this payment, they have offered to invest the bulk of it in a manner that memorializes the deceased's name.

This compensation covers expenses and fees, lost income, and moral damages; it shall be paid to Mr. And Ms. Benavides-Cevallos, in accordance with domestic law, against the State's general budget; the Procurator shall notify the Ministry of Finance and Public

Credit that this obligation is to be discharged within 90 days from the date on which this document is signed.

2. The compensation in question is independent of the compensation awarded by the National Congress under Decree No. 29, published in the Official Gazette No. 993 of July 22, 1996, and which Mr. And Ms. Benavides-Cevallo declined.

3. Nor does it include any compensation that the parents of Consuelo Benavides are entitled to claim from those responsible for her unlawful and arbitrary arrest, torture and murder, and who were convicted under Articles 52 and 67 of the Ecuadorian Penal Code.

4. The Ecuadorian State pledges to continue and conclude the judicial proceedings that were suspended when the suspects in the crime committed against Professor Benavides escaped; to take the judicial action that the law prescribes against persons who, although responsible for related crimes, were never punished. It will, either directly or through the competent authorities, exhaust every effort and measure required under domestic law so that the crime committed against Professor Benavides does not go unpunished.

5. The Ecuadorian State, through the Office of the State Attorney will instruct the Ministry of Education and Culture and the municipalities in the country, in exercise of their legal authorities, to memorialize the name of Ms. Consuelo Benavides Cevallos on streets, squares or schools, as her parents requested.

49. Article 53 of the Rules of Procedure stipulates that:

When the parties to a case before the Court inform it of the existence of a friendly settlement, compromise, or any other occurrence likely to lead to a settlement of the dispute, the Court may, in that case and after hearing the representatives of the victims or their next of kin, decide to discontinue the hearing and strike the case from its list.

50. Pursuant to that provision, the Court requested the Inter-American Commission and the representative of the victim's next of kin to appear before the Court to present their observations during this second public hearing held on June 11, 1998 (*supra* 33.)

51. At that hearing, the delegate for the Commission stated that:

Under the rules currently applicable in the preliminary and merit phases of a contentious case, the Commission acts as the moving party and represents the original petitioners. It is in this capacity that the Commission, having requested and taken into account the views of the petitioners, presents its analysis and observations before the Court today with respect to the proposed settlement, obviously, as enlarged by the power of attorney, which has been conceded today. Furthermore, as is clear from the case file and the presentation of the case before the Honorable Court, the parents of the victims were not the sole original petitioners before the Commission. As is clear from the Commission's application, the sister of the victim, Dr. Nelly Benavides, acted as a petitioner. Given that she, with other family members, engaged in the search for justice at the domestic level, and that she acted as the private accuser in certain stages of the domestic criminal proceedings, her right to justice has been directly at issue in the case presented by the Commission.

The Commission considers it essential to indicate its understanding that the commitment of the State of Ecuador to sanction any other person who committed an offense in relation to the case of the murder of Consuelo Benavides refers to its duty to investigate and sanction all of those responsible for violations at issue in the present case, including persons responsible for the denial of justice. Consistent with the doctrine in our system the scope of this duty incorporates the range of measures at the disposal of the State,

including, among other things, penal sanctions and administrative penalties. With respect to the question of timing of the execution of the proposed settlement, the Commission would find it very helpful if the Court would ask the State when it will make payment as per the terms of the agreement.

The proposal having been studied, and the foregoing observations having been made, the Commission considers that the terms of the proposal, which include the recognition of State responsibility for the violations at issue, and the commitment to investigate, prosecute, and punish the individuals responsible for the violations who have yet to be brought to justice, in conformity with internal law, as well as the commitment to offer just compensation to the victim's family, offer a resolution of the case which is, on balance, fundamentally just and based on respect for the human rights recognized in the American Convention.⁵

The Commission also urged the State to ratify the Inter-American Convention on Forced Disappearance of Persons and to incorporate it into its domestic legal system. It asked the Court to continue to maintain jurisdiction over the matter until such time as the Commission certified that the State had substantially complied with the commitments undertaken. Finally, the Commission acknowledged the good faith demonstrated by the Ecuadorian State in presenting the friendly settlement proposal during this phase of the contentious proceedings, which was the result of the relentless search for justice conducted by members of the victim's family.

52. Concerning the pleading to the Ecuadorian State to ratify the Inter-American Convention on Forced Disappearance of Persons, the agent of the State observed that:

in keeping with the spirit demonstrated by the State in accepting its responsibilities and the course that the appropriate authorities want to take toward a policy of full respect, preservation, protection and promotion of human rights, [...] the State or the pertinent bodies will welcome the recommendation and endeavor to make the Ecuadorian State a party to this Convention, if it is not already, as that will also [...] build up the legal framework needed to prevent these painful cases of forced disappearances from recurring in the region.

53. As for the date set for payment of reparations, the agent of the State indicated that it had "the best intention, the best disposition, to make that payment as soon as possible", and requested that "sufficient time, if possible six months, be allowed for the State to make payment of so large an amount, but with every assurance that the payment will be made almost immediately..."

54. Finally, concerning the duty to investigate and punish those responsible for the violations to which the instant case refers, Ecuador acknowledged that

... it has the obligation to use every means within its reach, both domestic and international, under existing conventions, to see that individuals serve out their sentences; ... [it also notes] the insistence that the other guilty parties who had a hand in related crimes be punished, which will be conveyed to the appropriate authorities.

55. Taking into account the statements made by the State, by the Commission and by the victim's next of kin present for the public hearings, the Court considers

5 In English in the original

that it should approve the proposed friendly settlement, in all its terms, as it is consistent with the purpose of the American Convention.

56. On June 12, 1998, the State informed the Court that, on that very day, it had delivered a check for one million United States dollars to the parents of Ms. Benavides-Cevallos.

57. The Court acknowledges that Ecuador's acquiescence and its efforts to achieve and apply a friendly settlement are a positive contribution to this process and to the effectiveness of the principles that inspire the American Convention on Human Rights.

VII

NOW THEREFORE,

THE COURT

Unanimously

1. Resolves that the acquiescence of the State of Ecuador in the claims made by the Inter-American Commission on Human Rights is proper and, consequently, the facts that motivated the instant case are no longer in dispute;

2. Takes note of the Ecuadorian State's acknowledgment of its international responsibility and declares, in keeping with the terms of that acknowledgement, that in the case of Ms. Consuelo Benavides Cevallos, the State violated the rights protected by Articles 3, 4, 5, 7, 8 and 25 of the American Convention on Human Rights, in relation to Article 1(1) thereof;

3. In the matter of reparations, approves the agreement between the State of Ecuador and the victim's next of kin regarding the nature and amount of said reparations;

4. Requires the State of Ecuador to continue to investigate and punish those responsible for the human rights violations to which this judgment refers;

5. Reserves the right to monitor compliance with the obligations established in this judgment.

Done in Spanish and English, the Spanish text being authentic, in San José, Costa Rica, this nineteenth day of June 1998.

Antônio A. Cançado Trindade
President

Hernán Salgado Pesantes
Gómez

Máximo Pacheco-

Oliver Jackman

Alirio Abreu-Burelli

Sergio García-Ramírez

Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Cançado Trindade
President

Manuel E. Ventura-Robles
Secretary