

INTER-AMERICAN COURT OF HUMAN RIGHTS

SAN JOSE, COSTA RICA

Petitioners

V.

THE REPUBLIC OF NAIRA

Respondent

MEMORIAL FOR THE

6.1. The State of Naira has fulfilled the obligations relating to the due diligence principle as is embodied by Articles 7(b) to 7(h) of the Convention of Bel

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President Benavente has tried to maintain a harmonious relationship between the branches of government to the extent of evaluating the possibility of making concessions to ensure governability.¹²

2. The general context in Naira

[3] The armed group, ‘Freedom Brigades’ (hereinafter “FB”), began carrying out terrorist actions between 1970 and 1999.¹³ These acts of terrorism were carried out with the intention of continuing drug trafficking activities without State intervention.¹⁴ A series of measures including; the declaration of a state of emergency, suspension of guarantees, and establishment of Political and Judicial Command Units in troubled provinces, including Warmi, were undertaken.¹⁵

[4] The Political and Judicial Command Units took control of the provinces by establishing military bases between the period of 1980 and 1999.¹⁶ The media reported some complaints of human rights violations but nothing came of them,¹⁷ despite independent investigations undertaken by the government, on its own initiative.¹⁸

[5] Today, there are many reported cases of gender-based violence that occur daily in Naira.¹⁹ There are 10 femicides or attempted femicides a month. Every two hours a woman in Naira is the victim of sexual violence.²⁰ Three out of five women were assaulted by their partners in 2016. Thirteen hundred girls between the ages 11 and 14 as well as three thousand 15

¹² Hypothetical § 5.

¹³ Hypothetical § 8.

¹⁴ Hypothetical § 8.

¹⁵ Hypothetical § 9.

¹⁶ Hypothetical § 9.

¹⁷ Hypothetical § 10.

¹⁸ *Ibid*; Clarifications Q&A 43.

¹⁹ Hypothetical § 11.

²⁰ Hypothetical § 12.

year olds, gave birth in 2015.²¹ Seven out of ten women between the ages of 15 and 35 have been subject to daily sexual street harassment.²² These statistics were reported by the Nairan Public Ministry, National Statistics Institute and National Opinion Institute respectively.²³ Also notable is the increase in hate crimes involving the LGBTI.²⁴

[6] Naira’s regulatory framework includes *LAW 25253* and *LAW 19198* which deal with violence against women and the family as well as street harassment.²⁵ The Criminal Code of Naira recognizes the offences of femicide, as expressed in Article 234-C,²⁶ and rape.²⁷ However, it does not define any other sexual violence as a crime.²⁸

3. *Gender-based violence in Naira*

[7] In 2010, a transgender women was murdered by her husband.²⁹ Naira’s Supreme Court held that the crime could not fall within the statutory definition of femicide as the victim had undergone gender reassignment surgery and her national ID card identified her as male.³⁰ Additionally, in 2015, a 19 year old student was raped and killed. Her assailant though convicted, was recognized to be out on probation after a previous rape conviction.³¹

[8] In response, the State took specific and immediate measures, collectively known as the Zero Tolerance Policy on Gender Based-Violence (hereinafter “ZTPGBV”).³² Not only was the ZTPGBV allotted an extraordinary budget, amounting to 3% of Naira’s GDP,³³

²¹ Hypothetical § 12.

²² Hypothetical § 12.

²³ Hypothetical § 12.

²⁴ Hypothetical § 12.

²⁵ Hypothetical § 14; Clarifications Q&A 73.

²⁶ Clarifications Q&A 4.

²⁷ Hypothetical § 14.

²⁸ Hypothetical § 14.

²⁹ Hypothetical § 17.

³⁰ Hypothetical § 17.

³¹ Hypothetical § 18.

³² Hypothetical § 19.

³³ Clarifications Q&A 64.

but relevant groups such as civil society, women's organizations and victim's associations were invited to submit proposals for the design of this measure.³⁴

[9] Within the ZTPGBV, the State created a Gender-Based Violence Unit in both the public prosecutor's office and the judicial branch.³⁵ This Unit includes specific measures to assist female victims, as well as to implement mandatory training for judges, prosecutors, and other public servants.³⁶ Additionally, the Unit was authorized to penalize public officials for acts of gender-based violence or discrimination.³⁷ Naira has even offered to review the legislation relating to femicide, violence, discrimination and issues of gender identity with a consensus from the population with the intent to amend any point which is considered to be discriminatory.

for protection of victims.⁴³ Ms. Quispe later had an altercation with Mr. Perez, which resulted in her sustaining minor injuries.⁴⁴ He was sentenced to a year of suspended jail time as he had no prior history of violence.⁴⁵ Another altercation between Mr. Perez and Ms. Quispe ended with her being partially disabled.⁴⁶ He was subsequently arrested.⁴⁷ Monica Quispe, Maria Quispe's sister, filed a complaint which is still pending before the domestic Courts.⁴⁸

[11] In an interview, Monica Quispe alleged that a Special Military Base (hereinafter "SMB") committed abuses against the population.⁴⁹ She further accused the SMB of sexual violence, rape, forcing herself, her sister and other detainees to wash, cook and clean every day.⁵⁰ The allegations of the conduct in the SMB were never reported by any alleged victim.⁵¹ Further, mere days after the news report, authorities in the province of Warmi issued a public statement denying the events alleged by Monica Quispe.⁵² The public statement by the Warmi authorities was supported by the majority of its residents.⁵³ Despite the decree by State authorities against the allegations by Monica Quispe, and the denial of the events by the majority of the population, the NGO, Killapura, still sought to file a criminal action against the State but was time barred.⁵⁴

⁴³ Hypothetical § 24.

⁴⁴ Hypothetical § 25.

⁴⁵ Hypothetical § 25.

⁴⁶ Hypothetical § 25.

⁴⁷ Hypothetical § 25.

⁴⁸ Hypothetical § 26.

⁴⁹ Hypothetical § 28.

⁵⁰ Hypothetical § 28.

⁵¹ Hypothetical § 30.

⁵² Hypothetical § 32.

⁵³ Hypothetical § 32.

⁵⁴ Hypothetical § 33.

[12] In response to this, the Government noted that it was not within its purview to interfere with matters of the Judiciary. The Government instead, created a High-Level Committee to explore the potential reopening of the criminal case.⁵⁵ Additionally, a Truth Commission was created to urgently investigate the allegations made by Monica Quispe.⁵⁶ Further, following a presidential decree which promised justice and redress where appropriate, a Special Fund was created for reparations concerning possible violations.⁵⁷

[13] Notwithstanding the previous measures, the ZTPGBV provided assurance that it would undertake monitoring of the case of attempted femicide of Maria Elena Quispe, as well as the 1200a[(wonhrF2 18BT1 0 0 1 1d0.71 621.58 Tm[lta)5(kt)5(g-3(ble)-7(vot)-131nvpossi)v-

Eradication of Violence against Women (hereinafter the "Convention of Belem do Para"),⁶² in relation to Maria Elena and Monica Quispe.⁶³

[15] In keeping with its Rules of Procedure and the provisions of the ACHR, the Commission adopted a report declaring the case admissible.⁶⁴ Naira, denied responsibility for the alleged human rights violations and provided an account of all actions taken in favour of the victims and women in general.⁶⁵ As such the State did not find it necessary to implement the recommendations made by the IACHR, the case was subsequently submitted to the IACtHR.⁶⁶

IV. Legal Analysis

A. Admissibility

[16] In 1979 the State of Naira, ratified the ACHR,⁶⁷ and further recognized the Court's contentious jurisdiction.⁶⁸ Pursuant to Articles 61, and 62,⁶⁹ the Court has authorization to deliberate on matters relating to the interpretation and application of the ACHR, and thus has the requisite jurisdiction.

1. The Court lacks jurisdiction, *ratione temporis*, to adjudicate on

[17] Naira ratified the Convention of Belem do Para, in 1996.⁷⁰ However, the claim before the IACtHR is solely in relation to the detriment of Maria Elena and Monica Quispe with respect to the alleged violations in 1992.⁷¹

[18] The Convention of Belem do Para, is regulated by the Vienna Convention on the Law of Treaties.⁷² Article 28 of which, sets out the principle of non-retroactive application,⁷³ which states that the provisions of a treaty cannot bind a party in relation to a situation which ceased prior to the entry into force of the given treaty with respect to that party.⁷⁴ Therefore, the State cannot be liable for any alleged breach of the Convention of Belem do Para, which would have occurred before its ratification.

[19] Assuming that the Court decides that the current petition is admissible, the State of Naira submits that it has neither violated the ACHR nor the Convention Belem do Para.

B. Merits.

1. The State of Naira did not violate Article 4 in conjunction with Article 1(1) of the ACHR in relation to Elena and Quispe.

law and prevention of the arbitrary deprivation of one's life.⁷⁶ The State has fulfilled all the obligations under Article 4 in conjunction with Article 1(1) of the ACHR.

1.1. The State of Naira has not arbitrarily deprived Elena and Quispe of their right to life.

[21] Article 4 of the ACHR, prescribes that every person has the right to have his life protected against arbitrary deprivation. The right to life is taken to have both negative and positive obligations.⁷⁷ Article 1(1) of the ACHR charges State Parties with the duty to respect and guarantee the rights provided in the Convention.⁷⁸ The negative obligation imposed on the State relates to its responsibility to ensure no arbitrary deprivation of the right to life,⁷⁹ at the hands of State agents,⁸⁰ as well as by third parties in the private sphere.⁸¹ This negative obligation is not in contention as, in the current petition, there was no loss of life.

1.2. The State of Naira has fulfilled its obligation to effectively investigate, prosecute, punish and provide redress for the alleged deprivation of Elena and life.

[22] Article 4, in conjunction with Article 1(1) of the ACHR gives rise to these positive obligations. The positive duties imposed on State Parties require the organizing of all structures, through which public power is exercised, to guarantee that they are capable of

⁷⁶ ACHR, (n 61), Article 4.

⁷⁷ *Baldeón-García v. Peru* (Merits, Reparations and Costs) April 6, [2006], IACtHR, Series C No. 147. § 84.

⁷⁸ *Vélasquez-Rodríguez v Honduras* (Merits) Judgment of July 29, [1998], IACtHR, Series C No. 4 § 164.

⁷⁹ *Case of the Pueblo Bello Massacre* (Merits, Reparations and Costs) Judgment of January 31, [2006], IACtHR, Series C No. 140. § 120.

⁸⁰

-*Morales et al.*) v. *Guatemala*, (Merits) Judgment of November 19, [1999], IACtHR

the offence of femicide,⁹³

situation.⁹⁹ To this end, the Court must assess (a) whether the State should have been aware of the situation,¹⁰⁰ and (b) whether it had a reasonable possibility of preventing or avoiding the perpetration of the offence.¹⁰¹ This need for prevention is heightened as the alleged violations surround the rights of persons who were children at the time of the offence.¹⁰² In the current situation, the absence of a report on the alleged violations,¹⁰³ the political crisis,¹⁰⁴ the presence of the armed group carrying out terrorist activities,¹⁰⁵ and the state of emergency,¹⁰⁶ Naira was not only unaware of the alleged violations at the time of its alleged occurrence,¹⁰⁷ but was not in a position to undertake measures to reasonably prevent the alleged violations and hence cannot be held responsible.

[28] The duty of investigation requires, state authorities to begin *ex officio* and without delay, a serious, impartial and effective investigation.¹⁰⁸ This is, however, hinged on the awareness of a violation.¹⁰⁹ The IACtHR has previously held that the duty to investigate is not breached merely because an investigation does not produce a satisfactory result.¹¹⁰ However, investigation must not be undertaken as a mere formality predestined to be

⁹⁹ *Valiz Franco v Guatemala* (Preliminary Objections, Merits, Reparations and Costs) Judgment of May 19, [2014], IACtHR, Series C No. 277, § 142.

¹⁰⁰ *Pueblo Bello Massacre case*, (n 79), § 123.

¹⁰¹ *Ibid*; *Case of Afro-descendants Communities of the Cacarica River v Colombia* (Preliminary Objections, Merits, Reparations and Costs) Judgment of November 20, [2013], IACtHR, Series C No. 270, § 224.

¹⁰² UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3.

¹⁰³ Hypothetical § 30.

¹⁰⁴ Hypothetical § 1.

¹⁰⁵ Hypothetical § 8.

¹⁰⁶ Hypothetical § 9.

¹⁰⁷ Clarifications Q&A 8.

¹⁰⁸ *Miguel Castro Castro Prison Case* (Merits, Reparations, and Costs) Judgment of August 2, [2008], IACtHR, Series C No. 160 § 256; *Case of the Mapiripán Massacr* Judgment of September 15, [200

ineffective,¹¹¹ but must be carried out by all available legal means with the aim of determining the truth.¹¹² This positive obligation must not be interpreted in a way which imposes an impossible or disproportionate burden on authorities.¹¹³

[29] For the positive obligation of investigation to arise, it must be established that the authorities knew or ought to have known at the time, an existence of a real and immediate danger to the life of the individual or individuals.¹¹⁴ Given that neither Maria Elena nor Monica Quispe or any of the alleged victims made any report of any human rights violations at the SMBs,¹¹⁵ the positive obligation cannot be said to have

requirement for punishment and no evidence to suggest that the petitioners were wronged and required reparations.

therefore follows that acts which lack intention or are not pursuant to a specific purpose, cannot constitute torture but rather inhumane treatment.¹²⁹

of the victim, were also victims. The IACtHR held that in light of the nature of the facts, the rape could not be substantiated despite the IACHR's assertion.¹³⁷

[35] The allegations of rape by Maria Elena and Monica Quispe are denied by the majority population of the province of Warmi,¹³⁸ State authorities have also issued statements denouncing such events.¹³⁹ Further allegations cannot be substantiated based solely on the testimony of victims.¹⁴⁰ The combination of these events, result in a lack of clear, concordant, unrebutted facts capable of being proven beyond a reasonable doubt. Hence the rape allegations made by the Quispe sisters cannot be substantiated to have actually occurred an

[37] The EC further stipulates a minimum level of severity, necessary for treatment to be considered inhumane or degrading.¹⁴⁵ The relativity of this minimum level, requires the court to take into consideration specific factors in every scenario such as the duration of the treatment, its physical and mental effects, and other particulars of the victim.¹⁴⁶ The Quispe sisters, were only detained for a month's time, in which they were allegedly forced to cook, wash and clean every day.¹⁴⁷ These actions cannot amount to cruel, inhumane or degrading treatment as it was not done deliberately to cause unjustified mental or psychological suffering or severe humiliation.

2.2. The State of Naira has fulfilled its obligations under Article 5 in conjunction of Article 1(1) of the ACHR in relation to Elena Quispe.

[38]

be independent from those implicated in the event.¹⁵² The investigation into serious allegations of ill-treatment must be thorough and must not rely on hasty or ill-founded conclusions.¹⁵³ Further, the requirement of prevention and protection measures are hinged upon the conditional awareness of the State of a situation of real and imminent danger.¹⁵⁴ It follows that States cannot be responsible for all violations committed within its

commitment to objective fact finding in the investigation,¹⁶² and created a Special Fund for reparations if needed.¹⁶³

[42] Conclusively, it can be seen that the State of Naira did not subject Maria Elena or Monica Quispe to torture, cruel, inhuman or degrading punishment. Further, it has satisfied its obligation of effective investigation upon the requisite conditional awareness of a situation of real or imminent danger and thus is not in violation of Article 5 in conjunction with Article 1(1) of the ACHR.

3. The State of Naira has not violated Article 6 in conjunction with Article 1(1) of the ACHR in relation to Elena and Quispe.

[43] The right to freedom from slavery includes a prohibition from involuntary servitude and forced and compulsory labour.¹⁶⁴ Article 6 of the ACHR stands in *pari materia* with Article 4 of the European Convention on Human Rights in which the right to freedom from slavery excludes work in situations of detention.¹⁶⁵

3.1. The work performed by Elena and Quispe cannot amount to slavery or servitude.

[44] Article 6(1) of the ACHR provides that no one shall be subject to slavery or involuntary servitude, which are prohibited in all their forms. Slavery can be defined as the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.¹⁶⁶ In *Siliadin v France*,¹⁶⁷ the applicant was made to work as a

¹⁶² Hypothetical § 34.

¹⁶³ Hypothetical § 34.

¹⁶⁴ ACHR, (n 61), Article 6; ICCPR (n 75).

¹⁶⁵ 1950 *European Convention on the Protection of Human Rights and Fundamental Freedoms* (Council of Europe)

domestic servant for fifteen hours a day without pay or days off. The Court held that the applicant could not be held in slavery as there was no genuine right of legal ownership over her thus reducing her to the status of an object.¹⁶⁸ Similarly, although Maria Elena and Monica Quispe were allegedly subject to domestic work during their detention,¹⁶⁹ the work done cannot amount to slavery as there was no genuine right of legal ownership over the women to the point of reducing their status to that of an object.

[45] Additionally, servitude was defined as an obligation to provide one's services that is imposed by the use of coercion, and is to be linked with the concept of slavery.¹⁷⁰ What

3.3. *The State of Naira has fulfilled its positive obligations under Article 6 in conjunction with Article 1(1) of the ACHR and Quispe.*

[50] In order to comply with the obligations to penalise and prosecute effectively, any act aimed at maintaining a person in a situation of slavery, servitude or forced or compulsory labour,¹⁹² Member States are required to put in place a legislative and administrative framework which prohibits and punishes such actions.¹⁹³ The positive obligations associated with this right also require States to take operational measures.¹⁹⁴ This positive act is, however, hinged on situations where the State authorities were aware or ought to have been aware of circumstances which require the protection of individuals through operational measures.¹⁹⁵ Subsequently, the right enshrined by Article 6 of the ACHR, also calls for a procedural obligation to investigate, dependant on a credible suspicion that an individual's right has been violated.¹⁹⁶

[51] Naira has signed and ratified all international human rights treaties,¹⁹⁷ including but not limited to the ACHR, and the Convention concerning Forced and Compulsory Labour.¹⁹⁸ Naira has not only ratified these treaties, but has afforded them constitutional status.¹⁹⁹ Therefore the standards set by these Conventions in relation to forced and compulsory labour have moved into the domestic legal framework of Naira and thus

¹⁹² *C.N. v. the United Kingdom*, Application no. 4239/08, Council of Europe: European Court of Human Rights, 13 November 2012 § 66; *Siliadin v. France*, (n 167), § 112; *C.N. and v. France*, Application No. 67724/09, Council of Europe: European Court of Human Rights, 11 October 2012 § 10.

¹⁹³ *Rantsev v. Cyprus and Russia*, Application no. 25ETBT, 221(C)4(o)-5(u)6(n)67TJE3TB3TB35.01 1666(n)67TJE3T4ui[(,3/E3TB3

4.1. *The State of Naira*

Quispe of their

right to personal liberty.

[54] This right consists of two distinct types of guarantees; general and specific.²⁰⁶ The general guarantee is the overarching right to personal liberty and security. Whereas the specific guarantee protects the right not to be deprived of liberty unlawfully or arbitrarily; to know the reasons for detention and charges brought against the detainee; to judicial control of the deprivation of liberty and to contest the lawfulness of detention.²⁰⁷ Any violation of these specific provisions is, in and of itself, sufficient to violate the ACHR.²⁰⁸

[55] Whilst this is so, Article 27 of the ACHR does recognize that in times of emergency, a State may derogate from its obligations contained under Article 7 of the Convention.²⁰⁹ Given the crime scourge in Naira, and its threat to the safety and security of its nationals, then President Morales declared a state of emergency.²¹⁰ Article 27(1) requires that in any state of emergency there be appropriate means to control the measures taken, so they are proportionate and do not exceed the strict limits imposed or derived from the ACHR.²¹¹

[56] The first condition is that a state of emergency must exist.²¹² Apart from being declared, the state of emergency ought to meet the criteria necessary in order to validate it.²¹³ Firstly, there must be a ‘subject’. This is the legal person or entity possessing the

²⁰⁶ (Merits, Reparations and Costs) Judgment of May 6, [2008], IACtHR, Series C No. 180, § 89.

²⁰⁷ *Chaparro Álvarez and Lapo Íñiguez v. Ecuador* (Preliminary Objection, Merits, Reparations and Costs) Judgment of November 21, [2007], IACtHR, Series C No. 170, §. 51, *Wong Ho Wing v Peru* (Preliminary Objection, Merits, Reparations and Costs) Judgment of June 30, [2015], IACtHR, Series C No. 297 § 236.

²⁰⁸ *Chaparro Álvarez and Lapo Íñiguez v. Ecuador*,

juridical capacity to declare the state of emergency.²¹⁴ The ACHR refers simply to the ‘State Party’ in this regard.²¹⁵ President Morales, in his official capacity had the legal authority to declare a state of emergency on behalf of the State.

[57] Secondly, there must be an object of the state of emergency.²¹⁶ This refers to what the declaration affects. Under a state of emergency, the State is able to limit its obligations. Article 27 of

States to detain persons without the usual requirements of a warrant of probable cause.²²³

The detention of Maria Elena and Monica Quispe, albeit on false accusations,²²⁴ is still in accordance with the requirements under Article 7 as they were suspected of being accomplices to the FB.²²⁵

5. The State of Naira did not violate Articles 8 and 25 in conjunction with Article 1(1) of the

ACHR

Quispe.

[60] Article 8(1) of the ACHR, codifies the principle of ‘due process of law’ which is the right of every person to be heard, with due guarantees and within a reasonable time, by a competent, independent and impartial Court.²²⁶ Further, Article 25 of the ACHR obliges Member States to provide, all persons subject to its jurisdiction, an effective legal remedy against acts that violate their fundamental rights.²²⁷

5.1. The State of Naira

Quispe of their right to a fair

trial.

[61] Article 8 of the ACHR establishes the guidelines of “due process,” which is the right of every person to be heard, with due guarantees and within a reasonable time, by a competent, independent and impartial Court, previously established by law, in the substantiation of any accusation of a criminal nature made against him.²²⁸ During the state of emergency in Naira, judicial command and authority was vested in the military QBT1 0 0 1 230.33 621

[62] One requirement of a fair trial is its conduction within a reasonable time frame.²³⁰

In determining whether the time frame in a particular case is reasonable the Court will take into account four elements: (a) the complexity of the matter; (b) the procedural activities of the interested party; (c) the conduct of the judicial authorities, and (d) the effects on the legal situation on the individual involved in the proceedings.²³¹ In this regard, time begins

[64] However, this position was taken in

Articles 8 and 25. This claim is however barred by the domestic statute of limitations.²⁴⁶ In *Almonacid-Arellano et al v Chile*, the Court opined that a State could not rely on the expiration of a statute of limitations as a reason not to open an investigation, with the aim of punishing those responsible for possible wrongs.²⁴⁷ Naira, cognisant of this duty, opened an investigation within the period of the statute of limitation that proved to be futile.²⁴⁸ Additionally, Naira has established a Truth Commission to investigate the matter and explore reopening of the case.²⁴⁹ As previously stated, a duty is not necessarily breached just because it does not produce a satisfactory result,²⁵⁰ the duty upon States is simply to provide an effective remedy which Naira has done.²⁵¹

6. The State of Naira did not violate Article 7 of the Convention of **in relation**
to

previously stated in paragraph [18], the Convention of Belem do Para, is inapplicable due to the principle of non-retroactivity.²⁵⁵

6.1. The State of Naira has fulfilled the obligations relating to the due diligence principle as is embodied by Articles 7(b) to 7(h) of the Convention of .

[68] While the IACtHR is precluded from deliberating on the alleged violations of the Convention of Belem do Para in 1992, pursuant to the principle of non-retroactivity,²⁵⁶ the Court will have competence to determine whether there existed a violation of the ACHR.²⁵⁷ Additionally, as established by its jurisprudence, the IACtHR will examine the arguments on the alleged denial of justice in relation to the rights recognized by Article 7(b).²⁵⁸ The Court has established, that it has such competence to adjudicate as Article 7(b) codifies principles of international law also found in the ACHR and other international law treaties.²⁵⁹ Additionally, the obligations under Article 7 become applicable upon ratification of the Convention of Belem do Para in 2006, as such, Naira has conformed to the obligations listed therein.

[69] The due diligence requirement as articulated by the Convention Belem do Para in Article 7(b), requires prevention, punishment and elimination of violence against women.²⁶⁰

regard to prevention.²⁶¹ The guidelines entailed inter alia: ratification of international human rights treaties, and provision of national legislation as well as administrative sanctions which provides redress for women who fall victim to gender based violence.²⁶²

[70] Further, the IACtHR, in the case of *Alvarez*,²⁶³ stipulated that States should adopt comprehensive measures to fulfil the due diligence obligation.²⁶⁴ The Court specifically called for an appropriate legal framework, accompanied by effective enforcement, as well as prevention policies that enables States to take preventative measures in specific cases where gendered violence is evident.²⁶⁵ This obligation is codified in 7(c) to 7(g) of the Convention of Belem do Para.

[71] Upon examination of the current circumstances in Naira, it can be said that the State has fulfilled these obligations. Naira has not only ratified all international human rights treaties,²⁶⁶ but has afforded these treaties constitutional status by virtue of Article 22 of its national constitution, and proclaimed its precedence over existing national law,²⁶⁷ thereby creating a satisfactory legal framework.

[72] Additionally, Naira, in an effort to combat gender-based violence, undertook the, ZTPGBV.²⁶⁸ While this adds to already sufficient national framework created by ratification of all international human rights treaties, Naira went further and allocated an extraordinary budget consisting of 3% of its GDP for immediate implementation.²⁶⁹

²⁶¹ United Nations, *Violence against women in the family: Report of the Special Rapporteur on violence against women, its causes and consequences*, Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights resolution 1995/85, UN Doc. E/CN.4/1999/68, 10 March 1999, § 25.

²⁶² *Ibid.*

²⁶³ *Ibid.*, (n 260).

²⁶⁴ *Ibid.*, (n 260), § 258.

²⁶⁵ *Ibid.*

²⁶⁶ Hypothetical § 7.

²⁶⁷ Hypothetical § 6.

²⁶⁸ Hypothetical § 10.

²⁶⁹ Hypothetical § 19; Clarifications Q&A 64.

[73] Within the framework of the ZTPGBV, the State created a Gender-Based Violence Unit in the public prosecutor's office and the judicial branch.²⁷⁰ This specialized unit includes specific measures to deal with female victims. It provides for the mandatory training and education for judges, prosecutors and other public servants. It also has the power to penalize public officials for acts of gender-based violence and discrimination.²⁷¹ Naira also offered to review of legislation relating to a broad scope of gender issues,²⁷² and finally created an Administrative Program on Reparations and Gender for the purpose of implementing reparative measures for victims of any kind of gendered violence.²⁷³

[74] From an examination of the measures undertaken by Naira, it is evident that the State has fulfilled its obligations as it not only created the requisite legal framework and constitutional guarantees, but has also provided administrative and reparative measures with a significant monetary investment to facilitate its effective implementation.

V. Request for Relief

[75] Based on the aforementioned submissions, the State of Naira humbly requests that this Honourable Court declare and adjudge in favour of the State that:

1. The State has not violated its obligations under Articles 4, 5, 6, 7, 8 and 25 in conjunction with Article 1(1) of the ACHR, in relation to Maria Elena and Monica Quispe.
2. The State has not violated Article 7 of the Convention, Belem do Para in relation to Maria Elena and Monica Quispe.
3. The petitioners absorb the costs of the current proceedings.

²⁷⁰ Hypothetical § 20.

²⁷¹ Hypothetical § 20.

²⁷² Hypothetical § 21.

²⁷³ Hypothetical § 22.