

2016 INTER-AMERICAN HUMAN RIGHTS MOOT COURT COMPETITION

Case of Edmundo Camana *et al.*, Pichicha and Orífuna peoples v. Santa Clara

I. History of Santa Clara

1. Santa Clara is an independent State in the Americas that shares its northern border with the Confederation of Bristol and its southern border with the Republic of Madruga. According to the last official census, 62% of its population is identified as White, 23% as Hispanic, and 7% as Afro-descendant. The rest of the population consists of native peoples (5%) and descendants of Asian immigrants (3%).

2. Santa Clara currently has a population of 95 million inhabitants and a surface area of 9 million square kilometers. Its Gross Domestic Product (GDP) and Human Development Index (HDI) are comparable to countries like Germany. Its official language is English, and based on the Constitution of 1982, its system of government is a federal parliamentary monarchy. The Legislature consists of an Upper Chamber and a Lower Chamber, and the duties of Head of State and Government are exercised by the Prime Minister.

3. Its colonial period goes back to the 17th Century, when English immigrants established 9 colonies on the Atlantic Coast, then known as New Britain. Within a few decades of the arrival of the first Europeans, 80% of the indigenous population was decimated, and most of the survivors moved to more remote areas in the middle part of the country.

4. At the end of the 17th Century, the Pichicha indigenous people were the only ones who had managed to remain in their traditional territory, between the headwaters and the middle valley of the Doce River, located between the southern colony of Motumbia and the northern part of the Spanish Viceroyalty of Cordel, now the Republic of Madruga. After several decades of confrontations with English and Spanish colonists, some 15,000 remaining members of the Pichicha people were estimated to be permanently settled in their ancestral territory.

5. After the second half of the 18th Century, New Britain became the principal export center for coal, iron, and other minerals demanded by English factories. At the end of the 18th Century, around 50,000 Irish and Italian families migrated to the mining region in southern New Britain, turning the country into the only English colony in the Americas with a majority Catholic population.

6. In 1805, the council presidents of the 9 colonies of New Britain met at the Assembly of Saratoga and rejected a proposal by the French Revolutionary government to provide military support to a pro-independence movement against the United Kingdom. In recognition of the loyalty shown during the Napoleonic Wars, King George IV granted New Britain the status of independent protectorate in 1822 and, in 1828, an independence

agreement was signed. In 1831, the first Constitution was adopted and the nine colonies of New Britain became the Constitutional Monarchy of Santa Clara.

7. After its independence, Santa Clara underwent an accelerated process of industrialization and became an economic power. At the beginning of the 19th Century, its extractive enterprises expanded into other countries in the Americas, Africa, and Asia. In the 1990s, 80% of mining investments in Latin America and the Caribbean were traded on the Toronga Stock Exchange, in the capital of Santa Clara. Although Brazilian, Chinese, and Swiss companies have expanded their investments in the region, 70% of all stocks in the mining industry in Latin America and the Caribbean are still traded on the Toronga Stock Exchange.

8. For several decades now, the governments of Santa Clara have promoted measures designed to encourage the expansion of their mining companies into other countries. One of them was the creation of a Public Foreign Investment Fund in 1990, for purposes of making subsidized loans for companies from Santa Clara to expand in foreign countries. From the time of its creation, 90% of the US \$40 billion managed by the fund has benefitted the foreign investments of Santa Clara's principal mining companies, including Miningcorp S.A. and Silverfield S.A.

9. Santa Clara acceded to the OAS Charter in August 1962, and in February 1980 deposited its ratification instrument for the American Convention on Human Rights, as well as the instrument accepting the contentious jurisdiction of the Inter-American Court of Human Rights (Inter-American Court). Santa Clara has ratified all existing human rights treaties and protocols of the Inter-American System of Human Rights (IAHRS). It is a party to most of the universal human rights treaties, having signed the United Nations Declaration on the Rights of Indigenous Peoples, and ratified Convention 169 of the International Labor Organization. Santa Clara has not made any reservations to, or denounced, any international human rights instrument.

II. Relations between Santa Clara and the Republic of Madrugá

10. The Republic of Madrugá is one of the five countries that were part of the Viceroyalty of Cordel, having gained its independence in September 1837. Madrugá's GDP and HDI are comparable to those of a developing Latin American country and its population of 23 million people consists mainly of indigenous people, descendants of Spaniards, and Afro-descendants. There are some Orífuna communities, descendants of African slaves, and native peoples of Central America and the Caribbean along its northern coast. The Orífunas migrated to Madrugá from other parts of the continent in the late 18th Century, settling in the high valley and estuary of the Doce River. From the time of their arrival in northern Madrugá, the Orífuna people have used the Doce River to irrigate subsistence crops and transport merchandise, and for small-scale fishing. More recently, some eco-tourism projects were implemented through the construction of small cabins in the Doce River estuary, all of which are managed by the Orífuna communities.

11. Like Santa Clara, the Republic of Madrugá has signed and ratified all the human rights instruments of the IAHRS, and in 1999 it recognized the contentious jurisdiction of the Inter-American Court. The Inter-American Court has issued a total of 45 judgments and 25 orders of provisional measures against Madrugá. According to the most recent Annual Report

of the Court, 90% of the reparations measures ordered in those judgments have been met with total noncompliance, and 10% have been complied with in part. The degree of noncompliance with measures pertaining to investigation and non-repetition is 99%.

12. Between 1920 and 1925, Madrugá faced an insurrection led by peasant movements with the support of several indigenous peoples. After five years of civil war, the insurgent movement assumed power and immediately promoted agrarian reform. In 1929, the revolutionary government enacted the Natural Resource Nationalization Act, which nationalized all private investments in oil, gas, and mining extraction. While the new government sought to implement the aforementioned law, various landowners and businesspersons in the extractive sector formed armed militias, especially in the northern part of the country, to protect their properties.

13. Under pressure from investors in the mining sector, in 1932 the Parliament of Santa Clara enacted the Hemispheric Security Act which, among other provisions, authorized military training and the sale of weapons to “democratic resistance movements” in foreign countries, upon the authorization of the Foreign Affairs Committee of the Upper Chamber of Parliament. Days after the law’s enactment, the Secretary of Defense of Santa Clara took part in a session before the Committee to explain the security situation in Madrugá. When questioned by Senators tied to the extractive sector about the risk that subsidiaries of companies from Santa Clara could be affected by the social unrest in Madrugá, the then-Secretary of Defense stated the following:

Senators, I am pleased to inform you that the mining and petroleum companies in the north of our sister Republic of Madrugá continue to operate under a private system. The security forces of the self-proclaimed revolutionary government have been prudent in not approaching the facilities of the subsidiaries of companies from our country. In the event that this situation should change, I am convinced that the organized civilian population of Madrugá will be an ally in the defense of democratic values and the right to private property.

14. In spite of the protest notes issued by the Foreign Ministry of the revolutionary government recently installed in Madrugá, several militias received weapons and military training in Santa Clara until 1940, when the Hemispheric Security Act was repealed. According to press reports from the time, between the 1940s and the 1960s, mining companies headquartered in Santa Clara made periodic payments to militias that provided protection to the extractive projects of their subsidiaries in northern Madrugá.

15. In 1985, the government of Madrugá started to promote private investment in the mining and energy sector, which ushered in a new period of diplomatic and trade relations with Santa Clara. In 1990 the International Agency for Development of Santa Clara fully financed the hiring of advisors by the Ministry of Energy and Mines of Madrugá to draft of a new regulatory framework on environmental licensing and mining concessions. The firm that was hired turned out to be the Madrugá subsidiary of the offices of Luckman & Poors, which was headquartered in Toronga and had a well-known history of providing legal counsel to transnational corporations in the extractive sector and to the governments of developing countries that have reformed their mining laws.

16. In 1992, the Republic of Madrugá, Santa Clara, and the Confederation of Bristol signed the North American Free Trade and Development Agreement (NAFTDA). One of its chapters established an arbitration system, whereby any dispute between an investor corporation and one of the three signatory countries must be adjudicated by a permanent arbitral panel headquartered in the city of Torongá.

III. Murder of the Camana Osorio family, impunity in Madrugá, and judicial appeals in Santa Clara

17. On December 12, 1994 the president of the Madrugan Confederation of Mineworkers, Edmundo Camana, his wife Teresa Osorio, and two of their children were murdered by masked individuals in a restaurant in the city of San Blas, capital of the State of San Blas, in northern Madrugá. The youngest daughter of the Camana Osorios, Ms. Lucía Camana Osorio, went to live in Santa Clara with refugee status until 1998, when she decided to return to her native country. Back in Madrugá, Lucía became one of the main spokespersons of the so-called National Movement against Impunity.

18. In January 1999, the Office of the Prosecutor General of Madrugá issued a decision to drop the criminal investigation into the murder of Mr. Edmundo Camana and his family. The decision stated that the sole perpetrators of the crime were two individuals who had died in 1995, in an apparent confrontation between militia groups fighting for control of drug trafficking routes in the northern part of the country. Six months after that decision, the Judiciary of Madrugá ordered the criminal proceedings permanently shelved based on the opinion of the Office of the Prosecutor General.

19. In July 2001, documents were leaked to the press showing that Miningcorp's subsidiary in Madrugá had made bank deposits to companies owned by two leaders of the Los Olivos militia group. This news caused a major political uproar in Santa Clara, due to the fact that the then-President of the Upper Chamber, Eliot Klein, had served as Miningcorp's financial director at the time those deposits were made (1990-1998). Under public pressure, Eliot Klein resigned from Congress and went to work at a consulting firm that has signed innumerable contracts with Miningcorp since then.

20. In Santa Clara, after a preliminary investigation was conducted, the Public Ministry decided not to bring charges against Eliot Klein; nor were any administrative or civil actions pursued against Miningcorp or its current or former directors. The authorities with jurisdiction to bring such actions maintained that an administrative or judicial proceeding in the jurisdiction of Santa Clara would jeopardize the investigations in the Republic of Madrugá, where the alleged crimes reportedly took place, and which was therefore the most convenient forum in which to resolve potential judicial disputes.

21. In Madrugá, a criminal money laundering investigation was opened against two leaders of Los Olivos, but was quickly closed due to the expiration of the criminal statute of limitations. For its part, the Superintendency of Banks and Insurance of Madrugá launched an administrative audit against Miningcorp, which was also shelved a few weeks after the company initiated proceedings against Madrugá before the NAFTDA Arbitral Panel. The arbitration claim was based on the alleged depreciation of the company's stock as a result of

administrative audits by the Madruga authorities, which Miningcorp's legal representatives considered arbitrary.

22. Human rights organizations in Madruga have criticized the lack of investigations into possible links between Miningcorp and unlawful militia groups. They have also identified errors in the calculation of the statute of limitations for the offense of money laundering, which they believe indicates collusion between the company and the Prosecutor's Office. These organizations have underscored that, in the 1990's alone, the actions of the militias had already resulted in the deaths of five hundred social leaders, trade unionists, and persons defending their territory in northern Madruga, without any militia member or mining company official ever having been convicted.

23. On December 10, 2002, some two million people participated in the National March against Impunity in Madruga. While delivering a speech in the Main Square of San Blas, Lucía Camana was killed by an unknown person who shot her multiple times and fled. The weapon and *modus operandi* were very similar to those used in the murder of the rest of the Camana Osorio family eight years earlier.

24. In January 2004, Lucía Camana's grandparents obtained a favorable decision in a *habeas data* action, thereby gaining access to the case file of the murder investigations. In that file, they found an official letter from the Consul of Santa Clara in the city of San Blas addressed to the Office of the Prosecutor General of Madruga. The letter stressed that the Constitution of Santa Clara prohibits the extradition of its citizens, clearly implying that it would be impossible to surrender any citizens of Santa Clara who may be under investigation for the murder of Lucía Camana.

25. In February 2006, the organization WikiLeaks published two cables from the Embassy of Santa Clara in Madruga that reported the disciplinary suspension of David Nelson, a Colonel in the Army of Santa Clara assigned as a Deputy Military Attaché to Madruga's Embassy from 2000 to 2006. The cables indicated that the disciplinary suspension was based on the fact that Mr. Nelson had held at least three meetings with members of the outlawed Los Olivos militia at Miningcorp's offices in the city of San Blas. In an affidavit signed by David Nelson and transcribed in one of the cables, he denied having collaborated with any kind of unlawful activity, but acknowledged that he had deviated from his duties.

26. In March 2006, Lucía Camana's relatives asked the Office of the Prosecutor General of Madruga to expand the criminal investigation of Ms. Camana's murder to include David Nelson; however, their request was denied in a decision dated December 2007. The Prosecutor's Office concluded that Mr. Nelson enjoyed immunity from prosecution in the country, because his diplomatic status had not been lifted by the Foreign Ministry of Santa Clara.

27. After more than five years, the investigations remained at the preliminary stage. Given this fact, and in view of the dim prospects for obtaining justice in Madruga, members of the Camana Osorio family decided to bring civil actions against Miningcorp in Santa Clara. They also filed a criminal complaint against its former financial director, Eliot Klein, as well as Army Coronel David Nelson, for the offenses of murder and conspiracy with unlawful armed

groups operating in Madrugá. These actions were brought with the assistance of a law firm from Toronga that represented the victims' relatives *pro bono*.

28. The Federal Courts and Civil Divisions of Santa Clara ruled the family's actions inadmissible, emphasizing that the country's civil and criminal courts have extraterritorial jurisdiction to hear and decide only matters involving acts of genocide, war crimes, and crimes against humanity. The judgments noted that extraterritorial civil jurisdiction was expanded by the 1998 Law of Extraterritorial Jurisdiction over Corruption and Human Trafficking, when at least one of the defendants is a citizen or a company incorporated in Santa Clara.

29. On May 3, 2010 the Supreme Court of Santa Clara handed down a final judgment declaring the INADMISSIBILITY of the criminal actions, based on the same legal reasoning set forth by the lower Courts and Divisions, and adding that:

It follows from Official Letter No. 001.2962, issued by the Foreign Ministry of the Republic of Madrugá, that the criminal responsibility of defendants Eliot Klein and David Nelson for the December 12, 1994 murder has been ruled out by the judicial authorities of Madrugá, which determined that the crime was committed solely by two individuals who died prior to the conclusion of the trial. With respect to the murder committed on December 10, 2002, the above-cited diplomatic note indicates that the competent authorities of the Republic of Madrugá are currently conducting a criminal investigation. If the complainants are of the opinion that the criminal investigations previously conducted and currently being conducted in the Republic of Madrugá violated their right to a fair trial, they can avail themselves of supranational human rights bodies, such as the Inter-American Commission and Court. It is beyond the scope of our jurisdiction to act as a supranational appeals court or in parallel to the judicial authorities of our neighboring country.

30. With respect to the civil action, the Supreme Court of Santa Clara reversed the decision of inadmissibility and ordered the Third Federal Civil Court of Toronga to adjudicate the claim for damages. In pertinent part, the Supreme Court underscored that:

The lower court's judgment erroneously asserts that there is no legal provision for the exercise of extraterritorial jurisdiction in the case *sub judice*. In fact, the 1998 Law of Extraterritorial Jurisdiction over Corruption and Human Trafficking has been interpreted by this Court to mean that related offenses, such as money laundering and bribery, also trigger the jurisdiction of Santa Clara for acts committed in third countries. Therefore, the dispute over the civil liability of Miningcorp for alleged acts of money laundering committed in Madrugá falls within one of the grounds for extraterritorial jurisdiction covered by the 1998 law.

31. On September 10, 2010, the complainants agreed to a compensation settlement of US \$150,000 from Miningcorp, and the civil action was permanently shelved. Notice of that judgment was served on October 15, 2010. At the same time, Miningcorp entered into a civil settlement with the Office of the Prosecutor of Santa Clara in connection with the alleged infractions against the country's financial system, for which the company paid US \$35 million to the public treasury of Santa Clara.

32. Dissatisfied with the decision of inadmissibility regarding the criminal investigations in Santa Clara, the relatives of Edmundo Camana, his wife, and children submitted a petition to the IACHR against the State of Santa Clara in March 2011, pursuant to Article 44 of the American Convention.

IV. The Wirikuya mining project and the adverse effects on the territories of the Pichicha people in Santa Clara and the Orífuna in Madrugá

33. In January 2007, Santa Clara's Department of Mines and Energy publicly announced its plans to put out a call for bids on an open-pit gold and silver mining project called Wirikuya at two mines near the Doce River Basin, 80 kilometers from the Madrugan border. Although the exploration and exploitation would take place exclusively within the borders of Santa Clara, each stage of the project would potentially affect the Doce River Basin, which flows through more than 300 kilometers of Madrugan territory.

34. Under the applicable laws, Santa Clara's Department of the Environment issued a Social and Environmental Impact Study (SEIS) in January 2008 and, in April 2008, the Office of the Undersecretary for Intercultural Affairs issued a technical report specifying the communities whose territory could potentially be affected by the project. The latter document identified the Pichicha people in Santa Clara and the Orífuna people in Madrugá as communities whose territory could potentially be affected by the Wirikuya project.

Effects on the Pichicha territory in Santa Clara

35. In November 2007, the Office of the Undersecretary for Intercultural Affairs began a free and informed consultation process consisting of two weekly meetings with the Pichicha authorities. Both the SEIS and the technical report of the Office of the Undersecretary for Intercultural Affairs were translated into the Pichicha language, and the first year of the three-year consultation process consisted of the detailed explanation of the scope of the project and its potential environmental and social impact. This explanation was provided by a multidisciplinary group made up of professional engineers, geologists, anthropologists, physicists, lawyers, and others, who remained in the Pichicha territory for one year and held more than 100 meetings, all of which were interpreted into the communities' language.

36. In November 2010, the Pichicha People's Assembly decided to allow the Wirikuya project in their territory. However, they set a number of conditions, most notably the conversion of the open-pit mining operation to an exclusively underground one. In addition, the Pichicha people conditioned their consent upon the express prohibition of the entry of mining company employees into the areas surrounding the Mandí Stream, which is used as a religious site by Pichicha priests. The competent authorities of Santa Clara agreed to all of the conditions imposed by the Pichicha Assembly, and in February 2011 the company Silverfield S.A. obtained the license to begin exploration activities for the Wirikuya project.

37. On May 15, 2011, the Pampulla Lagoon was contaminated following the rupture of a small containment dam built out of mud and rocks during the prospecting work done by Silverfield. Although the accident did not result in the contamination of the Doce River Basin,

it made it impossible for the Pampulla Lagoon to be used as a water supply for the Pichicha people and thousands of peasants who live in the area supplied by the lagoon.

38. After that incident, the Federal Water Authority of Santa Clara (FWA) ordered the immediate decontamination of the Pampulla Lagoon and simultaneously ordered the provisional collection of water from the streams located in the area, including the Mandí Stream. On June 15, 2011 Mr. Ricardo Manuín, a lawyer and leader of the Pichicha people, filed an administrative appeal with the President's Office of the FWA, alleging the inviolability of the Mandí Stream. In response, the FWA stated that the emergency situation warranted the exceptional and temporary restriction of the Pichicha people's property rights over the Mandí Stream. In its decision, the FWA stated that the provisional collection of water from other sources would take at least 5 additional days and would entail building excessively costly pipeline and storage systems, which would serve no purpose after the decontamination of the Pampulla Lagoon.

39. On July 30, 2011 Mr. Ricardo Manuín filed a petition for a constitutional remedy [*amparo*] on behalf of the Pichicha Assembly alleging the violation of several fundamental rights as a result of the encroachment, since June 15, 2011, of areas his people consider sacred. On August 10, 2011 the First Federal Civil Court of Toronga issued an injunction ordering the immediate evacuation of civil defense personnel from the sacred areas of the Pichicha people's territory. On August 15, 2011 the works to decontaminate the Pampulla Lagoon were concluded, and on August 20 the injunction was lifted and the *amparo* action was shelved as moot.

40. Mr. Ricardo Manuín appealed the decision and later filed a constitutional appeal before the Supreme Court of Santa Clara alleging error on the part of the lower court. He sought to obtain a judgment ordering the Government and Silverfield S.A. to pay damages for the irreparable harm caused to sacred sites near the Mandí Stream and, in general, for the breach of the agreements undertaken by the government of Santa Clara during the prior consultation process. The appeals were ruled INADMISSIBLE, on the grounds that the *amparo* action serves the sole purpose of restoring a fundamental right, and is not a suitable mechanism for asserting compensatory claims.

41. The decision ruling the constitutional appeal inadmissible was handed down in November 2011, and in January 2012 Mr. Ricardo Manuín, on the advice of the Human Rights Clinic of the University of Toronga, filed a petition with the Inter-American Commission. The petition alleged the violation of various rights provided for in the American Convention, arising from the lack of judicial protection of the rights to collective property, cultural integrity, and water, to the detriment of the Pichicha people.

Effects on the Orífuna territory in Madruga

42. In May 2007, a delegation of officials from various Departments of the Government Santa Clara held a meeting with Madruga authorities to discuss the Wirikuya mining project. At that meeting, the Santa Clara delegation presented a number of technical studies to offer proof that there was no possibility of directly affecting the territory of any indigenous or tribal people in Madruga. Those studies were later translated into the Orífuna language by Silverfield S.A. and published on the company's website, together with the

announcement of its interest in using the Port of San Blas, located on the Doce River estuary, to export the minerals extracted from Wirikuya.

43. During the May 2007 meeting, the government of Madruga reported that, since 1920, the territory inhabited by the Orífunas communities in northern Madruga had been demarcated into 25 communal landholdings. According to the laws of Madruga, this means that decisions regarding territorial rights must be made by each one of the 25 communal landholdings, rather than by the Orífuna political authority—that is, the Orífuna People’s Assembly.

44. Two weeks after obtaining the exploitation license for the Wirikuya project in the State of Santa Clara, representatives of the Silverfield Company went to the offices of the Orífuna People’s Assembly (OPA) to discuss compensation measures and the payment of royalties for the use of the Port of San Blás. The President of the OPA refused to meet with the company’s representatives and, the following day, the Assembly released a statement that, in pertinent part, read as follows:

The Orífuna people condemn the manner in which the governments of Madruga and Santa Clara, as well as the company Silverfield S.A., plan to carry out the Wirikuya project, without ever having consulted us. This project is just another chapter in the history of oppression, racism, and violence against the Afromadrugan People. In the exercise of our self-determination over our ancestral territory, we irrevocably reject the Wirikuya mining project, as well as the use of the Doce River for the transportation of minerals. From the time our ancestors were able to free themselves from the chains of slavery more than two hundred years ago, our relationship to the Doce River has been based on mutual respect and fraternity. We do not intend to break this spiritual pact with our brother River or with our territory in exchange for the royalties and handouts that Silverfield wishes to offer us.

45. Between March and May 2011, representatives of Silverfield held meetings with the presidents of the 13 communal Orífuna landholdings located throughout the high valley in the Doce River estuary. The purpose of the meetings was to announce the creation of a trust fund for development projects benefitting the Orífuna people. The Orífuna Development Organization (ODO) was created in July 2011, and eventually administered a fund of more than US \$50 million for projects funded by Silverfield, the International Development Agency of Santa Clara, and the Inter-American Development Bank.

46. In August 2011, the presidents of 13 of the 25 communal Orífuna landholdings signed a document agreeing to the Silverfield Company’s use of the Doce River and the Port of San Blas. In view of that development, the President of the Orífuna People’s Assembly, Ms. Catalina Coral, filed a petition for a constitutional remedy [*amparo*] with the Madrugan courts. The petition sought to have the government of Madruga engage in a prior consultation process before any kind of potential negotiation with the government of Santa Clara and Silverfield that could affect the Orífuna territory. Simultaneously, the Human Rights Clinic of the University of Toronga filed an action with the courts of Santa Clara asking for the exploration license for the Wirikuya project to be declared null and void, given that neither the license nor the Social and Environmental Impact Study had been subject to prior consultation with the Orífuna people.

47. In December 2011, the *amparo* action filed in Madrugá was declared INADMISSIBLE in a final judgment handed down by the Supreme Court. As for the action for nullity filed in Santa Clara, in January 2012 the Supreme Court of that country ruled Ms. Catalina Coral's claim UNFOUNDED, underscoring the following:

While it is public knowledge that the Orífuna people meet the requirements provided for in ILO Convention 169 to be considered a tribal people, prior consultation surrounding foreign policy decision-making is not regulated in domestic or international law. In this case, the obligation of the State of Santa Clara was met by notifying the Madrugan authorities of the existence of the Wirikuya mining project.

48. In February 2012, the Human Rights Clinic of Toronga filed a petition against Santa Clara, alleging noncompliance with the obligation to engage in prior consultation with the political authorities of the Orífuna people affected by administrative decisions and bilateral agreements with the government of Madrugá.

V. Processing of the case before the IACHR and its submission to the Inter-American Court

49. In March 2014, the IACHR adopted Admissibility Report No. 20/14, in which it consolidated the three aforementioned petitions against the State of Santa Clara, and initiated the merits phase of the case. In its arguments on the admissibility of the two petitions related to the events that took place in Madrugá, Santa Clara asserted that the IACHR lacked territorial jurisdiction. With regard to the petition alleging the lack of judicial protection of the Pichicha indigenous people from acts occurring within the borders of Santa Clara, the State abstained from making preliminary objections before the IACHR.

50. In that same admissibility report, the IACHR named the Human Rights Clinic of the University of Toronga a joint petitioner on behalf of all of the alleged victims. In October 2015, the IACHR issued Merits Report No. 17/15, approved pursuant to Article 50 of the American Convention. In that report, the IACHR concluded that Santa Clara was responsible for violating the rights enshrined in Articles 4, 5, 16, 17, 8, and 25 of the American Convention, to the detriment of the members of the Camana Osorio family who were murdered in the events of December 12, 1994 and December 10, 2002. The IACHR additionally found the violation of the right provided for in Article 5.1 of the American Convention to the detriment of the immediate relatives of Mr. Edmundo Camana, his wife, and children.

51. With respect to the members of the Pichicha people, the IACHR concluded that Santa Clara was responsible for the violation of the rights enshrined in Articles 5, 8, 21, 25, and 26 of the American Convention. Finally, with regard to the Orífuna people, the IACHR found that Santa Clara was responsible for the violation of the rights contained in Articles 8 and 25 of the American Convention.

52. On November 15, 2015 Santa Clara received notice of the decision on the merits of the case. Three days later, its Foreign Ministry submitted a single-page official letter to the IACHR, stating that Report No. 17/15 was legally groundless, and therefore it would not

comply with any of the recommendations contained therein. In view of this response, on December 5, 2015 the IACHR submitted the case to the Inter-American Court, thereby initiating the processing of this matter by the supranational human rights court.