

TECHNICAL INFORMATION SHEET
CASE N° 12.041 M.M.
FRIENDLY SETTLEMENT REPORT N° 69/14
TOTAL COMPLIANCE
(PERU)

I. SUMMARY OF THE CASE

Victim (s): M.M.

Petitioner (s): Latin-American and Caribbean Committee for the Defense of Women's Rights (CLADEM) and the Center for Reproductive Law and Policy (CRLP)

State: Peru

Report on Friendly Settlement Agreement No.: 69/14 published on July 25, 2014

Related Rappporteurship: Rights of Women

Issues: Humane Treatment/ Judicial Guarantees/ Right to privacy/ Judicial protection/ Sexual violence

Facts: On April 23, 1998, the IACHR received a petition wherein the petitioner indicated that at the time of the events M.M. was a young farmer woman, 22 years of age, and an orphaned. She was the eldest daughter, the head of household, and was responsible for her younger siblings, who she supported with an informal business as a street vendor selling socks. According to the petitioners' allegations, she was the victim of a rape perpetrated by a public official. On January 25, 1996, M.M. went to the Public Hospital Carlos Monge Medrano de Juliaca because she felt intense pain all over her body and especially in her head, as the result of a traffic accident that she had been involved in some months before. The petitioners alleged that M.M. was the victim of a sexual assault committed by a doctor of the Public Hospital Carlos Monge Medrano de Juliaca, and for failures attributable to the State of Peru in the investigation and punishment of those responsible.

Rights Alleged: The petition alleged the international responsibility of the State for violation of Articles 1.1, 5 (right to humane treatment), 8.1 (right to a fair trial), 11 (right to privacy) and 25 (right to judicial protection) of the American Convention on Human Rights. Additionally, the petitioners alleged violations of Articles 3, 4, 7, 8 and 9 of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (Convention of Belém do Para), and Articles 1 and 12.1 of the Convention on Elimination of all Forms of Discrimination Against Women (CEDAW), to the detriment of M.M.

II. PROCEDURAL ACTIVITY

1. On March 6, 2000, the parties signed a Friendly Settlement Agreement.
2. On July 25, 2014, the IACHR approved the Friendly Settlement Agreement signed by the parties in Report No.69/14.

III. ANALYSIS OF COMPLIANCE WITH THE CLAUSES OF FRIENDLY SETTLEMENT AGREEMENT

Agreement Clause	Status of Compliance
According to the agreement entered into by the parties, THE STATE, in order to remedy the moral and material harm caused to M.M., hereby commits to the following:	
1. Notwithstanding other actions that may be appropriate under criminal law, the President of the Council of Ministers and the Minister for Women shall inform the Peruvian Medical Association of the conduct of Dr. Gerardo Salmón Horna, so that this Association, in accordance with the law, approved under Supreme Decree N° 00101-69-SA, may proceed to apply the appropriate penalties.	Total¹
2. The Ministry for the Promotion of Women and Human Development (hereinafter "PROMUDEH") shall be charged with M.M.'s new relocation to Arequipa and her initial lodging in optimal living conditions in a home provided by Arequipa Public Welfare Services [<i>Beneficencia Pública de Arequipa</i>] for this purpose.	Total²
3. The Commission for the Legalization of Informal Property [<i>Comisión de Formalización de la Propiedad Informal</i>] (hereinafter "COFOPRI") shall legalize, as soon as possible, the property registration of the land occupied by M.M. in the city of Arequipa in the Pueblo Joven A.U.I.S. Juan XXIII. The Commission shall also guide and help her so that she may have access to the greatest possible benefits that she may reap from the exercise of her property rights over this land.	Total³
4. The Bank of Materials shall provide social assistance to M.M., providing her the materials and support required to build a home that shall have two (5) (sic) rooms and a family area made of quality construction materials and corrugated zinc whose referential cost is approximately S/. 6,000.00 (six thousand and 00/100 nuevos soles), at no cost to her.	Total⁴
5. The Ministry of Health shall provide M.M. with free outpatient medical care at the Honorio Delgado Hospital, in the city of Arequipa, for the health problems caused by the events that are the subject of the petition and have already been diagnosed by the aforementioned Ministry.	Total⁵
6. PROMUDEH shall convey M.M. ownership of a vendor's stand at the Market "Siglo XXI" in the city of Arequipa. The transfer of this stand's ownership shall be done as soon as possible in keeping with the legislation in this matter, taking into consideration the necessary legal mechanisms to complete this transfer of ownership. While the respective process is being carried out, PROMUDEH will grant her use of the property without payment of any consideration in exchange.	Total⁶
7. PROMUDEH will provide M.M. with merchandise worth S/. 1.000.00 (one thousand and 00/100 nuevos soles) consisting of socks and underwear so she may begin conducting her activity as a merchant in the aforementioned market.	Total⁷
8. THE STATE shall create a Monitoring Committee consisting of representatives of THE STATE and the PETITIONERS for the purposes of verifying compliance with the	Total⁸

¹ See IACHR, Report No.69/14, Case 12.041, Friendly Settlement, M.M., Peru, July 25, 2014.

² See IACHR, Report No.69/14, Case 12.041, Friendly Settlement, M.M., Peru, July 25, 2014.

³ See IACHR, Report No.69/14, Case 12.041, Friendly Settlement, M.M., Peru, July 25, 2014.

⁴ See IACHR, Report No.69/14, Case 12.041, Friendly Settlement, M.M., Peru, July 25, 2014.

⁵ See IACHR, Report No.69/14, Case 12.041, Friendly Settlement, M.M., Peru, July 25, 2014.

⁶ See IACHR, Report No.69/14, Case 12.041, Friendly Settlement, M.M., Peru, July 25, 2014.

⁷ See IACHR, Report No.69/14, Case 12.041, Friendly Settlement, M.M., Peru, July 25, 2014.

⁸ See IACHR, Report No.69/14, Case 12.041, Friendly Settlement, M.M., Peru, July 25, 2014.

<p>commitments that are the subject of this agreement. THE STATE also proposes to conduct follow up of the regulatory reforms provided for in the PETITIONERS' draft of the friendly settlement agreement and to implement specialized services to provide treatment for victims of sexual violence nation wise.</p> <p>Regarding this point, the petitioners propose that this Commission consider on its agenda the implementation of these services in the cities of Lima, Puno and Arequipa. Said Commission will have a duration of six months, extendable in case of being necessary, and will submit bimonthly reports to the IACHR on matters of its competence.</p>	
<p>Memorandum of Commitments of March 26, 2014</p>	
<p>The Peruvian State has undertaken to formalize Agreement 11/2014 adopted by the AMAG Board of Directors on March 14 of that year through a Resolution that will modify the Regulations and introduce gender training into the curriculum of the basic and specialized training programs aimed at judges and prosecutors.</p>	<p>Total⁹</p>
<p>Likewise, the Peruvian State has undertaken that said Resolution will be issued as from Thursday, April 3, 2014.</p>	<p>Total¹⁰</p>
<p>The co-petitioners have agreed to finalize the Friendly Settlement Agreement in case 12.041, provided that the Peruvian State fulfills points 1 and 2 of this memorandum, whereby the Peruvian State would have complied with the Memorandum of Understanding of November 3, 2012.</p>	<p>Total¹¹</p>

IV. LEVEL OF COMPLIANCE OF THE CASE

3. The Commission declared total compliance with the case and ceased monitoring the friendly settlement agreement in Report No.69/14.

V. INDIVIDUAL AND STRUCTURAL OUTCOMES OF THE CASE

A. Individual outcomes of the case:

- The State conveyed a property in favor of the victim through the public charity of Arequipa.
- The State transferred possession and title to a 187.40 square meter plot of land and indicated its location within the department of Arequipa.
- The State provided free psychological assistance to the victim, at the Honorio Delgado Hospital in Arequipa
- The State provided materials and support required for the construction of a dwelling.
- The State provided the ownership of a sales stall in the Teresita III Central Market in the city of Arequipa.
- The State granted merchandise to the value of 1,000 soles.

⁹ See IACHR, Report No.69/14, Case 12.041, Friendly Settlement, M.M., Peru, July 25, 2014.

¹⁰ See IACHR, Report No.69/14, Case 12.041, Friendly Settlement, M.M., Peru, July 25, 2014.

¹¹ See IACHR, Report No.69/14, Case 12.041, Friendly Settlement, M.M., Peru, July 25, 2014.

B. Structural outcomes of the case:

- The Ministry of Health imposed the appropriate administrative sanctions on Doctor Gerardo Salmón Horna. Likewise, he was expelled from the Medical Association of Peru by resolution of the Executive Committee in December 2001. In 2008, the doctor was definitively suspended from the provision of health services.
- The Board of Directors of the School of Magistrates issued Administrative Resolution No. 03-201-AMAG-CD, on March 31, 2014, adopting its new training regime including courses, workshops and seminars on gender and justice.
- A Legal Guide for Doctors for the Comprehensive Evaluation of Alleged Victims of Crimes Against Sexual Freedom was adopted by the members of a Monitoring Commission.