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**American University Washington College of Law**

2026 Inter-American Human Rights Moot Court Competition

Hypothetical Case: The Right to Protest Under International Human Rights Law: Legal Protection and Challenges Ahead

**Diego Martin v. Republic of Oropel**

**A. The Republic of Oropel**

1. The Republic of Oropel is a South American country with a coastline on the Caribbean Sea. It covers an area of 295,068 km<sup>2</sup>, has 23,418,000 inhabitants, and ranks 123rd on the Human Development Index—a “high” ranking according to United Nations terminology. Its capital and economic hub is the city of Madrigal. Caracolí is the country’s second-largest city.

2. On November 22, 1969, the Republic of Oropel was one of the first countries to sign the American Convention on Human Rights (ACHR). On September 25, 1979, it deposited its instrument of ratification, thereby recognizing the jurisdiction of the Inter-American Court of Human Rights under Article 62 of the ACHR. Oropel is a state party to all inter-American treaties currently in force.

3. The Republic of Oropel is considered one of the oldest and most stable democracies in the Americas. Oropel became an independent country in 1817 and abolished slavery in its first Constitution, adopted that same year. Universal suffrage was enshrined in the 1927 Constitution. Oropel adopted its current model of elections by secret ballot, supervised by a National Electoral Court, in its third Constitution of 1967; this model was left unchanged in Oropel’s fourth Constitution, which was adopted in 1999 and remains in effect to this day. Historically, the presidency of the republic alternated between the Revolutionary Party and the Popular Party, associated, respectively, with the political and economic elites of the cities of Madrigal and Caracolí.

4. The stability of this democratic model meant that Oropel was unaffected by the civil wars and dictatorships endured by neighboring countries in the 1970s and 1980s. The neighboring country of Tinselândia, then ruled by a military junta, carried out military and intelligence operations to influence Oropel’s domestic politics. Following the discovery of this operation in 1983, civil society in Oropel organized the “March Against Foreign Intervention,” which remains one of the largest protests in the country’s history. Although relations between Oropel and Tinselândia normalized with the return to democracy in Tinselândia, opposition to foreign intervention remains an important historical legacy in Oropelian politics, to the extent that the national motto is “Oropel belongs to its people.”



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5. Despite its institutional stability, the Republic of Oropel is considered by the World Bank to be one of the 20 most unequal countries in the world. Wealth is concentrated in the hands of a small percentage of the population, and the middle class is small. Furthermore, due to its geographical location, much of the country is highly vulnerable to natural disasters. Over the past 50 years, Oropel has been hit by nearly 20 serious meteorological and hydrological disasters, affecting thousands of people. Although the country has a national disaster prevention and response system and a well-developed early warning mechanism, hurricanes and floods over the years have claimed thousands of lives and left thousands of people displaced, homeless, and in extremely vulnerable conditions. For this reason, humanitarian organizations have historically been a major presence in the country, supplementing the state institutions' insufficient efforts to address this issue.

**B. Legal framework**

- *Legal framework*

6. The constitutional framework of the Republic of Oropel recognizes a broad catalog of fundamental rights and freedoms. Article 14 of the 1999 Constitution guarantees *“the right of every person to freely express their thoughts, opinions, and ideas, through any means of communication, without prior censorship.”* Article 15 further provides that, *“Press and media freedom shall be exercised in accordance with democratic values and respect for the rights of others.”* However, the Constitution allows the State to restrict freedom of expression by law when there is a *“specific threat to national security, public order, public health, or public morals.”*

7. The right of assembly and peaceful demonstration is recognized in Article 21 of the Constitution, which states: *“Citizens have the right to assemble, demonstrate, and protest peacefully, without weapons and free from restrictions other than those established by law.”* The Public Order Act (Decree No. 56/2010) regulates this right and requires that notice of any public demonstration involving more than 50 people be given to the relevant municipal authority at least 48 hours in advance. The same law authorizes law enforcement authorities to disperse gatherings *“that disrupt traffic, prevent access to essential services, or are considered violent.”*

8. In recent years, civil society organizations have complained that this law has been enforced in a restrictive and discretionary manner, to the extent that some local authorities interpret the prior notice requirement as a form of authorization that unduly restricts the right to protest. The Office of the Ombudsperson of Oropel has issued several reports recommending that the law be revised to ensure its compatibility with international standards on this right.

- *OroSpace and Law 1234*

9. According to World Bank estimates, 85% of Oropel's population uses the internet, which is one of the highest rates in the region. According to surveys conducted by research institutes, 61% of people in Oropel “frequently” use social media as a source of information, and only 24%



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of users said they believe that disinformation and political polarization negatively affect the information they receive through social media. The widespread use of social media is perceived to be a catalyst for intense political polarization in Oropel.

10. The most popular social network in Oropel is *OroSpace*, owned by investor Rosa Robles. After becoming the fifth-richest person in Oropel, Rosa Robles began using a significant portion of her fortune to finance social projects in the country. Her best-known initiatives include large-scale food distribution to vulnerable people, the free distribution and delivery of contraceptives, and support for people affected by natural disasters. In the 2010s, with the emergence of large-scale, far-reaching social networks, Robles financed the creation of *OroSpace* through her company *Neta* as a text and image-based network with features that set it apart from other networks.

11. The company *Neta*, which controls the social network *Oro Space*, issues a weekly newsletter to all platform users that summarizes important current events in Oropel and around the world. It is based on posts on the network and contains links to the original posts. Special editions of the newsletter are sent out when *Neta* considers the situation to be of particular social relevance. These often contain political and social statements by the company and by Rosa Robles personally.

### - *The Aliens Act*

12. The Aliens and Migration Act (Law 455 of 2005) regulates the stay of foreign nationals in Oropelian territory. Article 22 establishes that the Ministry of the Interior may revoke or cancel a residence or work visa “*when the alien engages in activities incompatible with the purposes stated in their visa application or that threaten public order.*” Article 23 provides that an administrative decision to cancel a visa “*may be subject, at the discretion of the immigration official, to summary review*” by the same authority that issued the decision, without any stay of its effects while the proceedings are ongoing. Various international organizations, including the Regional Office of the United Nations High Commissioner for Human Rights and the NGO Doctors Without Borders, as well as local human rights organizations, challenged this law. They argued that it failed to ensure effective judicial remedies or the right to a defense prior to expulsion or visa cancellation, especially in the case of human rights defenders and humanitarian workers.

13. In 2015, following observations made by the Office of the Ombudsperson and the Regional Office of the United Nations High Commissioner for Human Rights, the National Congress passed a partial amendment to Law 455 of 2005. The amendment specified that decisions to revoke or cancel visas must be based on express, objective, and proportionate grounds and may only be taken when sufficient evidence exists to show that the foreign national has engaged in illegal activities or poses a real and demonstrable threat to public order or national security.

14. In addition, the new Article 23-A provides that any person affected by a visa revocation or cancellation measure may appeal that decision to an administrative disputes court, with



guarantees of their right to a defense, and may request a stay of the measure for the duration of the judicial proceedings.

### C. Political context and the enactment of Law 1234 on Public Communications

15. After 62 years of alternating power between the Popular and Revolutionary parties in the presidency, the period leading up to the 2012 presidential election was marked by deep popular discontent with the conventional political class. A year before the election, the independent newspaper *Vale Verde*, one of the first media outlets to use the *OroSpace* network, published a special editorial entitled “*The President’s Golden Guitar.*” This article reported on an investigation into corrupt acts committed by then-President Virgilio Marcos and suggested that the leaders of the Popular and Revolutionary parties had made agreements to allocate public resources to the party that lost the presidential election in order to maintain the concentration of power. In this context, the leader of the opposition to Virgilio Marcos in the National Congress presented him with a golden guitar, as noted in the title of the article.

16. This news sparked a wave of outrage in Oropelian society, especially after criminal defamation and slander charges were brought against Julia Florida, the editor-in-chief of *Vale Verde*. In this connection, Rosa Robles published a special bulletin on *OroSpace* urging grassroots organizations to organize mass protests in Madrigal in defense of press freedom and against the cover-up of corruption. Her post attracted the attention of many users, leading to a spike in new subscriptions. As a result, *OroSpace* went from being the sixth-most-used social network in Oropel to the most used, ranking first in engagements, users, and downloads on cell phones nationwide—all due to popular support for the protests.

17. One of the main leaders of the protest movement, with more than 6 million followers on *OroSpace*, was Pantaleón Bonifacio. Pantaleón founded the Odeón Party in 2012 and ran as a candidate in that year’s presidential elections. His platform of political renewal, anti-corruption, and respect for freedom of the press stood in contrast to the positions of then-President Virgilio Marcos, which many perceived as repressive. The Odeón Party quickly became the party with the most members in Oropel, and Pantaleón Bonifacio was elected with 63.7% of the votes in the first round.

18. President Bonifacio was re-elected in 2016 for another four-year term. However, in the last year of his first term, allegations of corruption arose against him and his party. During his second term, accusations of nepotism, media manipulation, and attacks on critical press outlets intensified, significantly undermining his popularity. These accusations did not generally result in effective penalties against the president or individuals in his inner circle, either due to a lack of evidence or procedural errors in the conduct of investigations. To his critics, this demonstrates the president’s political strength and his deep alliances with other spheres of power. For his supporters, it is proof that the corruption allegations are unfounded and that the president has been the target of a smear campaign.



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19. President Bonifacio is a lightning rod for strong divisions: While a significant portion of the population considers him a “pragmatic reformer,” another sector accuses him of eroding judicial independence and promoting hostile rhetoric toward civil society organizations and independent media, and of having gained the presidency by engaging in the same bad practices he had criticized in the past. Tensions between the government and critical actors (including journalists, activists, and international organizations) escalated significantly in this context.

- *Presidential Directive No. 01/2016*

20. In an increasingly polarized political environment and amid recurring tensions between the government and the media, President Pantaleón Bonifacio issued Presidential Directive No. 01/2016 on Institutional Communications, Media, and Freedom of Expression, in order to establish guiding principles for the relationship between the State and the media. The directive stipulates that public entities must ensure respect for the editorial autonomy and freedom of opinion of the media organizations hired to disseminate institutional information, and that no authority may cancel or modify contracts based on the content of the opinions expressed by such persons, except when a final court ruling determines that such opinions constitute direct incitement to violence or hatred. It also establishes that public servants must refrain from making statements that could undermine media pluralism or stigmatize media professionals, journalists, or content creators. The National Public Communications Office, attached to the Ministry of the Interior, is responsible for implementing this directive.

- *Law 1234 on Public Communications*

21. In January 2017, noting that his approval ratings were at a historic low, the president sent a bill he had authored to the National Congress, which was passed as Law 1234, known as the Public Communications Act. This law established rules for the hiring of influencers by the communications offices of various state agencies. Under the law, these contracts must be paid for with funds already allocated by each agency for public communications. The law also provides that communications offices may directly hire influencers without a public call for bids, as the usefulness of the service provided would depend on an assessment of the audience and reach of each person hired. The law states that, “In keeping with the right to freedom of expression of contracted individuals, state entities may not use threats or the effective restriction of future contracts as a means of exercising editorial control over published content.”

22. President Bonifacio publicly stated that this law was a follow-up to the Republic of Oropel’s international commitments on freedom of the press. According to the president, influencers are important players in contemporary media. He asserted that, because they are not part of the mainstream media, the government’s promotion of influencers was a way to encourage media plurality, in line with the State’s international commitments.



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23. Following the enactment of Law 1234, the official *OroSpace* account of the presidency began posting videos featuring influencer Nicole Larin presenting information on public policies adopted by the government. Her hiring was criticized by the newspaper *Vale Verde*, in an article by Julia Florida, who stated: “*Since no one who follows ethical journalism standards wants to propagandize for this man, our taxes now pay for a bunch of court jesters.*”

24. The circulation of political information through influencers, some of whom are funded by government resources under Law 1234 on Public Communications, has been the subject of intense legal and ethical debate. Digital rights organizations cautioned that this law blurs the line between institutional communications and political propaganda, creating conflicts of interest between the State and private actors with far-reaching influence over public opinion. However, the Constitutional Court of Oropel upheld the law’s constitutionality, ruling that the hiring of influencers can enable the dissemination of government information online and that it was a legitimate use of public funds in pursuit of government objectives. It also ruled that, in any case, the government must comply with the legal requirements and funding limits.

**D. Diego Martin and the protests**

25. Diego Martin is a doctor from Tinselândia who has been working in Oropel for more than two decades with *International Humanitarian Watch*, an international non-profit organization based in Geneva that provides humanitarian assistance in areas at high risk of natural disasters or with significant percentages of the population living below the poverty line. Before joining *International Humanitarian Watch*, Diego Martin worked as a consultant for the Ministry of Health of the government of Tinselândia. Although there are no reports of his direct cooperation with that State in the past 15 years, Diego Martin is still named as a “special consultant” on some lists of individuals involved with the Ministry of Health.

26. Through his work with vulnerable sectors of society, Diego Martin became increasingly involved in community social movements. This led him, along with others, to become one of the people most closely associated with the *Aurora Movement*. This movement is described as an association that brings together leaders from countries across the Americas to exchange information and organize social protests aimed at defending the fundamental rights of the most marginalized sectors of society.

27. The *Aurora Movement* is widely recognized as the driving force behind peaceful protests against corruption and public transportation fare hikes in Oropel’s neighboring countries, given the involvement of protesters wearing orange armbands, the group’s symbol. The group gained notoriety in the region after organizing student protests in Jalón, the capital of Tinselândia, to demand an end to austerity measures, which resulted in intense confrontations between students and police. Although the movement describes itself as “decentralized” and there are no formal leadership positions, Diego Martin is frequently mentioned in the coverage of such protests as one of the group’s main leaders, due to his perceived influence among those who call for protests.



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28. In April 2018, a particularly devastating hurricane swept through Oropel, affecting much of the country and leaving more than 10,000 people homeless. A January 2019 report in the newspaper *Vale Verde* revealed that a sizeable portion of the international humanitarian aid funds donated by European governments and international organizations to the State, equivalent to US\$5 million, were diverted to several individuals close to President Bonifacio. The report and subsequent information made public revealed that reconstruction funds were prioritized for repairing roads around the properties and land of President Bonifacio’s family and other prominent leaders of the ruling party, rather than the most affected rural areas of the country, which, at the time of reporting, remained cut off after the hurricane.

29. These revelations triggered a public outcry in Oropel, and the *Aurora Movement* called on people to take to the streets to protest corruption and demand legislation on transparency in public spending. Diego Martin was one of the first spokespeople for the Movement to call for nationwide protests, both on social media and in media interviews.

30. An initial peaceful march took place on June 27, 2019, with a massive turnout in Oropel’s main cities. Following this first protest, *OroSpace* sent a note to all users, encouraging them to participate in future protests organized by Diego Martin. The note was signed by Rosa Robles and stated that the protests were an opportunity for “*all people to make themselves heard,*” “*draw the attention of the political elite,*” and “*demand the immediate resignation of President Pantaleón Bonifacio.*” Public data from the platform estimates that this was the most-read article in the history of *OroSpace*, surpassing the historic 2012 article. User reactions were mostly positive, with comments expressing approval of the “protests demanding President Bonifacio’s resignation,” and the hashtags #PantaleónLinedHisPockets, #PantaleónRobbedUs, and #GetOutNowPantaleon went viral. This time, the *Aurora Movement* also created a communication channel on the platform *Telegraph*, known for its robust cryptographic protocols and protections for user anonymity.

31. Using his high national profile, Diego Martin called for a new round of protests through *OroSpace* on July 27, 2019. Martin linked this call to action to his cause, but also included a general call for “everyone to make their voices heard.” The post received many comments highlighting the need for the president to resign and mentioning Rosa Robles’s article. One of the comments that received the most engagement stated, “*If Pantaleón does not resign, the people will remove him by force.*” The official account of the *Aurora Movement* appears among the 415 users who chose the “*How cool!*” reaction, one of the reaction buttons available on this platform.

32. On the same date, the *Aurora Movement*’s official *OroSpace* account reposted a “*Manual to Explode the System,*” signed with the pseudonym Paulo Gandolpho. This document begins with a political manifesto asserting the need to “*achieve the necessary changes by any means possible and at any cost.*” The Manual then provides instructions for organizing social protests, stating that “*protests should seek to be as disruptive as possible*” and “*target all actors complicit with hegemonic power, including the business sector.*” It suggests that people should “loot the premises” of a specific list of retail chains whose owners are perceived as close to the ruling party



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because of their past campaign contributions. The Manual also suggests that all participants in a protest carry an umbrella for protection against tear gas and states that, “*An umbrella with a sharp tip is an effective weapon against law enforcement.*” The Manual was removed from *OroSpace* for violating its user policies, based on a content moderation decision finding that it “encourages violence and lawlessness.” However, the Manual is still available on the *Aurora Movement’s Telegraph* channel.

33. On the second day of nationwide mass protests called by Diego Martin from the capital Madrigal, millions of people across the country took to the main downtown streets of Oropel’s major cities. Most of the protests were peaceful. In Caracolí, the country’s second most important city, the National Police reported the seizure of “200 umbrellas with sharp objects attached to their tips” and that protesters had injured 13 police officers with these objects, including one officer who may have lost an eye.

34. Diego Martin was physically present at the protest organized in the San Vicente neighborhood of Madrigal, standing atop a truck equipped with loudspeakers. Wearing an orange armband and accompanied by other figures associated with the *Aurora Movement*, Diego instructed the protesters to chant anti-corruption slogans. One of the things that drew the loudest applause from the crowd was when Diego Martin declared that “Oropel does not accept corrupt presidents, and we are showing the president that we have the strength to remove him.” A few times, law enforcement clashed with protesters, causing some protesters to fall and leading to verbal exchanges. There were no formal reports of injuries among protesters or law enforcement officers.

35. This protest was organized five kilometers from the Green House, the presidential palace in Oropel. According to a statement released by the Presidential Guard, ten people were arrested for attempting to force their way into the presidential palace. The Guard stated that these individuals were wearing orange armbands and that five knives and a firearm were confiscated. According to the Guard’s spokesperson, the individuals who attempted to break in shouted that “*they had come to remove the president,*” and, once arrested, they all identified themselves as “Paulo Gandolpho,” leading the Guard to take steps to determine their true identities.

36. According to official government data, 43 establishments were looted, 29 of which were listed in the Manual as “establishments complicit with the system.” It was also reported that groups of protesters in Caracolí had completely blocked all roads leading in and out of the city, and that many of the protesters were wearing orange armbands and T-shirts with the *Aurora Movement* logo.

37. Roadblocks in Caracolí remained in place from July 27 to August 3, 2019, on all four urban access roads. After the first three days, the city’s supermarkets began to run out of stock. On July 31, an ambulance transporting Ms. Mariana Carmona, a high-risk patient who needed to be treated at a specialized hospital in the capital, was stopped in Caracolí by groups of protesters who were



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holding permanent resistance posts and blocking access roads. Despite repeated attempts by medical personnel and police officers to negotiate, the vehicle was not allowed to pass. According to an interview with the ambulance driver, the protesters claimed that if the patient's condition was critical, the government should provide a helicopter or light aircraft to transport her from Caracolí to Madrigal. The patient's health status became critical, and she died before receiving specialized care.

38. In response, and to reopen the roads to traffic, the government deployed the National Guard to Caracolí. The soldiers gathered around the protesters and gradually narrowed the space available to them until they were confined to a single avenue in the city. The protesters claim that this containment was in place for hours, resulting in excessive crowding and preventing people from having normal access to water, food, or restrooms. The *Aurora Movement's OroSpace* account claimed that many protesters had difficulty breathing due to overcrowding, which caused at least 20 protesters to faint.

39. When questioned by the press, the official National Guard spokesperson stated that the troops took the necessary measures to prevent violence and possible accidents, and that this was required to ensure that protesters were not injured by highway traffic. The statement also indicated that, "*The serious consequences of this blockade, including the tragic death of Ms. Mariana Carmona, demonstrate the importance of ensuring that traffic can circulate normally,*" and that "*Respect for protests does not mean allowing any kind of strategy.*" The spokesperson also stated that the security forces had water and food supplies for the protesters, but that the need for prolonged containment, as well as the larger-than-expected turnout, made those supplies insufficient.

40. At the same time that the operation to regain control of the roads in Caracolí began, influencer Nicole Larin posted a video on her private *OroSpace* account, titled "AURORA - ENEMIES OF THE NATION?" In this video, posted on August 3, 2019, Nicole Larin stated:

*"They want to destroy the country with these protests. Under the leadership of Diego Martin, the Tinselandian agent here on a special visa, they want to create chaos and serve foreign interests. And here I will say what the president cannot say: those people are enemies of the country, enemies of the nation. All of us who are patriots must send a very clear message to this foreign scum, showing them that we have had enough of their destruction and lies. Today, Mr. Diego Martin is more of a terrorist than a social leader; I say this without fear. The accusations made by this man, by Vale Verde, are all lies, and soon everyone will know it. The documents have been tampered with. Oropel can never forget that Tinselandia interfered in our internal affairs in order to destroy democracy. Nearly 50 years later, we have another guy from Tinselandia leading violent movements, and I wonder, who decides the future of Oropel? A foreigner? A Tinselandian? Oropel needs to wake up. Now they've sent their spy Diego Martin here. Whoever puts an end to this wave of destruction driven by the Aurora Movement is a hero. Diego Martin must be*



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*neutralized. And we must also show those idiots at Vale Verde which side the people are on. The future of Oropel is decided by the people of Oropel.”*

41. After that statement, some media outlets considered to be aligned with President Bonifacio began publishing deeply critical articles about Diego Martin and other leaders of the *Aurora Movement*, with headlines such as “THE LEADERS OF THE AURORA MOVEMENT AND THEIR DARK INTERESTS” or “THE TRUE FACE OF DIEGO MARTIN.” These media outlets began to speculate about possible ties between Diego Martin and foreign governments, especially Tinselândia’s. Some journalists labeled him a “spy” or “infiltrator.” The second-most widely read newspaper in Oropel, *Río Ancho*, published an article compiling these accusations in a descriptive tone, noting that there was no evidence for many of the allegations. However, given the historical tradition of opposition to foreign intervention in Oropelian society, the article’s popularity meant that the accusations—while made by media outlets with smaller audiences—reached a wide swath of the country. Diego Martin published a note on his *OroSpace* page stating that “*The media outlet that receives the most money from the government has written an article branding me a spy, as if it were enough to say that this has not been proven.*” In this note, he also mentions the attempted storming of the presidential Green House, stating that:

*“Of course, I am not in favor of killing the president, and those people have nothing to do with me. But I understand that this is coming from a people who are fed up with so much corruption and so many lies. And in this, we are on the same side, the side of the people who want a better Oropel, an Oropel of the people and for the people, not for the elites.”*

42. A few days after this note was published, the *OroSpace* account “Captain Odeón,” known for its radical content, published Diego Martin’s place of residence and personal phone number. The account claims that this information was obtained from public sources, including old posts by Diego Martin and his relatives. This publication resulted in harassment, death threats, and people stalking him around his home, to the point that on August 7, 2019, two hooded individuals physically assaulted him as he was returning home, causing him temporary physical injuries.

43. Following reports of violence against Diego Martin, questions arose in Oropel about the connection between the attack and comments made by influencer Nicole Larin, with public allegations that Nicole Larin had a direct influence on the events and that Diego Martin had been falsely accused of being a spy simply because he was a social activist from Tinselândia. The commentary also questioned Nicole Larin’s continued involvement in projects with the presidency, maintaining that the State could not finance someone who incited violence against political opponents.

44. On August 9, 2019, President Pantaleón Bonifacio issued a statement condemning the acts of violence against Diego Martin and comparing them to the attempts on his own life. The president stated that all participants in public discourse must ensure peace, regardless of their



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political convictions. President Pantaleón also said he was “*deeply concerned*” about the possibility that influential figures in the public arena could use their platforms to incite acts such as the storming of the Green House, stressing that “*the competent authorities need to investigate these events.*”

45. When asked at a press conference whether he would cancel the government’s contracts with Nicole Larin, President Bonifacio stated that he did not agree with what the influencer said in her video, but that she had done it in the exercise of her freedom of expression. According to President Bonifacio, everyone in Oropel had been profoundly affected by the protests, so it was to be expected that some people would have strong opinions against them. President Bonifacio also stated that he could not cancel the contracts with Nicole Larin, as this would involve using the powers of the presidency to exert editorial control over the press, which is prohibited by Presidential Directive 01/2016. For her part, Nicole Larin published a note on *OroSpace* expressing her regret over the violence against Diego Martin.

46. On August 12, 2019, Diego Martin brought a civil suit against President Bonifacio, seeking compensation in the amount of US\$100,000 for damage to his reputation and for the harm suffered due to the president’s acquiescence. On August 15, 2019, the Third Civil Court of Madrigal dismissed his claim *in limine*, invoking Article 171 of the Constitution of Oropel, which grants the president civil immunity for official acts during his term of office, not subject to ordinary appeal. In fact, Article 171 of the Constitution establishes that the president can only be tried during his term of office at the initiative of the National Congress. At the same time, Diego Martin filed a criminal complaint against Nicole Larin for defamation, based on the incitement of violence, discrimination on grounds of national origin, and bodily injury resulting from the attack by the two masked individuals. On August 22, 2019, the Public Prosecutor’s Office closed the case, finding that “the statutory requirements for criminal liability were not met,” and saying that “the statements were not intended to offend or incite violence, but rather to comment on highly relevant issues.” These decisions cannot be appealed.

47. At the same time, on August 30, 2019, the Public Prosecutor’s Office charged Diego Martin with the offenses of “public incitement to commit crimes” and “disturbing public order” (Articles 280 and 282 of the Criminal Code), in connection with the events that took place in Caracolí, as well as the offenses of “sedition” and “attack against authority”<sup>1</sup> (Articles 296 and 302 of the Criminal Code) for his role in calling for and leading demonstrations nationwide, including the storming of the Green House.

### E. Revocation of Diego Martin’s visa

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<sup>1</sup> Both crimes are under the Criminal Code’s Chapter X, on “Crimes against Public Authority.” As such, the crime of “attack against authority” does not mean specifically bodily harm, but acts that go against public authorities’ ability to carry out their mandate.



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48. On August 25, 2019, the National Immigration Office notified Diego Martin that his humanitarian worker visa had been canceled with immediate effect for “carrying out activities that are incompatible with the purposes of the visa and threaten public order.” On August 26, 2019, Diego Martin filed a summary appeal for review of that administrative decision to revoke his visa, but it was upheld five days later.

49. Upon confirmation of the revocation of his visa by the National Immigration Office on September 3, 2019, Diego Martin filed an administrative appeal with the Madrigal Administrative Disputes Court, under Article 23-A of the Aliens and Migration Act. In his lawsuit, he argued that the measure taken by the National Immigration Office lacked any factual or legal basis and violated his due process rights and his right to a defense. He contended that his involvement in public activities and peaceful protests did not constitute a real or demonstrable threat to public order, and that the immediate cancellation of his visa amounted, in practice, to a punishment for exercising rights recognized in both the Constitution of Oropel and the American Convention on Human Rights.

50. On September 10, 2019, the Administrative Disputes Court admitted the appeal. Still, it denied the request for a temporary stay of the effects of the measure, finding that Article 23-A only provided for a stay “when there are reasonable indications of manifest arbitrariness,” which, in the court’s opinion, was not the case with Diego Martin, since the National Immigration Office had presented well-articulated arguments supporting the visa revocation. Consequently, the visa was revoked immediately, and he was ordered to leave the country within 72 hours.

51. The same day, September 10, 2019, Diego Martin’s defense counsel filed an extraordinary appeal with the Constitutional Court, arguing that the immediate enforcement of the measure violated his fundamental rights and was disproportionate. However, on September 12, 2019, the Constitutional Court of Oropel ruled the appeal inadmissible, finding that the administrative litigation had not yet been concluded and, therefore, that there was no “final decision” subject to constitutional review.

52. Two days later, National Police officers arrived at Diego Martin’s residence and escorted him to Madrigal International Airport, where he was put on a flight to Jalón, the capital of Tinselandia.

53. The administrative litigation continued in his absence. Six months later, the Administrative Disputes Court issued a ruling affirming the legality of the visa revocation, holding that “*engaging in political activities, even if peaceful, exceeds the purposes of a humanitarian visa,*” and that “*the immigration authority acted within the reasonable margin of appreciation granted to it by law.*”

#### **F. The trial concerning the protests**



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54. Through the random process used in Oropel’s Judicial Branch, Diego Martin’s trial was assigned to Judge Elena Leon. Diego Martin’s defense counsel filed a motion for the judge’s recusal, based on Article 311 of the Oropelian Code of Criminal Procedure. This article provides that judges with a “*manifest interest or prejudice regarding the outcome of the case*” must recuse themselves, and allows the parties to file a request to this effect.

55. Diego Martin’s lawyer, André de Zapata, called a press conference to explain the reasons for this request. Among the arguments and evidence presented was Judge Elena León’s membership card in the Odeón Party, the ruling party. He also cited Judge León’s doctoral thesis, in which she argued that the proportionality test for determining permissible restrictions on freedom of expression would not apply to the right to freedom of assembly. According to the judge’s thesis, social protests that disrupt other fundamental rights should be restricted; they do not warrant a heightened level of protection, given the risk of undermining other rights affected by the disruptions caused by protests. Lastly, the lawyer submitted a list of newspaper articles proving that Judge León served on the board of directors of one of Rosa Robles’ social projects for ten consecutive years, alongside Paloma Bonifacio, the youngest daughter of President Pantaleón Bonifacio. For all these reasons, the appearance of impartiality would be lacking in the case, and the judge was required to recuse herself.

56. In response, Judge León submitted an official statement to the court from the Odeón Party showing the cancellation of her party membership eight months before she took office as a judge, and noting that she had never been a candidate for elected office. Regarding the other accusations, the judge stated that she did not view them as conflicts of interest because they were merely academic opinions and that she should continue hearing the case. The Recusal Chamber of the Superior Criminal Court dismissed the motion for recusal. In its decision, the Chamber held that Elena León’s former party affiliation was not indicative of bias, but rather reflected the regular exercise of her political rights before she became a judge. Furthermore, neither the thesis nor the honorary position constituted a direct interest in the case on the judge’s part. The Court did not rule on the allegation of a lack of appearance of impartiality.

57. In her judgment of February 20, 2021, Judge Elena León found that the *Aurora Movement* demonstrations were proven to have been organized and led by Diego Martin, and that the violent events in Caracolí—including the death of Ms. Carmona, the patient who could not be transported—were a direct consequence of his call to protest.

58. Judge León cited the Rabat Plan of Action, maintaining that although political speech enjoys enhanced protection, it can be legitimately restricted when it incites violence or jeopardizes national security. She indicated that, based on the six requirements of the threshold test, Diego Martin’s statements were criminal in nature. The Court found that Diego Martin’s intent to incite violence through his speech is evidenced, among other things, by the dissemination of a manual of violent tactics by the movement with which Diego was associated. The judge also considered that the likelihood and imminence of violence were demonstrated by the occurrence of acts of



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violence similar to those described in this manual and by the death of the patient due to the roadblocks. The sources cited in support of the decision included Judge León's doctoral thesis.

59. Consequently, Diego Martin was sentenced to 12 years in prison and ordered to pay a fine equivalent to US\$200,000 for the offense of public incitement to commit crimes, on the grounds that his statements and publications "*exceeded the limits of protected speech*" and "*contributed indirectly but predictably to the harmful outcome.*" In her ruling, the judge emphasized that, "*It is not peaceful protest that is criminalized, but rather the manipulation of the legitimate right to protest in order to create chaos and destabilize democracy.*" This decision was upheld on appeal by the Superior Criminal Court on October 14, 2021.

60. During the same court proceedings, the authorities brought criminal charges against a group of 20 people identified as participants in the looting of shops, as well as those responsible for the attempted storming of the Green House. In their statements, several of the defendants said their actions were "*inspired by Diego Martin's speeches*" and by the "*general call to resistance*" spread through the *Aurora Movement's* channels. Judge Elena León considered that such statements reflected a "*state of collective excitement*" and "*significant ideological influence exerted by the movement's leadership.*" Consequently, in her judgment of February 20, 2022, the judge recognized the mitigating circumstance of acting under a strong external influence and imposed suspended sentences on those individuals of between one and three years in prison. In her decision, the judge held that, "*The main responsibility lies with those in leadership positions who incite and guide the group's conduct toward unlawful ends.*"

61. In April 2021, Oropel's Digital Platforms Regulatory Authority concluded Administrative Case No. 122, which had been brought to determine the possible liability of *OroSpace* and its founder, Rosa Robles, for the alleged offense of "*knowingly allowing the circulation of illegal content.*" The final decision found that the platform's involvement in disseminating the *Aurora Movement's* messages went beyond neutral moderation and constituted a form of undue intervention in political debate, with the potential to "*undermine the functioning of democracy.*" Accordingly, it imposed the maximum penalty provided for under industry regulations, equivalent to 8% of the company's annual profits. The proceedings were confidential, with no public details in the file regarding the hearings held or the evidence considered.

62. Rosa Robles filed a judicial appeal with the Madrigal Administrative Disputes Court, alleging that the penalty violated the principle of legality and the right to free enterprise. The Court, however, upheld the fine, finding that "*digital platforms are not merely neutral intermediaries*" and that *OroSpace* "*played an active role in the political organization of the demonstrations.*"

63. To date, the investigations into corruption allegations against President Bonifacio surrounding the 2018 hurricane have not resulted in any convictions. The newspaper *Vale Verde* later revealed, after hiring independent experts, that a document demonstrating the President's involvement showed signs of tampering. The newspaper maintains that the improper prioritization



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of affected areas is sufficient proof of corruption and is reprehensible in itself. However, other sectors of society feel that the original publication of the article was not diligent enough and that criticism of President Bonifacio became excessive in the final years of his presidency. Bonifacio's current approval rating, following his departure from the presidency in 2020, stands at around 52%.

### **G. The case in the IAHRs**

64. On December 24, 2021, the *Aurora Movement* filed a petition with the Inter-American Commission on Human Rights (IACHR), alleging the violation of the rights recognized in Articles 5 (humane treatment), 7 (personal liberty), 8 (right to a fair trial), 11 (right to privacy), 13 (freedom of thought and expression), 15 (right of assembly), 22 (freedom of movement and residence), 24 (equal protection), and 25 (judicial protection), in relation to Articles 1.1 (obligation to respect and ensure rights) and 2 (domestic legal effects) of the American Convention on Human Rights, to the detriment of Diego Martin.

65. The State did not allege noncompliance with the IACHR's admissibility requirements and requested that the case be admitted as a way to discuss "important current issues in the region." The petition was admitted on March 5, 2023. In Merits Report No. 47/25, issued on March 27, 2025, the Commission concluded that the State of Oropel had violated the aforementioned rights and referred the case to the Inter-American Court of Human Rights.

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