

In its Decision in the Aloebotoe Case of December 4, 1991, the Inter-American Court of Human Rights held that the dispute giving rise to the instant case had concluded. The Court determined that all that remained was for the Court to establish reparations and court costs.

The purpose of this memorandum is to address the issue of reparations and costs in the instant case, and to present proof of damages.

#### SUMMARY OF LEGAL ARGUMENTS AND CORRESPONDING PROOF

##### 1. MATERIAL DAMAGES

Under Article 63(1) of the American Convention and applicable principles of international law, the Government of Suriname must inter alia provide fair compensation for the material damage resulting from the breach of its obligations under the Convention

A. Article 63(1) of the Convention provides that violations of rights and freedoms guaranteed by the Convention are to be redressed; this contemplates that the consequences resulting from such a violation shall be repaired, and that the status quo ante shall be restored.

B. The amount of compensation for material damages to the victims dependents would include the financial loss the dependents sustained as a result of the assassinations.

C. The injured parties entitled to material compensation in this case are the families of the assassinated Surinamer Maroons; with the term family interpreted in accordance with the family structure, tradition, and customs of Surinamer Maroons.

## 2. MORAL DAMAGES

Under Article 63(1), and the applicable principles of international law, the Government of Suriname is further obligated to repair the moral damage suffered as a result of the breach of its obligations under the Convention

A. Moral damage is a distinct and separately compensable element of damage in this case.

B. Compensation for moral damages in this case must repair, as far as that is possible, the serious harmful psychological impact of these assassinations on the dependents of the victims.

C. The Saramacas, the victims' tribe, have also suffered direct moral damage subject to the remedy of compensation.

### 3. NONPECUNIARY MEASURES

Under Article 63 and Article 1 of the American Convention the Government of Suriname is obligated to undertake nonpecuniary measures with respect to the breach of its obligations under the Convention

The duty to ensure and enforce found in Article 1 of the Convention implies an obligation on the part of the Surinamese Government to undertake nonpecuniary measures to remedy its violations, in compliance with the Article 63 mandate that the consequences of a violation be repaired.

### 4. EXPENSES AND LEGAL COSTS

The Government of Suriname is obligated to pay the costs and legal fees of the victims' families in pursuing remedies at the local level in Suriname, before the Inter-American Commission, and before the Inter-American Court.

An award of costs and legal fees is appropriate in this case as consistent with international jurisprudence and the goals of the Convention. If costs and legal fees have to be paid by the families themselves, the goal of restitutio integrum of Article 63(1) of the Convention will not be achieved.

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A. The costs of pursuing remedies before the Surinamese authorities, before the Inter-American Commission on Human Rights, and before the Inter-American Court of Human Rights.

B. The legal fees incurred in pursuing remedies before the Surinamese authorities, before the Inter-American Commission on Human Rights, and before the Inter-American Court of Human Rights.

#### 5. AMOUNTS REQUESTED AND METHOD OF PAYMENT

Under Article 63 and the applicable principles of international law, full compensation must be paid; the payment of amounts over time must be administered in a form by which it retains its purchasing power over time.

- A. Amounts of compensation and distribution
- B. Method of payment of the compensation
- C. Amounts of compensation for legal costs and expenses

#### LEGAL ARGUMENTS AND CORRESPONDING PROOF OF THE COMMISSION

##### 1. MATERIAL DAMAGES

Under Article 63(1) of the American Convention and applicable principles of international law, the Government of Suriname must inter alia provide fair compensation for the material damage resulting from the breach of its obligations under the Convention

A. Article 63(1) of the Convention provides that violations of rights and freedoms guaranteed by the Convention are to be redressed; this contemplates that the consequences caused by such a violation shall be repaired, and that the status quo ante shall be restored.

The Government of Suriname has admitted its responsibility in the assassination of seven Surinamer Maroons, and this Court has set forth that responsibility in its Judgment of December 4, 1991. Article 63(1) of the American Convention provides:

If the Court finds that there has been a violation of a right or freedom protected by this Convention, the Court shall rule that the injured party be ensured the enjoyment of his right or freedom that was violated. It shall also rule, if appropriate, that the consequences of the measure or situation that constituted the breach of such right or freedom be remedied and that fair compensation be paid to the injured party.

Clearly the Court may no longer ensure the enjoyment of the victims' rights and freedoms under the Convention. Thus, it is left to the Court to remedy the consequences of Suriname's violations, and to fairly compensate the victims' dependents for the injuries they have sustained as a result of Suriname's violation of the Convention guarantees.

The concept of redressing injury contemplates that the remedy be "commensurate with the injury;" that compensation must be "adequate and balance as near as may be the injury suffered. Opinion in the Lusitania Cases (1923) p. 35-36. "The essential principle contained in the actual notion of an illegal act ... is

that reparations must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed." Chorzow Factory (Merits) Judgment No. 13, P.C.I.J., Series A, No. 17, 1927, p. 47. In the case of Velasquez Rodriguez, this Court began its discussion of compensation by noting:

25. It is a principle of international law, which jurisprudence has considered "even a general concept of law," that every violation of an international obligation which results in harm creates a duty to make adequate reparation. Compensation, on the other hand, is the most usual way of doing so (Factory at Chorzow, Jurisdiction, Judgment No. 8, 1927, P.C.I.J., Series A, No. 17, p.29; Reparation for Injuries Suffered in the Service of the United Nations, Advisory Opinion, I.C.J. Reports 1949, p. 184).

26. Reparation of harm brought about by the violation of an international obligation consists in full restitution (restitutio in integrum), which includes the restoration of the prior situation, the reparation of the consequences of the violation, and indemnification for patrimonial and non-patrimonial damages, including emotional harm.

Article 63(1) provides for fair compensation as one means of providing reparation for violation of the Convention's guarantees. This Court established in the Velasquez Rodriguez case that "indemnification for human rights violations is supported by international instruments of a universal and regional character." Judgment of July 21, 1989, para. 28. Thus, under Article 63(1) and applicable international standards, the Government of Suriname is obligated to fairly compensate the victims in this case.

B. The amount of compensation for material damages to the victims' dependents should include the financial loss the

dependents sustained as a result of the assassinations.<sup>1</sup>

In fixing the amount that will compensate the claimants for the losses they have suffered as a result of the deaths of the victims, certain general principles apply. The Lusitania tribunal set forth its general formula for measuring the compensation to claimants in a death case:

Estimate the amounts (a) which the decedent, had he not been killed, would probably have contributed to the claimant, add thereto (b) the pecuniary value to such claimant of the deceased's personal services in claimant's care, education, or supervision, and also add (c) reasonable compensation for such mental suffering or shock, if any, caused by the violent severing of family ties, as claimant may actually have sustained by reason of such death. The sum of these estimates, reduced to its present cash value will generally represent the loss sustained by claimant.<sup>2</sup>

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<sup>1</sup>This section addresses the principles upon which an award of compensation is based; section 1(C) of the memorandum will enumerate the injured parties entitled to compensation in this case.

<sup>2</sup> Opinion in the Lusitania Cases, Judgment of November 1, 1923, p. 363. The tribunal specified a number of additional factors to be taken into account in estimating the compensation in a death case:

- (a) the age, sex, health, condition and station in life, occupation, habits of industry and sobriety, mental and physical capacity, frugality, earning capacity and customary earnings of the deceased and the uses made of such earnings by him;
- (b) the probable duration of the life of deceased but for the fatal injury, in arriving at which standard life-expectancy tables and all other pertinent evidence offered will be considered;
- (c) the reasonable probability that the earning capacity of deceased, had he lived, would either have increased or decreased;
- (d) the age, sex, health, condition and station in life, and probable life expectancy of each of the claimants;
- (e) the extent to which the deceased, had he lived, would have applied his income from his earnings or otherwise to his personal expenditures from which claimants would have derived

## i. Minor children

In calculating material damages in this case the Commission distinguished between minor and adult dependents. In the case of the minor dependents, the Commission proposes the creation of a trust. See, infra, section five. The corpus of the trust will consist of an amount that is a proportion of the victim's estimated projected income, assessed in accordance with the net present value methodology. See annex 1 for an explanation of the methodology. For the amount requested see infra section five.

The net present value methodology applies generally accepted principles consistent with those enunciated in international law to estimate the financial loss to dependents. The assumptions on which these calculations were based were

- 1) the age at death of each victim, and the annual earnings of each at the time they were killed;
- 2) the life expectancy for each victim - this factor was determined actuarially, given the age at time of death and average life expectancy statistics for Suriname;
- 3) annual earnings were assumed to inflate at an assumed rate of twenty percent per annum.

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no benefits....

The tribunal further noted that in reducing the amount to present value, an interest rate and present-value tables would be used; the decedent's pain and suffering would not be considered; that life insurance proceeds collected by claimants would not be taken into account in computing the damages; and that punitive damages would not be assessed. p. 363-64. The tribunal identified most of the noted factors as "firmly established by both the civil and common law authorities as to make further elaboration wholly unnecessary." p. 364.



Application of the above factors yielded the revenue streams calculated for each individual as shown in annex 2. The net present value is the amount in today's currency unit that would have to be invested at the stipulated discount rate to yield the revenue stream shown in annex 2. The discount rate should be the average return on investment in the country.<sup>3</sup> The Commission's legal team submits that the amounts requested are based on extremely conservative estimates, considering the economic situation in Suriname.

#### ii. Adult dependents

In calculating material damages for the adult dependents, the Commission took into account the revenue of the victims at the time of their assassinations. See annexes 3-9. The Commission's legal team arrived at a total sum of Sf84,040 per year (in 1980 currency) for the adult dependents. The Commission hereby requests the Court to update this amount to reflect the value of 1992 currency. Payment to dependents should extend until their death, in amounts that keep their purchasing power. See *infra* section five. These amounts could be paid either as yearly payments with incremental adjustments, or through the creation of a trust, the corpus of

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<sup>3</sup>The lawyers for the victims and the Commission chose to base the calculation of damages on extremely conservative assumptions that do not reflect the high rate of inflation in Suriname. A closer examination of Suriname's economic reality and the factors involved, such as the rate of inflation, would indicate much higher figures. If the basis for the calculations were figures consistent with the current economic reality, the calculation of damages would be substantially higher.

which will yield a revenue stream equal to the yearly amounts requested adjusted incrementally. Either system is acceptable to the Commission.

C. The injured parties entitled to material compensation in this case are the families of the assassinated Surinamer Maroons; with the term family interpreted in accordance with the family structure of Surinamer Maroons.

i. the conceptual definition of injured parties

Article 63(1) of the Convention directs the payment of fair compensation to the "injured parties." Traditionally, in cases of death, the injured parties have been the members of the victim's family including those with a degree of financial dependence on the victim. In the Velasquez Rodriguez case, this Court identified the recipients of the award of compensation to be "the next-of-kin" or the "family" of the victim.

"The right to recover rests on the direct personal loss, if any, suffered by each of the claimants." See Carcia-Amador, Sohn, Baxter, Recent Codification of the Law of State Responsibility For Injury to Aliens 115 (1974) citing, Arbitral Decision No. II, in Reports of International Arbitral Awards, Vol. VII, p.27. "[T]he "direct personal loss" referred to is pecuniary in nature and is measured principally by the degree of financial dependence which existed between the claimant and the deceased." Id.

The culture of the Surinamer Maroons incorporates a strongly matriarchal family structure, and the frequent instance of polygamy. The Surinamese Government specifies that marriages must be registered to be recognized by the Government, but this process is made very difficult for the Maroons as there are hardly any offices for registration in the interior of the country where most of Suriname's Maroons dwell. Thus most of the Surinamer Maroon marriages are not registered. See annex 10, letter of February 17, 1992. It would be inconsistent with the purposes of the Convention to allow Suriname to avoid compensating the families of the victims where it is the Government's inaction and non-provision of services to the Maroons that makes it difficult or impossible for them to comply with the Surinamese registration system. This formality, internal to the Government of Suriname, should be no bar to the recovery of damages by the next of kin of the victims even where the next of kin is a spouse in an unregistered marriage, or a child of an unregistered marriage.

More importantly, it is not Surinamese procedure that should control the distribution of compensation. In this context, Article 63 of the Convention, which articulates the Court's authority to provide restitution and reparation, "is not limited by the defects, imperfections or deficiencies of national law, but functions independently of it." Velasquez Rodriguez, Judgment of July 21, 1989, para. 30.

In the Velasquez Rodriguez case the Government asserted the necessity that the family of the victim fulfill the requirements of

Honduran law to be designated as the victim's heirs. The Court addressed the entitlement to receive compensation as follows:

54. As previously stated, the obligation to indemnify is not derived from internal law, but from violation of the American Convention. It is the result of an international obligation. To demand indemnification, the family members of Manfredo Velasquez need only show their family relationship. They are not required to follow the procedure of Honduran inheritance law.

Judgment of July 21, 1989.

Also of note in this context, is the practice of the Court in recognizing a more complex relation of dependents than that of the Western notion of family ties in the proceedings of the Velasquez Rodriguez case. The Secretariat of the Court, under instructions from the President, requested that certain information be certified by Honduran officials - including "names and status of their [the victims] wives; and those of any concubines recognized in any official document....names and civil status of their children, those of the marriage and any outside the marriage...." Judgment of July 21, 1989, para. 13(4), (5).

Western notions of family and households do not apply to the Saramaca culture; rather, in the Saramaca culture a communal matrilineal group takes responsibility for the welfare of its members, and for such matters as determining which family members are to share in compensation rendered. See annex 11, setting forth the opinion of Richard and Sally Price, letter dated February 25, 1992. The Commission's legal team also hereby requests that the oral testimony of Dr. Richard Price, the world's leading expert on Saramacan culture and Professor of Anthropology at Princeton University, be admitted by the Court during the July 7-9, 1992

hearing on this and other points noted below. See annex 12 for Dr. Richard Price's curriculum vitae. The enumeration below is the list of dependents of each victim, as defined by the relevant communal group.

ii. enumeration of the injured parties in this case

The injured parties entitled to compensation for the damages caused by the assassination of the seven victims are:

- 1) The family of Asipee Adame (a.k.a. John Amoida) - his father Paqai Amoida age 56; his aunts Sofia Amoida age 54, Rosyen Adame, Awagimic Adame, Kikiimunje Adame, and Kajanamai Adonisi Adame; and his uncle Akinopai Adame.
- 2) The family of Daison Aloeboetoe - his common law wives Asoedance Wenke age 22, and Aingifesie Aloeboetoe age 22; his children with Asoedance Wenke, Podini Asoedance age 4, Maradona Asoedance age 10 months; and his child with Aingefesie Aloeboetoe, Leona Aloeboetoe age 10 months; his mother Ajong Aloeboetoe age 52; and his sisters Asandoi Aloeboetoe, Tonimoeje Aloeboetoe, and Seila Aloeboetoe.
- 3) The family of Deede-Manoe Aloeboetoe - his common law wives Me-Mei Foto age 27, Norma Aloeboetoe approximate age 31, and Asoinda Tiopo approximate age 30; his children with Me-Mei Foto, Moltia Foto age 3, and Josie Foto age 2; his child with Asoina Tiopo, Klucion Tiopo age several months; his sisters Asandoi Aloeboetoe, Tonimoeje Aloeboetoe, and Seila Aloeboetoe

- and his mother Ajong Aloeboetoe age 52.
- 4) The family of Mikuwendje Aloeboetoe - his mother Andeja Aloeboetoe age 57.
- 5) The family of Richenel Aside Veola (a.k.a. Ameikanbulka) his common law wives Mangumau Adjako, Elsje Lugard age 35, and Adona Tiopo; his children with Mangumau Adjako, Stefan Adjako age 11, Bertelion Adjako age 10, Benisie Adjako age 8, Godfried Adjako age 1 or 2, and Adina Adjako; his child with Adona Tiopo, Baba Tiopo (a.k.a. Wctifaka); his mother Dadda Aside age 86; and his sister Adofo Isjana Aside.
- 6) The family of indie Hendrik Banai - his common law wives, Somba Vorstwijk, Aniemoeje Adipi, Adelia Koedemoesoe, Tonkjaboeka; his children with Somba Vorstwijk, Chris Vorstwijk, Aiko Vorstwijk, Robert Vorstwijk, and ETTY Vorstwijk; his child with Aniemoeje, Etmelia Adipi; his child with Adelia Koedemoesoe, Albes Koedemoesoe; his child with Tonkjaboeka, Jenny Afonsoewa; his mother Coensikondre Banai; his uncle Eketo Tiopo; and his grandfather Masatin Koedemoesoe.
- 7) The family of Bernard Tiopo (a.k.a. Beri or Finsie) - his common law wives Dina Abauna, Ajemu Sampi, and Glenda; his child with Dina Abauna, Bakapina Abauna; his children with Ajemu Sampi, Seneja Sampi, Arisin Sampi, and Maritia Sampi; and his children with a wife since divorced (Wiiso Vorstwijk), Anthea, and Kapintimonie Vorstwijk; his mother Angaloemeoje Tiopo; his grandmother Akoew Tiopo; his grandfather Bonetie

Djanti; Drima Valies who educated the victim; his grand uncle Djeloemoe Tiopo; and his aunt Asenie Tiopo.

See annexes 3-9.

2. Under Article 63(1), and the applicable principles of international law, the Government of Suriname is further obligated to repair the moral damage suffered as a result of the breach of its obligations under the Convention

A. Moral damage is a distinct and separately compensable element of damage in this case.

This Court stated in the Velasquez Rodriguez case that: "As to emotional harm...indemnity may be awarded under international law, and in particular, in the case of human rights violations." Judgment of July 21, 1989, para. 49. "That one injured is, under the rules of international law, entitled to be compensated for an injury inflicted resulting in mental suffering, injury to his feelings, humiliation, shame, degradation, loss of social position or injury to his credit or to his reputation, there can be no doubt, and such compensation should be commensurate to the injury." Opinion in the Lusitania Cases, p. 40.

In the Velasquez Rodriguez case, this Court identified both material and moral damages as appropriate bases for an award of compensation. Judgment of July 21, 1989 para. 39. A separate indemnity was awarded in that case to redress the harmful

psychological impact suffered by the victim's family as a result of the violation of rights and freedoms guaranteed by the Convention. Judgment of July 21, 1989 paras. 50-52.

Moral damages in this instance would include the psychological harm resulting from the deaths of loved ones, psychological harm suffered as a result of being denied information as to the victims' whereabouts, psychological harm suffered as a consequence of being unable in all but one case to bury the bodies, and the psychological harm suffered as a result of damage to the family members' position in their culture due to the loss of each husband/father. See generally, Lusitania opinion, p. 37.

In the Janes case the tribunal identified as a separate basis for responsibility and a concomitant indemnity, a government's failure to prosecute and punish a wrongdoer under its control. The tribunal held that "not only the individual grief of the claimants should be taken into account, but a reasonable and substantial redress should be made for the mistrust and lack of safety, resulting from the Government's attitude." Janes case, (Mexico/United States General Claims Commission, Nov. 16, 1926) reprinted in 4 Reports of International Arbitral Awards 82, 89). "The indignity done the relatives of Janes by nonpunishment in the present case is, as that in other cases of improper governmental action, a damage directly caused to an individual by a Government." Janes p. 89



B. Compensation for moral damages in this case is based on the serious harmful psychological impact of these assassinations on the dependents of the victims.

This Court has identified principles of equity as the basis for indemnification as to emotional harm. Velasquez Rodriguez case, Judgment of July 21, 1989, para. 27. In the Velasquez Rodriguez case this Court looked to the harmful psychological impact of the violations on the family, and looked to the nature of the type of violations as well in assessing the moral damages. Judgment of July 21, 1989, paras. 50, 51. The Court noted the "dramatic characteristics" of the violation at issue in that case. Velasquez Rodriguez case, para. 50.

Certainly the families in the instant case have likewise suffered tremendous emotional damage as a result of the assassination of their loved ones. The psychological impact on the families has been severe. The victims played a crucial role in their families. Due to the lack of work opportunities in the villages where the families live, the working men - the victims - were the main or only source of income for each family. Thus, the victims provided their families with security both financially, and as to their place in society. Traditionally for the men in Maroon society, the dignity of one's parents and grandparents is one's own dignity; the role of the working men is thus crucial to the support of the parents and grandparents. Without the contribution of the victims, the families have suffered a severe loss of standing in

the community, and a severe loss in dignity, and are in the position of depending on the charity of other poor villagers.

In the cases of six of the seven victims, the families, in spite of appeals to the authorities, were not given the remains of the victims for proper burial; nor were the families informed by the authorities as to the location of the victims' remains. The six bodies were not able to be identified by a family member, and thus death certificates have not been issued.

In the case of the victim known as Aside, beyond his substantial financial value to his family and to the village, he was noted by all as an example of hardworking industry and contribution to the community. The wife of Aside reportedly became severely mentally ill soon after learning of his death, likely as a result of being informed of his death. The grandfather of Indie Hendrik Banai has suffered so extensively, that as a result of his grandson's death he has been unable to work. See annexes 3-10, and 13.

Moreover, the families of the victims have experienced the killings, and lack of Governmental response, investigation or punishment, as an expression of the lesser value accorded the lives of Maroons by the Surinamese Government. The Government's treatment of the families has harmed their dignity and sense of worth.

An evaluation of the extent of emotional and psychological harm experienced by the family members of the victims and the tribe will be presented by Dr. Richard Price, Professor of Anthropology

at Princeton University. The Commission hereby requests the Court to accept his testimony during the hearing scheduled July 7-9, 1992, on this issue. Further assessment shall be sent by Dr. Federico Allodi, M.D., a board certified psychiatrist. Because this entailed further translation of the affidavits, counsel for the victims will send this last document to the Court as soon as it is available. The Commission requests the Court to rule that this supporting evidence is admissible, considering the problems of language, distance, and the number of victims involved - and other difficulties of bringing them before the Court. The families of the victims respectfully submit that the amount of compensation required to remedy the moral harm they have suffered is \$2,100,000. See also infra section five.

C. The Saramacas, the victims' tribe, have also suffered direct moral damage subject to the remedy of compensation.

In traditional Maroon society, a person is not only a member of his family group, but is as well a member of his village community and tribal group. In this case, the harm suffered by the villagers due to the loss of members of their group should be compensated; as the villagers are in effect an extended family, and have suffered direct emotional damage as a result of the violations of the Convention.

The Saramacas are a proud and independent people who acquired rights based on a treaty between the Netherlands, recognizing inter

alia, Saramacan authority over their own territory. Those treaty obligations are by succession applicable to the state of Suriname. See annex 14. The essential basis in the Saramacas' dignity and freedom is that they won, through struggle, the right not to be enslaved or interfered with by the Central Government of "the Coast." The entry of the army into Saramaca territory, and the shattering of those obligations, resulting in the assassination of seven Saramacas, inflicted severe damage upon the Saramaca tribe. The Commission is offering here as a testimonial of the damage inflicted upon the Saramacas by the arbitrary killings, a letter written by Dr. Richard Price, Professor of Anthropology at Princeton University, the leading expert on Saramacan culture. See annex 15. The harm inflicted upon the Saramacas was aggravated by the Government's subsequent actions. In addition to having carried out the assassinations, governmental entities failed to disclose the fate of the victims, or the location of the victims' remains. The Government denied any responsibility as to the victims - not only during the initial enquiries; in fact the Government denied responsibility for the killings even in its first brief to the Court. Pain and suffering was thus inflicted upon the villagers at every level of this case. It is also important to note that this treatment is consistent with the attitude of the Surinamese Government generally in terms of denying Bushnegro rights. See annex 15.

The Commission's legal team submits that the amount of \$f2,000,000 is necessary to compensate the Saramaca tribe for the



moral damage its members have sustained as a result of the killings. In addition to offering the oral testimony of Dr. Price, the Commission respectfully requests the Court to accept the written testimony of Dr. Allodi at a later date as to the extent of moral damages suffered by the victims' families and the tribe. Further, the Court is requested to accept the written, see annex 13, and oral testimony of Stanley Rensch, a member of the Surinamese nongovernmental human rights organization Moiwana 86, as to the extent of moral damages suffered; Mr. Rensch has been in contact with, and has had occasion to observe the victims' families and the tribe throughout the duration of this case.

### 3. NONPECUNIARY MEASURES

Under Article 63 and Article 1 of the American Convention the Government of Suriname is obligated to provide nonpecuniary measures with respect to the breach of its obligations under the Convention.

The duty to ensure and enforce found in Article 1 of the Convention implies an obligation on the part of the Surinamese Government to undertake nonpecuniary measures to remedy its violations, in compliance with the Article 63 provision that the consequences of a violation be repaired.

In cases of state responsibility for the breach of an international obligation, nonpecuniary measures have provided an

important means of repairing damage or remedying the consequences. Nonpecuniary measures serve to reinforce the validity of the obligation breached, are a means for the responsible state to acknowledge responsibility, and may provide a measure of satisfaction to persons injured by the state conduct. "Consent to law implies agreement to respect the law and to refrain from violation; it implies also an obligation to remedy any violation. International law requires a state that has violated the law to terminate the violation and to make reparation for injury." L. Henkin, General Course on Public International Law, RECUEIL DES COURS, 1989 IV.

Monetary compensation is an important element of redress for violation of the Convention's guarantees, however, certain elements of a violation may not be repaired by monetary compensation. These elements require that affirmative government action be taken to repair the consequences of the violation. Such an element requiring affirmative measures on the part of the Government of Suriname is, for example, the identification and prosecution of those directly responsible for carrying out the executions. The language of Article 1 sets forth an affirmative obligation on the part of all Parties to both "respect," and "ensure" the exercise of, the rights and freedoms guaranteed in the Convention:<sup>4</sup>

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<sup>4</sup> "The obligation 'to ensure' these rights encompasses the duty 'to respect' them, but it is substantially broader .... The obligation to 'ensure' rights creates affirmative obligations on the state--for example, to discipline its officials...." N. Arriaga, State Responsibility to Investigate and Prosecute Grave Human Rights Violations in International Law, 78 CAL. L. REV. 467 (1990) (quoting Buergethal), State Obligations and Permissible

The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.

Failure to comply with this affirmative duty is itself a breach of a Convention obligation. In the Velasquez Rodriguez case, the Court identified in Article 63 provisions on reparation of consequences and on indemnification; and found that these types of nonpecuniary measures fall within the provision for reparation of consequences. Judgment of July 21, 1989, para. 33. The Court found that Article 1(1) identifies the legal duty of a State Party to "take reasonable steps to prevent human rights violations and to use the means at its disposal to carry out a serious investigation of violations committed within its jurisdiction, to identify those responsible, to impose the appropriate punishment and to ensure the victim adequate compensation." Judgment of July 29, 1988, para. 174. Monetary compensation cannot accomplish the identification and prosecution of responsible individuals, nor could it serve the purpose of sending a public message to Surinamese society that these violations will not be tolerated or repeated.

In the Velasquez Rodriguez Case the Court identified its judgment on the merits of July 29, 1988, as "itself a type of

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Derogations, in THE INTERNATIONAL BILL OF RIGHTS 72 (L. Henkin, ed. 1981)). Likewise, the European Court of Human Rights has interpreted the European Convention to provide that "...in order to secure the enjoyment of those rights and freedoms, those authorities must prevent or remedy any breach at subordinate levels." Id. at 468 (quoting Ireland v. United Kingdom, 25 EUR. CT. H.R., (ser. A), para. 239 (1978) (judgment)) (emphasis Arriaza's).

reparation and moral satisfaction of significance and importance for the families of the victims." Judgment of July 21, 1989, para. 36. The Court also reiterated the Honduran Government's continuing responsibility to prevent such violations of Convention rights, to investigate violations and to punish the individuals directly responsible. Velasquez Rodriguez case, Judgment of July 21, 1989, citing the Court's Judgment on the Merits, para. 181. The implication of this holding in the Velasquez Rodriguez case was that the negative decision was sanction enough in terms of nonpecuniary remedies. In this case, a negative decision stops short of repairing the consequences of Suriname's breach.

Even at this advanced stage, Suriname has presented no evidence that it has proceeded to undertake a thorough investigation of the killings and those directly responsible. The existence of a continuing duty to investigate and prosecute is of little worth in the face of the Government's continuing inaction. The breach of the obligation to ensure and respect - to investigate and punish - as an ongoing violation, cannot be remedied except by nonpecuniary measures of compliance directed by the Court.

The victims' families request the Court to direct that the following measures be taken by the Government of Suriname:

1. That the President of Suriname publicly apologize through the local media for the killings; and that the leaders of the Saramaca tribe be invited to the Congress of Suriname in order that apologies may be extended directly.
2. That the Government of Suriname publish the dispositive



portion of the Court's decision.

3. That the Government of Suriname disinter the bodies of the six victims whose families were not informed of the location of the remains, and return the remains to the families.

4. That the Government of Suriname name a park or square or street in a prominent location in the capital of Paramaribo after the Saramaca tribe as an affirmative gesture of Governmental respect for the Saramaca tribe.

5. That the Government of Suriname investigate and punish the individuals who directly carried out the killings and accompanying violations of the Convention rights and freedoms. The victims' families respectfully recall to the Court that the Commander of the troops involved was Captain Leeftang; to this point there have been no indications of any successful investigation of his responsibility.

The victims' families respectfully request that the Court remain seized of the case in order to ensure compliance with these provisions. We respectfully submit that the affirmative measures listed above are essential to satisfy the Convention's provision for full repair of the consequences of violation. The Commission's legal team requests the Court to accept the testimony of Dr. Price and Mr. Stanley Rensch on the point that the judgment and pecuniary compensation are insufficient according to the Saramaca tradition to remedy the harm suffered.

4. EXPENSES AND LEGAL COSTS

The Government of Suriname is obligated to pay the expenses and legal costs of the victims' families in pursuing remedies before the Inter-American Commission, and the Inter-American Court.

An award of costs and legal fees is appropriate in this case as consistent with international jurisprudence and the goals of the Convention. If costs and legal fees have to be paid by the families themselves, the goal of restitutio integrum of Article 63(1) of the Convention will not be achieved.

The awarding of the costs of the victims' families in pursuing their remedies before human rights tribunals is consistent with the concept of an award of damages. Article 63 of the Convention provides for the repair of the consequences of violation and compensation for damage. Article 45(1) of the Rules of Procedure of the Inter-American Court provides that the judgment shall contain "the allocation, if any, of compensation ... [and] the decision, if any, in regard to costs." This Court has itself recognized that "it is theoretically correct that those expenses come within the definition of damages...." Judgment of July 21, 1989, para. 42. In its Judgment of December 4, 1991, this Court decided to hear the parties on the issue of an award of costs.

The European Court of Human Rights has a well established

practice of awarding costs.<sup>5</sup> "The Court has consistently held that reimbursement may be ordered in respect of costs and expenses that (a) were actually and necessarily incurred by the injured party in order to seek, through the domestic legal system, prevention and rectification of a violation, to have the same established by the Commission and later by the Court and to obtain redress therefor, and (b) are reasonable as to quantum." Case of Domicoli v. Malta, Judgment of 27 August 1991, p. 18, citing the Briemont Judgment of 7 July 1989, Series A no. 1158, p. 33, section 101. Success on the substantial complaints of the claimant is one factor in the Court's decision to award costs. See Johnson, 9 EHRR 203 para. 86 (1987). The determination is made on an equitable basis.

An award of costs and attorneys fees should compensate the families for their expenses in attempting to ascertain the whereabouts of the victims; and the costs of the families in pursuing their claims at the local level, before the Commission, and before the Court. Concomitantly, this compensation would include an award of attorneys' fees for the conduct of the case at the local level, before the Commission and the Court. Such an

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<sup>5</sup> An award of costs is granted by the European Court in appropriate circumstances in the portion of its decision applying Article 50 of the European Convention. Article 50 provides:  
If the Court finds that a decision or a measure taken by a legal authority or any other authority of a High Contracting Party is completely or partially in conflict with the obligations arising from the present Convention, and if the internal law of the said Party allows only partial reparation to be made for the consequences of this decision or measure, the decision of the Court shall, if necessary, afford just satisfaction to the injured party.

award is required to satisfy the requirements of Article 63(1). Further, such an award is necessary in order that the victims' families may not be penalized financially for pursuing their remedies within the Inter-American system.

A. Necessary and reasonable costs of pursuing remedies before the Surinamese authorities, before the Inter-American Commission on Human Rights, and before the Inter-American Court of Human Rights.

1. Costs at the local level

The necessary and reasonable costs of pursuing remedies in Suriname include:

- 1) the costs incurred in order for the lawyer for the victims' families to be absent from his office for one week to visit Suriname from December 15-22, 1988; see annex 16;
- 2) the costs for a visit to the interior of Suriname by Moiwana 86 to identify the victims' dependents and obtain information on the case, January-March 1989; see annex 24;
- 3) the costs incurred by the families in their search for justice; see infra section five.

without the above listed activities and costs the case could not have been developed and presented. The amounts charged

constitute reasonable expenses as these activities were fundamental in the case.

2. Costs before the Inter-American Commission

The necessary and reasonable costs of pursuing remedies before the Inter-American Commission on Human Rights include:

- 1) the cost of a research assistant to help prepare the case for the first hearing, from January-April 11, 1989, and administrative costs associated with the first hearing held April 11, 1989;<sup>6</sup> see annex 16;
- 2) the cost of a research assistant to help prepare the case for the second hearing, from June-September 12, 1989, and administrative costs associated with the second hearing held September 26, 1989; see annex 16;
- 3) the cost of a research assistant to help prepare the case for the third hearing, from November 1, 1989 to May 11, 1990, and administrative costs associated with the third hearing; see annex 16;
- 5) the costs for Stanley Rensch to travel from Suriname to Washington to present points of proof and other evidence before the Commission, and to assist the lawyers in preparing the case. Because of the difficulties created by the distances involved in this case, and the relative

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<sup>6</sup>The administrative costs referred to here and below include expenses for office space, postage, telephone and fax, photocopies, and as well for a typist and for secretarial assistance. These expenses have been calculated as a proportion of the work hours involved at each stage, and established by an affidavit from the American University, where these services were rendered.

inaccessibility of the victims' families, counsel for the families required Mr. Rensch's presence to properly present the case. Mr. Rensch's costs amounted to \$2500. The Commission hereby testifies that he was requested to attend the second hearing of the Commission, as a witness in this case.

6) the cost of hiring an adjunct professor to carry part of the families' lawyer's course load in order for the lawyer to pursue this case; see annex 16.

These activities were absolutely necessary in order that the victims' families could pursue their case. The costs are reasonable because they represent the minimum indispensable costs in a case involving a plurality of victims.

### 3. Costs before the Inter-American Court

The costs of pursuing the remedies of the Victims' families before the Inter-American Court of Human Rights include:

- 1) the cost of a research assistant to assist with the preparation of the initial Memorial to the Court, from December 1990-March 1991, and administrative expenses involved in preparing that submission; see annex 16;
- 2) the costs Moiwana 86 in Suriname to identify the dependants, provide proof, and organize affidavits, from the inception of the Commission's proceedings through March, 1992, and the associated administrative costs; see annex 24;

- 3) the cost of a research assistant to assist with the preparation of this brief on the issue of compensation, from February-March, 1992, and administrative expenses related to that preparation; see annex 16;
- 4) the cost of hiring an adjunct professor to carry part of the lawyer's course load in order for the lawyer to pursue this case, from January-May, 1992; see annex 16;
- 5) the cost for Stanley Rensch to travel from Suriname to Costa Rica for the upcoming hearing scheduled for July, 1992; see annex 24;
- 6) the estimated cost for the families' lawyer to travel from Washington to Costa Rica for that same hearing in June, 1992; see annex 16.

The total costs incurred by families' lawyer at all levels of the case are \$11,033, see annex 16. The total costs to Moiwana 86, at all levels of the case, including the upcoming hearing in San Jose, Costa Rica, are \$71561.8 and \$5,000, see annex 24. Further, the amount of \$2,500 should be added to these costs, for expenses of Mr. Stanley Rensch attending as a witness the second hearing before the Commission. These expenses were necessarily incurred to present the case before the Court. The expenses are reasonable, taking into account the complexity of the case, the time requirements, the distances involved, and the proportion of these expenses to the quantum of the case as a whole.

ii. The legal fees of the families in pursuing their remedies before the Surinamese authorities, before the Inter-American Commission on Human Rights, and before the Inter-American Court of Human Rights.

a. Legal fees at the local level

The legal fees associated with this case at the local level include the time of the victims families' lawyer spent in pursuing the case:

- 1) preparation for a visit to Suriname, four hours (December 9, 10, 1988);
- 2) a week in suriname investigating the case, and speaking with the families of the victims, forty hours, excluding travel (December 15-22);
- 3) writing a report summarizing the findings of the trip to Suriname, five hours (January 9, 11, 12, 1989);

The time spent on this phase of the case was forty nine hours total. See annex 25.

b. Legal fees before the Inter American Commission

The legal fees incurred in presenting this case before the Inter-American Commission on Human Rights include the time of the victims families' lawyer expended in:

- 1) preparing the initial submission of the case before the Commission, two hours (March 22, April 3, 1989);
- 2) preparing for the first hearing, two hours (April 9, 1989);



- 3) participating in the first hearing on April 11, 1989, one and one-half hours;
- 4) preparing for the second hearing, two hours (September 12, 1989);
- 5) participating in the second hearing on September 26, 1989, one and one-half hours;
- 6) preparing for the third hearing, two hours (May 3, 1990);
- 7) participating in the third hearing on May 11, 1990, one and one-half hours.

The total of hours at this stage of the case is twelve and one half hours. See annex 25.

c. Legal fees before the Inter-American Court

The legal fees incurred in presenting this case before the Inter-American Court of Human Rights include the time of the victims families' lawyer expended in:

- 1) assisting in preparing the Memorial to the Court, fifteen hours (February 3, 5, March 22, 24, 26, 1991);
- 2) assisting in preparing the submission of proofs, three hours (September 6, 7, 1991);
- 3) preparing questionnaires for the dependents, three hours (January 20, 22, 1992);
- 4) assisting in the preparation of this brief on the issue of compensation, twenty four hours (March 5, 25-27, 30, 31, 1992);
- 5) contacting an agent of the Government of Suriname in San Jose, three hours (March 20, 23, 1992);

6) participating in the upcoming hearing scheduled for July 7-10, 1992, approximately twenty hours anticipated.

The total hours expended at this stage of the case are sixty four. See annex 35.

The legal fees requested are calculated at the rate of \$250 per hour multiplied by one hundred twenty nine and one-half hours, for a total of \$32,375. In assessing the necessity and reasonableness of the legal fees requested, the Court should look to the complexity of this case which required:

- a) travel to Suriname, Costa Rica and Washington - in the case of Suriname it was necessary to travel to the country's interior;
- b) fluency in Dutch, English, and Spanish;
- c) participation in the case for an extended period, over three years to date;
- d) extensive knowledge of international and comparative law to deal with the complicated nature of the case;
- e) representing numerous victims and dependents resulting in complex legal and factfinding issues and procedures;
- f) expenditures and legal costs in proportion with the quantum of the case

All attorneys' fees recovered in this case will be donated to the Center for Human Rights and Humanitarian Law at the American University, and the International Human Rights Law Group in proportion to each organization's efforts in pursuing this case.

See annex 25. The Inter-American Commission on Human Rights certifies hereby that the hourly rate and time invested by the victims' lawyer is extremely reasonable and represents the most conservative estimate possible. The victims' families' lawyer had all the qualifications required by the complexity of this case. He is a senior tenured professor; Raymond Geraldson Scholar in International and Humanitarian Law; he has the linguistic knowledge required; and a demonstrated expertise in the Latin American legal system, the common law system, the Dutch Roman system, and the Inter-American system, all of which were involved in the instant case.

#### 5. AMOUNTS REQUESTED AND METHOD OF PAYMENT

Under Article 63 and the applicable principles of international law, full compensation must be paid; the payment of amounts over time must be administered in a form by which it retains its purchasing power over time.

##### A. Amounts of compensation and distribution

The Commission has determined a prudent amount as compensation for each of the victims in the instant case, resorting to a balancing test that includes the following factors:

- a) age of the victim;
- b) the real and potential earnings of the victims; to facilitate the Court's assessments the Commission has appended an estimate of each victim's earning potential, using the net present value methodology; (For an explanation of the net present value

methodology, see annex 1. For its application in the case of each victim see annex 3.)

c) the number of dependents of each victim, the real damage suffered by them and their relationship to the deceased: wives, children, parents, relatives and other tribe members;

d) the bush negro custom's and requests represented to the Commission's legal team.

The Commission's legal team sent questionnaires to the victims' families in Suriname requesting information as to damages incurred by each family. See annexes 3-9. Due to the distances involved, the illiteracy of some of those concerned, the language barrier in some cases, and the difficulty of accessing the vast Surinamese interior, this information was extremely difficult and costly to gather. For example, individuals had to be flown from the interior of the country to Paramaribo in order to have their statements notarized. A small plane had to be chartered for this purpose.

Having received the above questionnaires and affidavits, see annex 17-23, as to the damages suffered by each family, the Commission's legal team proposes the following amounts to be paid as compensation in each case. The amounts are separately categorized as material damages, moral damages, and expenses. The detailed statements of each family are attached.

1) The victim Asipee Adame (a.k.a. John Amoida), see annex 17, earned a yearly income of Sf 27,600 composed of wages and the value

of his personal services to the family, as of December, 1987. Allocating approximately thirty percent of yearly income for the personal consumption of the wage earner, the dependents suffered a loss of yearly income of Sf 19,880. The family suffered moral damages quantified at Sf200,000. Also, the family incurred Sf6,000 in expenses in efforts to trace the whereabouts of the victim, and in pursuing justice and remedies at the local level. The family has set forth the following disbursement of compensation:

to his mother Pagai Amoda age 56

Sf3,500 yearly in material compensation; Sf100,000 in moral compensation; and Sf6,000 in expenses;

to his aunts

Sofia Amoda age 54,  
Bosyen Adame,  
Awagimie Adame,  
Kikiimunje Adame, and  
Kajanamai Adonisi Adame;

Sf2,700 per year in material damages; and Sf90,000 in moral damages; the foregoing amounts to be divided equally among the aunts listed above;

to his uncle Akinopai Adame

Sf560 per year in material damages; and Sf10,000 in moral damages;

2) The victim Daison Aloeboetoe, see annex 18, earned a yearly income of Sf 21,600 as of December, 1987, composed of wages and the value of his personal services to the family. Allocating approximately thirty percent of yearly income for the personal consumption of the wage earner, the family has suffered a loss of yearly income of Sf16,800. The family suffered moral damages quantified at Sf200,000. Further, the family incurred Sf17,000 in expenses in efforts to trace the whereabouts of the victim, and in pursuing justice and remedies at the local level. The family has set forth the following disbursement of compensation:

to his mother Ajong Aloeboetoe age 52  
Sf3360 per year in material damages; Sf60,000 in emotional damages; and Sf17,000 in expenses;

to his common law wives

Asoedance Wenke age 22, and

Aingifesie Aloeboetoe age 22;

Sf6,120 per year in material damages; and Sf60,000 in emotional damages; the foregoing amounts are to be divided with forty percent of each to Asoedance Wenke, and sixty percent of each to Aingifesie Aloeboetoe;

to his children with Asoedance Wenke,

Podini Asoedance age 4,

Maradona Asoedance age 10 months; and

his child with Aingefesie Aloeboetoe,

Leona Aloeboetoe age 10 months

Sf6120 per year in material damages; and Sf80,000 in moral damages; all amounts to be divided equally among the children listed above;

to his sisters,

Asandoi Aloeboetoe,

Tonimoeje Aloeboetoe,

Seila Aloeboetoe;

Sf1040 per year in material damages; and Sf100,000 in emotional damages; these amounts to be divided equally among the sisters listed above;

3) The victim Deede-Mancoe Aloeboetoe, see annex 19 earned a yearly income of Sf21,600 as of December, 1987. Allocating approximately thirty percent of yearly income for the personal consumption of the wage earner, the family has suffered a loss of yearly income of Sf16,800. The family suffered moral damages quantified at Sf200,000. Further, the family incurred Sf2,000 in expenses in efforts to trace the whereabouts of the victim, and in pursuing justice and remedies at the local level. The family has set forth the following disbursement of compensation:

to his mother Ajong Aloeboetoe age 52

Sf3360 per year in material damages; Sf60,000 in moral

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damages; and Sf2,000 in expenses;

to his common law wives

Me-Mei Foto age 27,

Norma Aloeboetoe approximate age 31, and

Asoinda Tiopo approximate age 30;

Sf5,040 per year in material damages; and Sf60,000 in moral damages; the foregoing amounts to be divided with fifty percent to Me-Mei Foto, twenty percent to Norma Aloeboetoe, and thirty percent to Asoinda Tiopo;

to his children with Me-Mei Foto,

Moitia Foto age 3, and

Josie Foto age 2; and

his child with Asoinda Tiopo,

Klucion Tiopo age several months

Sf6,720 per year in material damages; and Sf80,000 in emotional damages; the foregoing amounts to be divided equally among the children listed;

to his sisters

Asandoi Aloeboetoe,

Tonimoeje Aloeboetoe,

Seila Aloeboetoe;

Sf2880 per year in material damages, to be divided equally among the sisters listed above;



4) The victim Mikuwendje Aloeboetoe, a fourteen year old boy, see annex 20, would have earned a yearly income, conservatively estimated at Sf20,000 as of 1991. Allocating approximately thirty percent of yearly income for the personal consumption of the wage earner, the family has suffered a loss of yearly income of Sf14,000. The family suffered moral damages quantified at Sf100,000. Further, the family incurred Sf3,000 in expenses in efforts to trace the whereabouts of the victim, and in pursuing justice and remedies at the local level. The family has set forth the following disbursement of compensation:

to his mother Andeja Aloeboetoe age 57

Sf14,000 per year for material damages; Sf100,000 for moral damages; and Sf2,000 for expenses;

5) The victim Richenel Aside Voela (a.k.a. Ameikanbuka), see annex 21, earned a yearly income of Sf 28,800 as of December, 1987. Allocating approximately thirty percent of yearly income for the personal consumption of the wage earner, the family has suffered a loss of yearly income of Sf19,800. The family has suffered moral damages quantified at Sf1,000,000. Further, the family incurred Sf13,000 in expenses in efforts to trace the whereabouts of the victim, and in pursuing justice and remedies at the local level. The family has set forth the following disbursement of compensation:

to his mother Dadda Aside age 91  
Sf4,080 per year in material damages; Sf200,000 in moral  
damages; and Sf13,000 in expenses;

to his common law wives

Mangumau Adjako,

Elsje Lugard age 35, and

Adona Tiopo;

Sf6,120 per year in material damages; Sf300,000 in moral  
damages; the foregoing amounts to be divided with sixty  
percent to Mangumau Adjako, twenty percent to Elsje Lugard,  
and twenty percent to Adona Tiopo;

to his children with Mangumau Adjako,

Stefan Adjako age 11,

Bertelien Adjako age 10,

Benisie Adjako age 8,

Godfried Adjako age 1 or 2,

and Adina Adjako;

his child with Adona Tiopo,

Baba Tiopo (a.k.a. Wetifaka);

Sf\$160 per year in material damages; and Sf400,000 in moral  
damages; the foregoing amounts to be divided equally among the  
above listed children;

to his sister Adofo Isjana Aside

Sf1,440 per year in material damages; and Sf100,000 in moral damages;

6) The victim Indie Hendrik Banai, see annex 22, earned a yearly income of Sf 48,000 as of December, 1987. Allocating approximately thirty percent of yearly income for the personal consumption of the wage earner, the family has suffered a loss of yearly income of Sf30,000. The family suffered moral damages quantified at Sf200,000. Further, the family incurred Sf12,000 in expenses in efforts to trace the whereabouts of the victim, and in pursuing justice and remedies at the local level. The family has set forth the following disbursement of compensation:

to his mother Goensikondra Banai

Sf3,600 per year in material damages; Sf40,000 in moral damages; and Sf12,000 in expenses;

to his common law wives,

Somba Vorstwijk,

Aniemoeje Adipi,

Adelia Koedemoesoe,

Tonkjaboeka;

Sf11,800 per year in material damages; and Sf70,000 in emotional damages; the foregoing amounts to be divided with forty percent to Somba Vorstwijk, and twenty percent to each of the other three wives;

to his children with Gomba Vorstwijk

Chris Vorstwijk,

Aiko Vorstwijk,

Robert Vorstwijk, and

Etty Voorstwijk;

his child with Aniemoeja,

Etmelia Adipi;

his child with Adelia Koedemoesoe,

Albas Koedemoesoe;

his child with Tonkjaboeka,

Jenny Afonsoewa;

Sf9,600 per year in material damages; and Sf70,000 in moral damages; the foregoing amounts to be divided equally among the children listed;

to his uncle Eketo Tiopo

Sf2,400 per year in material damages; and Sf10,000 in moral damages;

to his grandfather Masatin Koedemoesoe

Sf2,400 per year in material damages; and Sf10,000 in moral damages;

7) The victim Bernard Tiopo (a.k.a. Deri or Finisie), see annex 23, earned a yearly income of Sf20,600 as of December, 1987. Allocating approximately thirty percent of yearly income for the

personal consumption of the wage earner, the family has suffered a loss of yearly income of \$f16,300. The family suffered moral damages quantified at \$f100,000. Further, the family incurred \$f12,000 in expenses in efforts to trace the whereabouts of the victim, and in pursuing justice and remedies at the local level. The family has set forth the following disbursement of compensation:

to his mother Angaloemeoje Tiopo;

\$f1,060 per year in material damages; \$f20,000 in moral damages; and \$f12,000 in expenses;

to his common law wives

Dina Abauna,

Ajemu Sampi, and

Glenda;

\$f5,920 per year in material damages; and \$f30,000 in emotional damages; the foregoing to be divided with sixty percent to Dina Abauna, and twenty percent to each of the other two wives;

to his child with Dina Abauna,

Dakapina Abauna;

his children with Ajemu Sampi,

Seneja Sampi,

Arisin Sampi, and

Maritia Sampi;  
and his children with a wife since divorced (Wiiso Vorstwijk),  
Anthea, and  
Kapintimonie Vorstwijk;  
Sf4,890 per year in material damages; and Sf30,000 in moral  
damages; the foregoing amounts to be divided equally among the  
children listed;

to his grandmother Akoew Tiopo;  
his grandfather Bonctic Djanti;

Sf600 per year in material damages; and Sf20,000 in emotional  
damages; the foregoing amounts to be divided equally between  
the listed grandparents;

Drina Valies who educated the victim;  
his grand uncle Djeloemoe Tiopo;  
Sf1545 per year in material damages, to be divided equally  
among the above listed dependents;

his aunt Asenie Tiopo  
Sf515 per year in material damages;

#### B. Method of Payment of the compensation

The payment of compensation is an extremely complex matter.  
An important factor that must be considered is that Surinamese

currency is convertible at a advantageous official rate (of restricted access) or at a (detrimental) market rate. Also, the historic rate of inflation in Suriname must be taken into account. As the Court recognized in the cases against Honduras, it is extremely difficult to ensure that the award of compensation will keep its value when paid over time. With these complexities in mind, the Commission's legal team proposes the following:

i. Minor dependants

We request the Court to order the creation of a trust for the victims' children. The trust will be composed of the award of material and moral damages. Individualized accounts will be maintained for each child in the trust. Material damages have been calculated by the Commission as a proportion of the net present value of the victim's projected income, taking into account a reduction for what would have gone to the victim's personal consumption.

For the children of Daison Alobboetou, the total award of material damages is approximately thirty six percent of the victim's income calculated according to net present value and reduced for personal consumption, \$f229,346, to be divided evenly among the children listed above. The total award of moral damages is \$f80,000, also to be divided evenly.

For the children of Doede-Manoe Alobboetou, the total award of material damages is approximately forty percent of the victim's income calculated according to net present value and reduced for personal consumption, \$f225,607, to be divided evenly among the



children listed above. The total award of moral damages is Sf80,000, also to be divided evenly.

For the children of Richenal Aside Voola, the total award of material damages is approximately forty one percent of the victim's income calculated according to net present value and reduced for personal consumption, Sf149,796, to be divided evenly among the children. The total award of moral damages is Sf400,000, also to be divided evenly.

For the children of Indie Hendrik Banai, the total award of material damages is approximately thirty two percent of the victim's income calculated according to net present value and reduced for personal consumption, Sf368,085, to be divided evenly among the children. The total award of moral damages is Sf70,000, also to be divided evenly.

For the children of Bernard Tiopo, the total award of material damages is approximately thirty percent of the victim's income calculated according to net present value and reduced for personal consumption, Sf141,650, to be divided evenly among the children. The total award of moral damages is Sf30,000, also to be divided evenly.

We request the Court to order that the trust to be established for the benefit of the minor children shall be administered by the Central Bank of Suriname. Monthly payments would then be made from the trust to the legal representatives of the children. Payments would be made until the children reach age twenty five. At that time the corpus of the trust would be distributed to the recipient-



dependents. The trust is to be administered on the most favorable terms available under Surinamese law. Further, the trustee must faithfully perform his task in a manner consistent with that of a good head of a household. The trustee must have the power to select diverse types of investment, whether through deposits in strong currencies such as Dutch guilders or U.S. dollars, real estate, or in other types of investments. Further, it should be established that the trustees of the fund should have access to buy hard currency. The trustees should be free to deposit the corpus of the trust in the financial institution of their choice. Only in this way will the requirement to pay full compensation be satisfied, since otherwise it would be impossible to ensure that the award maintains its purchasing power.

The payment to the above mentioned trust could be made in one lump sum, payable within ninety days, or in six monthly installments, the first being due in ninety days. The latter method requires that interest be paid on the amount of compensation owing after the initial monthly payment.

#### ii. Adult dependents

Material damages compensating for the years 1988 through the date of payment shall be due and payable at the time of judgment. As to the yearly amounts requested as compensation following the date of the initial payment, the Commission's legal team proposes two options to the Government: either the Government may pay the yearly amounts requested for the adults on a yearly basis, or the

Government may put a sum in trust capable of generating a revenue stream consistent with the yearly requested amounts.

The yearly amount of material compensation requested for the adult dependents is Sf84,040 in 1988 currency value, to be divided as indicated in this section above. This should be adjusted upward to the currency value at the time the compensation became due. The total amount of moral compensation requested is Sf1,340,000, also to be divided as indicated in this section above. That amount will be paid as a lump sum. The total amount of compensation to reimburse the families for expenses incurred in tracing the victims and in pursuing justice at the local level is Sf60,000 in 1988 currency value. That amount should also be paid as a lump sum, to be adjusted to the current currency value at the time of payment.

For the purpose of preserving the purchasing power of these amounts, the amounts of compensation were calculated at an official exchange rate of 1.9:1. If the Government of Suriname does not agree to give access to the official rate, the amounts of compensation should be recalculated to reflect the market rate of exchange - 20:1.

The families respectfully request the Court to supervise the indemnification ordered, and close the file only when the compensation has been paid.

c. Amounts of compensation for legal costs and expenses

The amounts of compensation to reimburse legal fees and expenses that were incurred in dollars, should be paid in dollars.

The total amount of legal fees requested is \$32,375. The total amount of costs requested is Sf71561.8 and \$18,533.

#### CONCLUSION

In light of the foregoing, the Commission on Human Rights and the attorneys for the families of the victims respectfully request the court to direct an award of consisting of the following amounts:

a lump sum award of Sf5,114,484 consisting of:

- Sf1,114,484 in material damages to the children;
- Sf660,000 in moral damages to the children
- Sf1,340,000 in moral damages to the adult dependants;
- Sf2,000,000 in moral damages to the tribe of the victims,

a yearly sum of Sf84,040 per year, adjusted incrementally, in material damages to the adult dependants,

and a lump sum for legal costs of Sf71561.8 and \$18,533; and a lump sum for legal fees of \$32,375.

In order to retain the purchasing power of the amounts denominated in Surinamese currency, we respectfully request the Court order the Government to give access to the official exchange rate. If this is not the case, the amounts should be recalculated at the market rate of exchange of 20:1.