

## **Inter-American Court of Human Rights**

### **Case of the Caracazo v. Venezuela**

#### **Judgment of August 29, 2002 (Reparations and Costs)**

In the El Caracazo Case,

the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "the Court"), composed of the following Judges:

Antônio A. Cançado Trindade, President;  
Alirio Abreu Burelli, Vice-President;  
Máximo Pacheco Gómez, Judge;  
Hernán Salgado Pesantes, Judge;  
Oliver Jackman, Judge;  
Sergio García Ramírez, Judge; and  
Carlos Vicente de Roux Rengifo, Judge;

also present:

Manuel E. Ventura Robles, Secretary; and  
Pablo Saavedra Alessandri, Deputy Secretary,

pursuant to Articles 29, 52(2), 55, 56(1) and 57 of the Rules of Procedure of the Court (hereinafter "the Rules of Procedure")<sup>1</sup>, in combination with Article 63(1) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") and taking into consideration the provisions of operative paragraph four of the judgment on the merits of November 11, 1999, issues the instant Judgment on reparations.

### **I COMPETENCE OF THE COURT**

1. The Court is competent, pursuant to Articles 62 and 63(1) of the Convention, to decide on reparations, legal costs and expenses in the instant case, in view of the fact that the State of Venezuela (hereinafter "the State" or "Venezuela") ratified the Convention on August 9, 1977, and recognized the binding jurisdiction of the Court on June 24, 1981.

### **II**

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<sup>1</sup> Pursuant to the March 13, 2001 Court Order on Transitory Provisions to the Rules of Procedure of the Court in force as of June 1, 2001, the instant Judgment on Reparations in this case is rendered under the terms of the Rules of Procedure adopted by the September 16, 1996 Court Order.

## **BACKGROUND**

2. The instant case was filed with the Court by the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") in its application of June 7, 1999. On November 11, 1999 the Court delivered its judgment on the merits of the case, in which it decided:

unanimously,

1. To take note of the acknowledgement by the State of Venezuela of the facts mentioned in the application and [to] declare that the dispute about these has ceased.
2. To take note, also, of the acknowledgement of responsibility by the State of Venezuela and, in accordance with the terms of this acknowledgement, [to] declare that the State violated the rights protected by Articles 4(1), 5, 7, 8(1), 25(1), 25(2)(a) [and] 27(3), in relation to Articles 1(1) and 2 of the American Convention on Human Rights, of the persons cited in paragraph 1 of this judgment, and in the terms established herein.
3. To take note, also, of the declaration of the State of Venezuela, with regard to the investigations initiated in order to identify, prosecute and punish those responsible for the facts mentioned in the application, and urge the State to continue them.
4. To initiate the procedure on reparations and costs and [to] authorize the President to adopt the necessary procedural measures.

## **III**

### **PROCEEDINGS DURING THE REPARATIONS STAGE**

3. On November 12, 1999 the President of the Court (hereinafter "the President"), pursuant to the provisions of operative paragraph four of the judgment on the merits, decided:

1. To grant the representatives of the victims or, where appropriate, their next of kin, up to January 12, 2000 to file their arguments and evidence to determine reparations and costs.
2. To instruct the Secretariat of the Court, once the term mentioned in the previous paragraph has expired, to forward all the briefs and evidence received to Inter-American Commission on Human Rights.
3. To grant the Inter-American Commission on Human Rights two months, from the date when the aforementioned briefs and evidence are received, to submit its observations on reparations and legal costs.
4. To instruct the Secretariat of the Court, once the term mentioned in the previous operative paragraph has expired, to forward to the State of Venezuela all the briefs and evidence submitted.
5. To grant the State of Venezuela two months, from the date the briefs and evidence mentioned in the previous operative paragraph are received, to file its observations and evidence for determination of reparations and legal costs in the instant case.
6. To summon the representatives of the victims or, where appropriate, their next of kin, as well as the Inter-American Commission on Human Rights and the State of Venezuela, once the written stage of the proceedings has been completed, to a public hearing, on a date that will be notified at the appropriate time.

4. On January 10, 2000 the representatives of the victims and of the next of kin requested that the Court extend the term set by this Court for submitting their arguments and evidence another thirty days. The following day, the Secretariat of the Court (hereinafter "the Secretariat"), under instructions by the President, extended the term to February 12, 2000.

5. On February 12, 2000 the representatives of the victims and of the next of kin filed their brief with arguments and evidence on reparations and its appendices, and it was forwarded to the Commission and to the State on March 6, 2000. Said brief included a list of witnesses.

6. On May 1, 2000 the Inter-American Commission filed its written arguments and evidence on reparations and legal costs.

7. On July 7, 2000, the term to file its written observations on reparations and legal costs having expired on the 3d of that month and year, the State requested a sixty-day extension for said filing. That same day the Secretariat, under instructions from the President, granted the State an extension until August 18, 2000 to submit said brief. On August 1, 2000 the State once again requested a thirty day extension to send that brief. On the 9<sup>th</sup> of that month and year the Secretariat, under instructions from the Court, granted Venezuela an extension until September 18, 2000 to send the aforementioned brief.

8. On September 18, 2000 the State filed the brief with observations on reparations and legal costs and its appendices.

9. On November 21, 2000 the Court decided to order the State to submit all information it had regarding the next of kin of the following victims in the instant case: Héctor Daniel Ortega Zapata, Abelardo Antonio Pérez, Boris Eduardo Bolívar Marcano, Jesús Alberto Cartaya, Héctor José Lugo Cabriles, Elsa Teotiste Ramírez Caminero, Sabas Reyes Gómez, Jesús Rafael Villalobos, and Alís Guillermo Torres Flores. It also ordered the State to inform the next of kin, through several publications in the media (press, radio and television), that a judgment had been rendered on the merits in this case and that it was necessary for them to communicate with the Court for the reparations stage.

10. On January 18, 2001, Mrs. Nelly Marcano, the mother of victim Boris Eduardo Bolívar Marcano, contacted the Secretariat in view of a notice published in a Venezuelan daily. On the 24<sup>th</sup> of that month and year, the Secretariat sent that lady a note with information and documentation pertaining to the case.

11. On February 28 and March 5, 2001 the State sent a copy of the notices it published in the Venezuelan written press pursuant to the November 21, 2000 Order (*supra* para. 9), and it stated that its understanding of that Order was that the summons could be published in any media, so it ordered publication in the written press.

12. On March 6, 2001 the Secretariat, under instructions from the President, taking into consideration the November 21, 2000 Order of the Court, informed the State that it should publish the notice through other media (radio and television) and send the Court copies of the audio cassette with the radio broadcast and the video cassette with the television broadcast. On June 19, 2001 and February 28, 2002 the Secretariat reiterated to the State the order to submit the aforementioned audio and

video cassettes, which have not yet been submitted at the time the instant Judgment is rendered.

13. On June 7, 2001 the State informed the Court that, on May 4 of that same year, it appointed Hermann Escarrá Malavé as agent for Venezuela in the instant case, in substitution of Raúl Arrieta Cuevas.

14. On June 18, 2001, after the notices were published in the press, the representatives of the victims and of the next of kin submitted several documents pertaining to several victims in the instant case and to processing of the criminal proceedings under domestic jurisdiction.

15. On September 3, 2001 the State informed the Court that it had appointed Jorge Dugarte Contreras as its agent, in substitution of Hermann Escarrá Malavé.

16. On September 12, 2001 the representatives of the victims and next of kin of the victims submitted a list of witnesses and expert witnesses, which was in accordance with their statement in this regard in their February 12, 2000 brief on reparations, and pointed out that due to the great number of witnesses it was difficult to cover the expenses for their travel to the seat of the Court, for which reason they requested that the latter appoint a representative to receive their testimony in Caracas, Venezuela.

17. On October 25, 2001 the representatives of the victims and of the next of kin filed a new list of 44 witnesses (of whom seven were new witnesses) and six expert witnesses. They also reiterated the request for their testimony to be received in Venezuela, and they requested that the Court order the expert witnesses to appear before the Court.

18. On November 6, 2001 the Inter-American Commission informed the Court that it had no objections to the persons listed nor to the object of the testimony of those offered as witnesses and expert witnesses by the representatives of the victims and of their next of kin. It added that it did not object to the examination of the witnesses taking place in Venezuela, as long as a Judge of the Court represented the Court to ensure immediacy of evidence and independence and impartiality of the examination.

19. On November 15, 2001 Venezuela informed the Court of "the decision of the Venezuelan State to annul the brief with observations and evidence on reparations and legal costs" filed on September 18, 2000. It added that the State had recognized the facts set forth by the Commission in section III of the application, during the public hearing held on November 10, 1999, as well as, and fully, its international responsibility in the instant case. The State also pointed out that it accepted the case law of the Court regarding reparations. Finally, it stated that Venezuela would provide whatever necessary information was requested by the Court and would "in good faith, accept the truthfulness of all information submitted by the applicants or their representatives, with prior sworn statements that the content of said information is truthful, so as to accelerate this case inasmuch as possible."

20. On December 5, 2001 the Court reached the following decision regarding the testimony offered by the representatives of the victims and of the next of kin: it accepted the testimony of the persons offered as witnesses by the representatives in the October 25, 2001 brief who had already been listed in the February 12, 2000

brief on reparations and, as evidence to facilitate adjudication, it ordered the testimony of seven witnesses and six expert witnesses included in the first of said briefs (that of October, 2001) but not in the second (that of February, 2000) to be rendered. According to the decision of the Court, said testimony and expert testimony must be provided in writing, the content and their signatures being recognized by a notary public. Furthermore, the Court ordered that the testimony and expert reports be filed no later than March 6, 2002.

21. On February 4, 2002 the representatives of the victims and of the next of kin requested a sixty-day extension to file the testimony and expert reports. On the following day the Secretariat, under instructions of the President, granted an extension until April 5, 2001 to submit the respective documents.

22. On April 2, 2002 the representatives of the victims and of the next of kin requested a postponement of the filing of the reports of expert witnesses Jesús María Casal and Alicia Neuburger. That same day the Secretariat, under instructions by the President, granted an extension until the 11th of that same month and year.

23. On April 5, 8, 10 and 11, 2002 the representatives of the victims and of the next of kin submitted the testimony, all in writing and rendered before a notary public, of the following forty persons: Miguelina La Rosa, Rafael Castellanos, Mery Marina Castillo, Ana Jacinta Garrido, Catalina Ramos de Guevara, Braulio Ramón Guía Laya, Xiomara Hernández, Rosa Margarita Mederos, Francisco Moncada, Ingrid Ortega Zapata, Hilda Rosa Páez, Toribia Ojeda, Ivonne Josefina Pirela Chacón, María Teresa Rivas, Juliana Quintana, Iris Medina, Dilia Mendoza de Ramos, Deisy Crespo, María Encarnación Salazar Campos, Fredez Binda García Hernández, María Neria Guillén Pereira, Olga María Álvarez, Carmen Rufina Cabriles, Rosa Julia Aldana Bastidas, Nelly Marcano, Nelly Freitez, María Casilda Valero Suárez, Haydée Mavilu Blanco García, Maritza Romero, Judith Borjas, Ybelice Altagracia Ramírez, Marisol Montenegro Cordero, Aura Rosa Liscano Betancourt, Petra Bello, Fernando Enrique Pérez, Juan Carlos Suárez Sánchez, Emileidys Ferrán Cedeño, Henry Eduardo Herrera Hurtado, Gregoria Matilde Castillo, and Noraima Sosa Ríos. They also submitted the reports of expert witnesses Magdalena López de Ibáñez, Jesús María Casal and Alicia B. Neuburger. On April 12, 2002 the Secretariat forwarded the respective documents to the Commission and to the State, and granted them until May 20 of that same year to submit their observations.

24. On April 29, 2002 the Commission requested an extension of the term to file the observations mentioned in the previous paragraph and the following day the Secretariat, under instructions by the President, granted the Commission and the State an extension until June 14 of that same year.

25. On June 5, 2002 the representatives of the victims and of the next of kin informed the Court of the reasons why the testimony of Gervasia Cartaya, Beatriz Imelda Gómez, Rosa Flores de Torres, and Franco José Marcos Villabobos was not submitted, and they filed several additional documents.

26. On June 12, 2002 the Commission submitted its observations on the testimony and the expert witness reports supplied by the representatives of the victims and of the next of kin.

27. In its June 18, 2002 brief the State filed its observations on the aforementioned testimony and expert witness reports. Previously, in its brief of the

14<sup>th</sup> of that same month and year, the State had informed the Court that it was sending those observations.

28. On June 20, 2002 the Court ordered the representatives of the victims and of the next of kin, the Commission, and the State to submit their final written arguments on reparations and legal costs no later than July 22, 2002.

29. On July 5 and 16, 2002 the Secretariat, under instructions from the President, requested the representatives of the victims and of the next of kin, the Inter-American Commission, and the State to send certain documents and information, to facilitate adjudication. These were basically the birth certificates of certain victims or their next of kin, work certificates, medical certificates, reports on the legal minimum wage in force and the current bolívar to United States dollar exchange rate in Venezuela, life expectancy in that country, certificates on the situation of domestic administrative or judicial proceedings, including those of exhumation and identification of corpses buried in common graves, and details on modifications to Venezuelan penal legislation, both military and regular.

30. On July 17 and 19, 2002 the Commission requested an extension of the term to submit the evidence mentioned in the previous paragraph. On the 22d of that same month and year the Secretariat, under instructions from the President, granted the parties an extension until August 9, 2002 to supply the aforementioned evidence.

31. On July 22, 2002 the representatives of the victims and of the next of kin and the State filed their final arguments on reparations, legal costs and expenses in the instant case, and the Commission did so the following day.

32. On July 26, 2002 the representatives of the victims and of the next of kin filed a brief with several appendices pertaining to expenses allegedly incurred by the Center for Justice and International Law (hereinafter "CEJIL") during processing of the instant case.

33. On August 2, 2002 the representatives of the victims and of the next of kin filed documents pertaining to the evidence to facilitate adjudication, requested on July 5 and 16 of that same year (*supra* para. 29). On the 13th of that same month and year they filed several documents regarding that evidence, as well as documents pertaining to the alleged expenses of the Comité de Familiares de las Víctimas de los Sucesos de Febrero - Marzo de 1989 (hereinafter "COFAVIC") during the reparations stage.

34. On August 12, 2002 the Commission filed a brief regarding the evidence to facilitate adjudication, requested on July 16 of that same year (*supra* para. 29) and also stated that it endorsed the evidence submitted by the representatives of the victims and of the next of kin in response to the July 5, 2002 request.

35. On August 13, 2002, the State presented part of the information required as evidence to facilitate adjudication, requested on July 5 and 16, 2002.

#### **IV EVIDENCE**

##### **A) PROCEDURAL MATTERS PERTAINING TO THE EVIDENCE**

36. Before examining the evidence submitted, the Court will consider certain aspects that, in light of the provisions of Articles 43 and 44 of the Rules of Procedure, are applicable to the specific case, most of which have been developed in its own case law.

37. According to the usual practice of the Court, during the reparations stage the parties must state, at the first opportunity granted for them to submit written statements, what evidence they offer. The discretionary powers of the Court, set forth in Article 44 of its Rules of Procedure, allow it to ask the parties to provide additional probatory elements, as evidence to facilitate adjudication of the case, without this possibility granting them a new opportunity to expand or complement their arguments or to offer new evidence on reparations, unless the Court should so decide.<sup>2</sup>

38. The Court has repeatedly stated that the procedures followed before it are not subject to the same formalities as domestic proceedings, and that inclusion of certain elements in the body of evidence must be done paying special attention to the circumstances of the specific case and bearing in mind the limits established by respect for legal certainty and procedural balance among the parties.<sup>3</sup>

39. Based on the above, the Court will examine and assess the set of elements that constitute the body of evidence in this case, following the rules of competent analysis,<sup>4</sup> within the legal framework of the case.

#### B) DOCUMENTARY EVIDENCE

40. As appendices to the February 12, 2000 brief on reparations, the representatives of the victims and of the next of kin submitted copies of 770 documents (*supra* para. 5).<sup>5</sup>

41. As appendices to the brief with observations on the requests for reparations filed by the representatives of the victims and of the next of kin and by the Commission, the State submitted (on September 18, 2000) 139 documents and a videotape (*supra* para. 8).<sup>6</sup>

42. With their June 18, 2001 brief the representatives of the victims and their next of kin submitted sixteen additional documents, after having communicated with several next of kin of the victims subsequent to publication of the notices by the State (*supra* para. 14).<sup>7</sup>

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<sup>2</sup> Cf. *Hilaire, Constantine and Benjamin et al. Case. June 21, 2002 Judgment. Series C No. 94*, para. 64; *Trujillo Oroza Case. Reparations (Art. 63(1) American Convention on Human Rights). February 27, 2002 Judgment. Series C No. 92*, para. 36; and *Bámaca Velásquez Case. Reparations (Art. 63(1) American Convention on Human Rights). February 22, 2002 Judgment. Series C No. 91*, para. 14.

<sup>3</sup> Cf. *Hilaire, Constantine and Benjamin et al. Case, supra* note 2, para. 65; *Trujillo Oroza Case. Reparations, supra* note 2, para. 37; and *Bámaca Velásquez Case. Reparations, supra* note 2, para. 15.

<sup>4</sup> Cf. *Hilaire, Constantine and Benjamin et al. Case, supra* note 2, para. 65; *Trujillo Oroza Case. Reparations, supra* note 2, para. 38; and *Bámaca Velásquez Case. Reparations, supra* note 2, para. 15.

<sup>5</sup> Cf. *three files with evidence on the Caracazo case under the title "evidentiary appendices supplied by the representatives of the victims and their next of kin together with the brief on reparations," at the Secretariat of the Court.*

<sup>6</sup> Cf. *two files with evidence on the Caracazo case under the title "evidentiary appendices supplied by the State of Venezuela together with the brief on reparations," at the Secretariat of the Court.*

43. In addition, the representatives of the victims and their next of kin submitted (between April 5 and 11, 2002) forty statements, all made in writing before a notary public (*supra* para. 23).<sup>8</sup> These statements are summarized as follows:

**1. Miguelina La Rosa**, the mother of Miguel Ángel Aguilera La Rosa.

Miguel Ángel Aguilera La Rosa died at the age of twenty-three. He worked as an independent merchant selling books. With the income, he supported his wife and his daughters. At the time of the event, he earned the minimum wage. He helped the witness by means of weekly contributions, and the financial situation of her family would be better if he lived, because he was the son who helped her most. The witness retired the same year her son died, and the pension she receives is insufficient.

The victim's father covered all the expenses of the vigil, but Miguel Ángel was buried in a borrowed plot. The witness had to recover the body from that place after seven months and buy one where his mortal remains could rest. She covered these costs from her social benefit payments. COFAVIC covered the expenses incurred searching for justice.

Due to the events, she began to lose her memory and had to receive psychological treatment, the cost of which was covered by two of her daughters. She prays a lot for her son and this helps calm her nervousness.

**2. Rafael Castellanos**, a brother of Armando Antonio Castellanos Canelón.

Armando Antonio Castellanos Canelón, who was twenty-nine, received a deadly bullet in the head. He was a blue-collar worker, a messenger and a bill-collector. He had a common-law spouse and two daughters, Daymiri Jugeni and Anabel Fabiana. He contributed to the income of his own family every week, being its only source of support and, since he turned eighteen, that of the mother of the victim himself. At the time of the event he earned minimum wage. The economic situation of the family would be better if the victim were alive, as his daughters have had to stop studying and now, like his common-law spouse, they have to work.

Two brothers of the victim, Rafael and Enodio, covered the expenses of the vigil, while COFAVIC covered expenses in pursuit of justice.

When the victim was wounded, he was with his brother Enodio, who was also wounded, and the next of kin therefore also had to pay for the medical treatment of the latter.

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<sup>7</sup> Cf. file with evidence on the Caracazo case under the title "Evidence submitted by the representatives of the victims after publication of the notice in Venezuela ordered by the Court (Briefs received on June 18, 2001)," at the Secretariat of the Court.

<sup>8</sup> Cf. file with evidence on the Caracazo case under the title "Evidence submitted in writing regarding testimony and expert witness reports submitted by the representatives of the victims and their next of kin," at the Secretariat of the Court.



When he heard that his brother had been wounded, the witness left his house, saw his brother lying on the street and, when he lifted his head, he realized that part of his brother's brain had been blown out. This is an image that he has not yet forgotten. The witness was very close to the victim, and therefore his death had a very strong impact on him. Enodio and Armando Antonio's daughters also suffered very much from the loss of their next of kin.

**3. Mery Marina Castillo**, the mother of Luis Manuel Colmenares Martínez.

Luis Manuel Colmenares Martínez was single; he had no children and he worked at a factory. Previously he had worked as a policeman. He contributed fortnightly to household expenses. If he had continued to live, the mother would have stopped working. At the time of the event he earned minimum wage. As a consequence of the facts the husband of the witness left her.

She and Luis Manuel's father covered the costs of the vigil, and COFAVIC covered expenses in pursuit of justice.

The witness suffered temporary amnesia and received psychological treatment. At night she woke up because she felt that her son was calling her. She continues to suffer insomnia. She has received medical care to date because she is prone to thrombosis. Like her husband, Adelmo Colmenares, she suffered very much during the days in which her son was at the hospital on the verge of death. What worsens the parents' pain is impunity regarding what happened to their son.

**4. Ana Jacinta Garrido**, the mother of Juan José Blanco Garrido.

Juan José Blanco Garrido died at age seventeen. He was studying in secondary school, had just begun to work, was single, and had no children. The victim contributed weekly to household expenses. At the time of the event he earned minimum wage.

The family covered expenses of the vigil. They had to pay an employee at the morgue for him to give them the body of their son. COFAVIC covered all expenses in connection with the pursuit of justice.

Due to the events, the witness suffered nervous problems and was given time off from her job. It took her a long time to accept the fact that her son had died and she suffers due to impunity regarding the facts. She suffers uterine cancer, insomnia, and depression. The memories are still intact. All she hopes is that there be justice.

**5. Catalina Ramos de Guevara**, the mother of Daniel Alfredo Guevara Ramos.

Daniel Alfredo Guevara Ramos died at age seventeen, when he was studying in fifth year of secondary school and at the same time he worked with an uncle at a store, selling and loading merchandise. He was single and had no children. He used the money he earned to cover his own expenses. The witness would have hoped that, if her son had continued to live, the situation

of the family would have improved, because he was studious and hardworking.

She and her husband covered the expenses in connection with her son's vigil, while COFAVIC covered expenses in the search for justice.

When they heard of their son's death, they went to the hospital where they were given no information, until a niece told them that their son had died. Due to the death of the victim, who was the eldest son, the father began to have problems at work, he was fired, and he left the witness, so she had to work as a seamstress to raise her two other children. The witness has not overcome the death of her son; she is pained by his absence; she suffers insomnia and depression. She has had to undergo a fibroma operation and since the death of her son she has high blood pressure. She is pained by the fact that there has been no justice after more than thirteen years.

**6. Braulio Ramón Guía Laya**, a brother of Pedro Gustavo Guía Laya.

Pedro Gustavo Guía Laya died when he was twenty-seven. Government officials did not allow the victim to receive assistance from his next of kin. He worked as a manual laborer, waterproofing roofs. At the time of the event he earned minimum wage. He had a daughter, Franci Araceli Guía. Since he turned eighteen, he helped his family on a weekly basis, and his was the main contribution they received. Pedro Gustavo's daughter stayed with his mother, Baldomera Laya de Guía, and since he died, all the family has had to work at whatever they could, to come through.

The witness covered expenses in connection with the vigil, while COFAVIC covered all expenses regarding the search for justice.

Together with his brothers, the witness has covered expenses caused by their mother's leg disease, which she began to suffer when she took care of the victim during the seventeen days he was hospitalized until his death. All the family has suffered the blow of losing Pedro Gustavo, especially the mother and the daughter of the victim who suffered insomnia and had to take sedatives. Due to lack of financial resources, they were unable to receive psychological treatment.

When he found out that his brother had been shot, he went home from work, and from there to the hospital. The seventeen days of agony of the victim at the hospital and his death were a calvary for him, for their mother and for the victim's daughter, just as the lack of justice regarding his death has been. He still feels very uncertain about whether his brother might have been saved, if they had allowed them to help him. The witness has undertaken the responsibility of supporting their mother and his brother's daughter. The death of his brother has caused great pain and a deep emptiness in him, and he still takes flowers to him regularly at the cemetery.

**7. Xiomara Hernández**, a sister of Mercedes Beatriz Hernández Daza.

Mercedes Beatriz Hernández Daza was 34 when she died from a bullet wound while at her home in the presence of her sisters and their parents, Oscar Hernández and Carmen Daza. She worked as a staff analyst for the National

Nutrition Institute. She helped her parents financially with fortnightly contributions since she began to work at age nineteen. She was married and had a two-year old son, Guirvin Efraín González, whom she supported. At the time of the event she earned minimum wage.

The parents of the victim and her husband covered expenses in connection with the vigil. COFAVIC covered expenses during the search for justice.

At the time of the facts, the victim's father was unemployed and the family was dependent on Mercedes Beatriz's contributions. The victim lived at her parents' house with her son. The witness was also wounded in a leg, and due to this she had to interrupt her university studies and work for a time. The impact of having witnessed her sister's death is still strong.

At the time of the event, the witness was in her first semester at the university; she was emotionally blocked and this left her without the will to study. Currently the family has resigned itself and accepted the loss of her sister. However, they still suffer complications at night. The mother died a few years ago. None of the members of the family have received psychological treatment due to the difficult financial situation. The witness hopes that those guilty are punished.

**8. Rosa Margarita Mederos**, the mother of Crisanto Mederos.

Crisanto Mederos died when he was 37 years old. He was a master builder, and as hobbies he was a painter and a poet. He supported the witness and her children permanently. He was divorced and had three young children, Crisanto Bael, Leonor Pilar, and Sara Abigail. At the time of the event he earned minimum wage. The victim had many projects and was always very active, for which reason the situation of the family would have improved if he had not died. His demise was a "total calamity" for the family.

Crisanto supported the witness, and therefore when he died she had to rent out her house to cover living expenses and medicine. She cannot specify how much she spent on the victim's burial, but she became indebted, and her other children helped her pay. COFAVIC covered all travel expenses, attorneys' fees and processing fees before civil and military courts.

The reply by the State to the Inter-American Court humiliated her so much that she suffered a heart attack and is receiving medical treatment, which since then has cost her approximately six million bolívares. COFAVIC helped her obtain psychological counseling. When her son was killed she thought nothing else could be done because it was the military. She heard her son screaming when he was shot; the military made her lie down on the ground and did not let her help him. She has suffered depression, has felt disappointed and has kept away from people for a long time, because the death of a child is "an irrecoverable blow," all the more so if it is violent and caused by the State. She still suffers insomnia. She and Crisanto's children have suffered irreparable damage, in addition to denial of justice for more than thirteen years, because still no one has been found responsible for the homicide and the humiliation. She hopes that the proceeding before the Inter-American Court will allow justice to be attained for the deceased and missing persons, as well as identification of the bodies in the common graves.

**9. Francisco Moncada**, the father of Francisco Antonio Moncada Gutiérrez.

Francisco Antonio Moncada Gutiérrez died at the age of eight. At the time of his death, he was in third grade of basic education and being a minor he did not contribute material goods to the family. His death did not affect the financial situation of the family, but the latter would have improved in the future, because Francisco Antonio was a very intelligent and studious boy.

The witness covered burial costs. COFAVIC covered all expenses in connection with the search for justice.

The day of the facts, he took his wounded child to several hospitals but none would receive him. Since he did not receive adequate assistance, the child suffered much in his agony and he cannot forget this. The witness has received no psychological treatment. He and the child's mother moved to another house, and afterwards they divorced due to the death of their child. His ex-wife Alicia Gutiérrez suffered very much, to the point that no one can mention the boy to her, nor can she attend the COFAVIC meetings; for this reason, neither he nor their daughters talk to her about the boy. His ex-wife has not gone to a psychologist because she has denied herself many things, she isolates herself and suffers in silence. Since the facts, he and his daughters have gradually gotten better. It also pains them that justice has not been served by the authorities. After a long time, he has accepted what happened. For thirteen years he has lived with permanent uncertainty regarding establishment of responsibility for the homicide.

**10. Ingrid Ortega Zapata**, a sister of Héctor Daniel Ortega Zapata.

Héctor Daniel Ortega Zapata died when he was twenty-three. He was a student, single, had no children, and contributed on a monthly basis to household expenses. He had worked as a mason since he was nineteen. At the time of the event he earned minimum wage.

The witness covered all expenses pertaining to the vigil, which she completed with what the neighbors gave. COFAVIC covered the costs of seeking justice, except for transportation costs to Caracas, which were due to the fact that the family lives in another State.

The witness attempted to pick the victim up from the street where he was lying, while the policemen were shooting, but they did not let her by to help her brother. At the hospital, she heard of Héctor Daniel's death.

Other sisters of the victim who studied had to begin to work. The witness did not get a promotion at work, because she had trouble concentrating.

She and her son, whose pregnancy was in the sixth month at the time of the facts, have received psychological treatment, for which she has required medicine, paid for by herself. Her son is hyper kinetic and therefore has had to receive counseling by an educational psychologist. She filed the complaint regarding Héctor Daniel's death and took a number of steps to this end. The victim's mother, Ligia Zapata, who was in charge of the children's education, has aged considerably since the event. The witness has been traumatized by

the death of her brother because she had a very close relationship with him; she has suffered insomnia and depressions. All her hopes of justice lie in the inter-American system.

**11. Hilda Rosa Páez**, the mother of Richard José Páez Páez.

Richard José Páez Páez was seventeen when he received a deadly bullet. He was in fourth year of secondary school, single, and had no children.

Expenses in connection with the vigil were paid by contributions gathered among the community where the family lived, together with what the parents were able to contribute. COFAVIC covered expenses in the search for justice.

The witness worked taking care of children at her home, a job she had to leave after the event. She began to suffer gastritis and colitis, and had to pay for her medicine. Due to lack of financial resources, she has not received psychological treatment. She and her husband have suffered due to the unfair death of their son, who had many projects ahead of him. The witness suffered insomnia and continues to feel immense loneliness. During the time after the facts, the family members all slept together due to the fear and anguish they felt. The parents of the victim had sacrificed to pay for his education, so that he would have better opportunities in life, and they hoped that Richard José would contribute to household expenses as soon as he got a job. They have been asking for justice in the courts and with the Prosecutor's Office for many years, to no avail. They trust that the Inter-American Court will render justice.

**12. Toribia Ojeda**, the mother of Carlos Elías Parra Ojeda.

Carlos Elías Parra Ojeda died at the age of twenty-seven. He was single and had no children. He worked as a messenger to support the family with 15,000.00 Bs. (fifteen thousand bolívares) weekly. At the time of the event he earned minimum wage.

The parents covered expenses in connection with the vigil, while COFAVIC covered expenses in the search for justice.

As a consequence of the facts, the father of the victim has suffered disorders, for which reason he has been hospitalized many times in the last seven years. The witness cannot work because of her age and the family's only income is rental for their house.

Due to the financial situation of the family, the witness did not receive any psychological treatment. The victim was the eldest son. She suffers insomnia, depressions and continues to feel great sadness because she has experienced once and again the way in which her son was killed. Her only consolation is for justice to be served and for there to be no more impunity for those responsible.

**13. Yvonne Josefina Pirela Chacón**, an aunt of José del Carmen Pirela León.

José del Carmen Pirela León died at the age of sixteen. In 1990 the next of kin were given the body of the victim, after its exhumation from a common grave. He was single, had no children, studied in secondary school, and in his spare time worked as a craftsman. He had contribute on a weekly basis to household expenses for a year. At the time of the event, he earned minimum wage.

She covered expenses in connection with the vigil. COFAVIC covered expenses regarding the search for justice.

The victim was like a son to the witness, who raised and educated him. She had to seek psychological treatment due to the "total loss of control" she suffered; she was very anguished during the time in which José del Carmen was missing. Eight days after the victim's disappearance, she heard of his death and burial in a common grave. During those days of uncertainty she searched for him in hospitals, at morgues and in jails. She felt no wish to live and was emotionally lost. Today, she still becomes disturbed when she sees groups of people. She has moved to another part of the country to forget. She has had to find a new job, because during the search for her nephew she could not go to work. She even took her younger child out of school for fear of losing him too. She has found support in COFAVIC's work, but she still sufferer insomnia and is at risk of losing her eyesight in the right eye due to very high pressure. All she asks is for justice to be served.

**14. María Teresa Rivas**, the mother of José Vicente Pérez Rivas.

José Vicente Pérez Rivas died at the age of eighteen. He worked as a cold meats salesman, and he wanted to enter the Naval Academy. He was single and had no children. He contributed to household expenses on a weekly basis, and the family has missed this contribution since he died because the witness earned a low wage at the work she then had. At the time of the event he earned minimum wage.

Her husband covered the expenses in connection with the vigil. COFAVIC has covered expenses in the search for justice.

After the event, the witness stopped working and was hospitalized at a psychiatric clinic for three months. Her husband died, and now her livelihood comes from a pension. She wrote letters to her son as a way to give vent to her feelings. The witness has received psychological assistance and has required medication to date. She covers the cost of treatment, which amounts to 30,000.00 Bs. (thirty thousand bolívares). She suffers diabetes. She heard of her son's death just a day after the event through her daughter Mayumi Pérez, who was with him at the time he was shot, and whom the military did not allow to help her wounded brother. For a long time, she did not want to live. Work at COFAVIC has helped her move ahead and share her grief with others. She has suffered insomnia and depression, and her only consolation is to hope that justice will be served with respect to her son.

**15. Juliana Quintana**, the mother of Jorge Daniel Quintana.

Jorge Daniel Quintana died at the age of sixteen. He worked by day as a "peddler" and studied in sixth grade in the evenings. He was single and had no children. He contributed regularly to cover household expenses, since he was twelve. The mother had requested "papers" for him to be able to work despite his young age. At the time of the event, he earned minimum wage.

She covered expenses in connection with the vigil from her savings. Expenses in the pursuit of justice have been covered by COFAVIC.

Due to her personal situation, the witness was fired from her job. One of the sisters of the victim has received psychological treatment, the cost of which was covered by the witness. When she heard of her son's death, she went to look for him at the hospital and the following day they gave her his body at the morgue. During the vigil that night, the police once again started firing at their house because they thought there was a party. They were only able to bury Jorge Daniel two days after he died. There was no place prepared for the corpse, so she had to ask the persons responsible for burials to bury him somewhere else.

For over a year she suffered somatic disorders; she thought she heard her son's voice and felt that he appeared before her. She suffers insomnia and depression, and is very much afraid for her other son every time he goes out to the street. Her greatest wish is to finally attain justice.

**16. Iris Medina**, permanent companion of Wolfgang Waldemar Quintana Vivas.

Wolfgang Waldemar Quintana Vivas died when he was twenty-seven years old from a bullet wound he received while he was at home. His next of kin took him into a clinic, where he was dead before entering.

He worked as a salesman at a bookstore and through his work he supported the witness, his daughter Luzdenny Estefanía and the mother of the victim, María Esperanza Vivas. His contributions were the basic means of support for the whole family. Wolfgang Waldemar had been working since he was fifteen. At the time of the event, he earned minimum wage. The financial situation of the family would have been better if the victim had survived, as he was the only family member who worked. Since then, the witness has had to work to support her daughter.

Expenses in connection with the vigil were covered by the family with the benefit payments of the victim for his work at the bookstore. Expenses in pursuit of justice were covered by COFAVIC.

The witness received both psychological and psychiatric treatment, and is still under psychological treatment. Her daughter also goes to the psychologist fortnightly.

The cost of these treatments is 40,000.00 Bs. (forty thousand bolívares) monthly and is covered by the witness. When she remembers the facts, she continues to feel much pain and anger, because for them their home was a safe place. The victim was seated, carrying his three-month old daughter when he was wounded, managed to place the baby in the crib and went downstairs, where he fell down, bleeding. The witness tried to cover the

wound, but the pressure of the blood flow was so strong that she knew he was going to die. With the death of her companion, the witness lost all her hopes, her life project of developing a family, and she suffers depression. The suffering is intact, for her and for the mother of the victim, who also witnessed what happened. The witness was nineteen at the time of the event, and since then she has had to be both mother and father of her daughter. She still suffers due to impunity regarding the facts.

**17. Dilia Mendoza de Ramos**, the mother of Yurima Milagros Ramos Mendoza.

Yurima Milagros Ramos Mendoza died when she was twenty years old. She was the second daughter of the witness, and she studied human resources management at Fermín Toro de Barquisimeto University. She was very studious and had many aspirations. She was single, had no children, and did not work. The financial situation of the family would have improved very much if she were alive, because she was very close to her family and showed great solidarity. Once she graduated, the victim wanted to help her parents with money, travel, and give her father a pick-up truck.

The family covered expenses in connection with the vigil, and COFAVIC covered expenses in pursuit of justice.

She saw how her daughter bled to death in their very home, with her face mangled because the bullet hit her in the head. The family had to spend several hours next to their dead daughter because they could not leave the house due to the curfew. A neighbor, who worked for the government, helped them get a detail of the Technical Corps of the Judiciary Police to come, and they placed the victim in a plastic bag. The witness has attended roughly five psychological treatment sessions.

Due to the event, the family is in very bad shape, although they have found some consolation by sharing their experience with the next of kin of other victims, at COFAVIC. The mother has found some "spiritual comfort" but she felt that her life had ended with the death of her daughter. However, she has continued to suffer insomnia to date. Since then, she has been seeking ways to get her mind off that event; she works at home until dawn cleaning windows to avoid thinking about what happened. She feels unprotected and bitter. The father of the victim, Héctor Ramos, feels the same but suffers in silence. The hope of attaining justice has been a determining reason to continue.

**18. Deisy Crespo**, the wife of Iván Rey.

Iván Rey died when he was twenty-five years old. The agents of the State who killed him did not allow him to be taken immediately to the hospital. He worked as a carpenter and was married. Since they married, two years before, he supported the household. At the time of the event he earned minimum wage.

She covered expenses in connection with the vigil from the savings they had. COFAVIC covered expenses regarding the pursuit of justice.



The witness was seven months pregnant at the time of the event. Due to the events, she had to give birth by a cesarean section. Before that, her pregnancy became complicated, with bleeding, and she received medical treatment to withstand the months until the foreseen date of birth. The witness had to begin to work immediately after the child was born. She underwent psychological treatment.

She witnessed the shooting and death of the victim, as she was by his side at the time he was shot. Since the death of her husband, she has had to be both mother and father for her son Iván José Rey. The witness has been traumatized, suffers insomnia and depression. Her pain deepened with impunity over the last thirteen years.

**19. María Encarnación Salazar Campos**, the mother of Javier Rubén Rojas Campos.

Javier Rubén Rojas Campos was single and worked as a presser at a clothing factory. His corpse was buried without authorization of his next of kin and his body was identified and exhumed in 1990 upon a request by COFAVIC. At the time of the event the victim earned minimum wage and supported, through weekly contributions, his daughter Haymar Rojas Campos and the witness, who is in charge of the girl. The brother of the victim, Carlos Rafael, supports them financially.

Together with Carlos Rafael, she covered the expenses of the vigil. COFAVIC covered expenses in pursuit of justice.

The witness had to stop working as a consequence of the death of her son. In 1993 she fell ill to the point that she could no longer work. The cost of the medicine has been covered by the insurance that Carlos Rafael is paying for her. The day of the event, the witness was in the kitchen of their house with the daughter of the victim, when she heard shots nearby. Carlos Rafael was called and told that his brother had been killed. She came out and saw him lying on the floor, dead. Then they took him away and when they went to look for his body at the morgue they were told that it was too late because there was a curfew. The following day, they told them to come back to look for him on Friday. When they arrived that day, they were told that the military had taken him away. Afterwards, the family found out that their son had been buried in a common grave in the General Southern Cemetery. The witness feels somewhat more at ease since the mortal remains of her son were handed over to her in 1990.

She is aware that the government has sought to deny the existence of the daughter of the victim. The witness, Haymar Rojas Campos and Carlos Rafael Rojas Campos have been deeply affected emotionally and financially by the death of the victim. She continues to suffer insomnia and high blood pressure. Due to lack of resources, she has never received psychological treatment.

**20. Fredez Binda García Hernández**, the mother of Esteban Luciano Rosillo García.

Esteban Luciano Rosillo García was a student, and three months before he died he had graduated from the Naval Academy. He was single, and had a son whom he did not acknowledge because at the time of the events the acknowledgment procedure had not been completed. The victim contributed all his salary from the Naval Academy to household expenses. At the time of the event he earned minimum wage.

Due to the facts, the witness had to sell her car and became indebted to pay the expenses in connection with the vigil. COFAVIC has covered the expenses involved by searching for justice, except for transportation of the witness to Caracas.

The official who killed her son has openly said that he will “not pay a death” for his homicide. Her other children have seen and heard him say this. Therefore, her main desire is for there to be justice. The day of the facts, the older son went to inform the witness, thinking that his brother had only been wounded, but at the hospital they told them that he had died. The witness fainted, and since then she has unceasingly felt a deep sadness and a strong feeling of powerlessness in face of impunity.

The witness spent six months in a state of shock, taking tranquilizers. Since then, she began to sell cosmetics to support herself. All the family has been emotionally perturbed. The witness has lost the will to live, since the victim helped her more than anyone else in the household. She suffers insomnia and depression, accentuated due to impunity.

**21. María Neria Guillén Pereira**, the mother of Leobardo Antonio Salas Guillén.

Leobardo Antonio Salas Guillén died at the age of twenty-two. The body was buried in a common grave. His remains were located in 1990, exhumed and delivered to the next of kin. He worked as a the employee in charge of control in a parking lot. He was single and had no children. He contributed fortnightly to the expenses of the household, which included twelve members. At the time of the event he earned minimum wage.

The next of kin of the victim covered the costs of the vigil, without including transportation of the body from Caracas to the place of origin of the family in the State of Mérida. COFAVIC covered expenses involved in searching for justice.

The witness is a housewife and receives psychological and medical treatment. Sessions with the psychologist were at first four times a year, now twice a year. It was a traumatic experience to witness exhumation of corpses in the common grave to identify her son. She continues to suffer insomnia and depression. She especially wishes that justice be served because impunity has affected her severely.

**22. Olga María Álvarez**, the mother of Tirso Cruz Tesara Álvarez.

Tirso Cruz Tesara Álvarez died at the age of twenty-three. He worked as a messenger at a radio station, and had helped his father cover household

expenses since he was approximately eighteen years old. He was single and had no children. At the time of the event he earned minimum wage.

The family covered expenses in connection with the vigil, while COFAVIC covered expenses involved in the search for justice.

The sisters of the victim had to delay their studies to work. Since he was the only male child, the family counted on his contributions. The father retired and receives minimum pension.

The parents of the victim were insured by Tirso through the firm where he worked. This insurance covered medical expenses, but they were no longer insured once the victim died.

The day of the facts she was called to the hospital where her son was, and when she arrived, he was unconscious. She spent nine days next to her son at the hospital, caring for him in his agony. After his death, she began to investigate the identity of the agent who had shot him, but they only told her his surname. She had to take medicine because she suffered insomnia. Every time she sees motorized people, she remembers her son. Her only hope is that those responsible are punished.

**23. Carmen Rufina Cabriles**, the mother of Héctor José Lugo Cabriles.

Héctor José Lugo Cabriles died at the age of twenty-seven. He was a mason, single, and had a daughter whom he had not acknowledged. He contributed income on a weekly basis to pay for his siblings' studies since he was nineteen, and he contributed to household expenses. At the time of the event he earned minimum wage.

The family covered expenses in connection with the vigil. COFAVIC covered expenses in the search for justice.

She heard the news of her son's death through a friend. She went to identify her son at the morgue, among many other bodies piled up there. Since the victim died, the brothers have had to stop studying and have had to work. Two years after her son's death, the witness had to leave her job because she became ill. She still has expenses for medicine, but has not received psychological treatment due to the limited financial resources of the family. She has lost the will to live and has only remained alive because of her other small children. She suffers insomnia and depression. She only hopes for justice to be served.

**24. Rosa Julia Aldana Bastidas**, a sister of Benito del Carmen Aldana Bastidas.

Benito del Carmen Aldana Bastidas died at age 46. He was taken to the morgue on March 1, but his remains were never delivered to his next of kin. He worked in the security area of a firm. He was single and had three acknowledged daughters, Mayerling Margarita, Celeste Senaid and Jilka Josefina, all of them Aldana. He helped his mother financially with household expenses and medicine, and also his daughters, to whom he provided their main support, on a weekly basis. At the time of the event he earned

minimum wage. The victim had contributed to his family since he was twenty years old.

There were no vigil expenses because the remains were never delivered. COFAVIC covered expenses in the search for justice.

The witness stopped working for two months to look for her brother. Since the victim had only been working at the firm where he was employed for two years, he would have had good prospects for professional growth within it.

The witness has suffered insomnia and depression due to the death of her brother, because she does not know where he is buried. She has not received psychological treatment. The mother of the victim had a heart condition and the symptoms of the illness worsened, which led to more frequent medical visits and an increase in consumption of medicine due to high blood pressure. The witness covered these expenses. The mother died a year after the victim's death. The witness had to go to the morgue and to the Judiciary Police to identify her brother by means of photographs. She and the victim's daughters continue to suffer from his absence and the uncertainty of not knowing where Benito del Carmen's remains are. The only hope is that her brother's remains be returned and that there be justice.

**25. Nelly Marcano**, the mother of Boris Eduardo Bolívar Marcano.

Boris Eduardo Bolívar Marcano died when he was twenty-two. He worked as an independent merchant selling clothes. His permanent companion was Carmen Sanoja Volcán and he had no children. He helped the witness with expenses weekly or fortnightly. At the time of the event he earned minimum wage. The financial situation of the family would have been better if he were alive, because his contributions alleviated the household's situation.

There were no vigil expenses because the body was buried in a common grave, where they remain. COFAVIC has covered expenses in the pursuit of justice.

The witness was offered medical assistance at the hospital where she worked. She has had to cover the cost of medicine. She wants her son's remains to be identified and delivered to the family. At first she could not believe that her son had died, because initially the Metropolitan Police had come looking for him at home and had taken him away to question him. Then she heard that they had him lying down on the street, she went to help him and the policemen told her to leave. The next day she heard on the radio that three youths had been found dead in the Guaire River. By the description she recognized her son and went to the Technical Corps of the Judiciary Police where a whole day passed without identifying him; they showed her pictures of her son. After spending several additional hours at those offices, she went home to unburden herself of her grief. She has not tried to recover her son's mortal remains because she does not believe she can attain this with the government. The victim was her older son and she felt protected by him, as he was her only male child. She has suffered insomnia and loss of appetite, especially during the two years after the event.

**26. Nelly Freitez**, the mother of Julio César Freitez.

Julio César Freitez was wounded while he was on the street. He was studying accounting, was single and had no children. He did not work, but was about to begin an internship in the Caracas Metro. The victim would have helped with household expenses once he graduated. The witness had to stop working due to the events.

There have been no funerary expenses because the remains of the victim have not been delivered to the next of kin. COFAVIC covered the costs involved in pursuit of justice.

When the witness heard that her son was wounded, she went to look for him on the streets. She looked for a vehicle to take him to the hospital, for which she stopped a passing car. She spent all night at the hospital, witnessing her son's agony until he died. After taking him to the morgue, she heard no more of him. She suffers very much because she has not been able to bury her son in a decent manner and because justice has not been served. It has been impossible for her to forget the events. Since the facts occurred, she has worked taking care of children at her home. She continues to suffer depression. She has received psychological assistance together with her other young children, who were severely affected by the event.

**27. María Casilda Valero Suárez,** a sister of Gerónimo Valero Suárez.

When he died, Gerónimo Valero Suárez was a blue-collar worker at a cauldron factory, and at the same time he worked as a blacksmith. At the time of the event he earned minimum wage.

The victim heard of the death of the victim and incurred funeral expenses, but his mortal remains were never delivered to her. For this reason she became indebted. Through COFAVIC, she received contributions to cover those debts. COFAVIC also covered costs in connection with the search for justice.

Since her brother's death, the witness has had to take over responsibility for her mother, in addition to her two children, who have not been able to complete their primary education due to financial problems. She no longer has the financial support of her brother, who was the main provider for the household. Since he died, she had to go out and work.

The witness heard of her brother's death at eleven p.m. She went out to the street to aid him, but he was already dead. Another brother, who was with Gerónimo, was not allowed to aid him. When the body was taken away, the brothers went to ask for it at the hospital, but they did not give it to them. The following morning the sister returned with the coffin, but they told her that they had already buried him in a common grave.

The family has not received psychological treatment for lack of financial means, especially because they have to cover the cost of medicine for the mother, who has a heart condition and continues to experience the situation again every time they mention circumstances pertaining to the victim. The witness and her mother continue to suffer insomnia and depression. What they want most of all is for justice to be served.

**28. Haydée Mavilu Blanco García**, a daughter of Jesús Calixto Blanco.

Jesús Calixto Blanco was mortally wounded when he was 54 years old. He worked as a messenger and had two daughters, the witness and Rayza Magali. He supported the whole family. At the time of the event he earned minimum wage.

There were no vigil expenses because the remains of the victim were not delivered to them, as he was buried in a common grave without the family being informed. COFAVIC covered expenses in connection with the search for justice.

They heard about the victim's death over the telephone. Since then, Jesús Calixto's daughters have had to work, and therefore they have interrupted their education. They have had to look after their mother, Ana Mary García, and themselves. At first the witness suffered problems with alcoholism, because she suddenly faced the change from having been a student to becoming the main provider for the family.

Her mother suffered insomnia, nervousness, and has required medication, paid for by the witness. All the family has suffered severe depression since then, worsened by the fact that they never found out the final whereabouts of the victim. The minimum comfort they hope to receive, with the help of COFAVIC, is delivery of the remains of the victim.

**29. Maritza Romero**, a sister of Fidel Orlando Romero Castro.

Fidel Orlando Romero Castro was a blue-collar worker; he was single, and had no children. He had contributed to household expenses on a weekly basis since he was seventeen. At the time of the event he earned minimum wage.

The family hired funerary services, but they were never used because the remains of the victim were never delivered to them. COFAVIC covered expenses in pursuit of justice.

A brother aided the victim and took him to the hospital, where he underwent an operation. After the operation, the next of kin thought that the victim was out of danger. His mother, Rosa Jacinta Castro, went to the hospital the following day to take care of him, but Fidel Orlando died that night. When she got back home, the mother fainted. The family expected the victim's condition to stabilize. The witness lost her job seeking justice in the case of her brother and caring for her mother's health. The latter, Rosa Jacinta Castro, also stopped working due to the steps they had to take in the case of her son, so they have had to divide some rooms from the house and rent them out.

The witness underwent psychological treatment for two years. She fought for the common grave where Fidel Orlando's remains had been buried to be opened, and spent a lot of time at the cemetery while the grave was being opened. At that time she became pregnant and lost her daughter during the

delivery, due to an infection caused by her presence at the exhumations. She still suffers very much due to the uncertainty regarding the whereabouts of the victim. She suffered insomnia and nightmares, as well as depression. One of her brothers, Oscar Alfredo, has had drinking problems since then and has refused to receive professional support. She asks that the facts in connection with Fidel Orlando be investigated.

**30. Judith Borjas**, an aunt of Roberto Segundo Valbuena Borjas.

Roberto Segundo Valbuena Borjas died at the age of twenty-two. He was a machine operator and had planned to attend college. He was single and had no children. He had come from the interior to live with the witness in Caracas. He had contributed on a weekly basis to the household for five years. At the time of the event he earned minimum wage.

The next of kin began to take the steps required to bury the victim and incurred funerary costs, but his mortal remains were never delivered to them. COFAVIC covered costs involved in seeking justice.

The witness was suspended from her job because she was busy seeking justice. For her, the victim was like a son. Roberto Segundo's mother, Rubi Borjas, received medical treatment because she suffered a kidney condition due to hypertension caused by the events. The two of them covered treatment costs. The witness suffered precocious menopause. She continues to be affected when she knows that her sons and another nephew who lives with them have gone out to the street. To date, she continues to take tranquilizers. She has suffered insomnia and depression; sometimes she works until dawn to keep her mind busy. Her greatest grief is not having been able to bury the victim, for which reason her most intense wish is to be able to do this, and to attain justice.

**31. Ybelice Altagracia Ramírez**, a daughter of Elsa Teotiste Ramírez Caminero.

Elsa Teotiste Ramírez Caminero worked as a waitress; she was married and her children are Alejandro Idelfonso, Yovanny Manuel, Ydel Ramón, Elsa Julia and the witness. Her aunt Marisol Vitalina Caminero recognized the victim in some photographs. At the time of the event, the victim earned minimum wage. The victim's income had served to pay for her children's studies and to support the family over the last seven years. Aside from that, Elsa Teotiste made a contribution to her mother fortnightly, sometimes weekly.

There have been no vigil expenses because the victim was buried in a common grave and the remains have not been delivered to the next of kin. COFAVIC covered expenses incurred in pursuit of justice.

For the children, their mother was at the same time like a father. The older brothers had to stop studying and begin to work. Her aunt has taken charge of the other brothers. The younger brother of the witness received psychological treatment only nine months, the cost of which was 350,000.00 Bs. (three hundred and fifty thousand bolívares) and was covered by her aunt Marisol Caminero, and he no longer studies as a consequence of the trauma. What grieves the witness most is not having been able to bury her mother

appropriately. She still feels great sadness; all the brothers feel unprotected because most of the family lives in the Dominican Republic, from where they came. The witness suffers depression. She hopes that justice is attained and that her mother's remains can be taken to her country of origin.

**32. Marisol Montenegro Cordero**, a sister of José Ramón Montenegro Cordero.

José Ramón Montenegro Cordero was single and had no children; he worked as a mason and a painter. He supported his mother Nicasia Cordero and his younger brothers by means of contributions. At the time of the event he earned minimum wage.

There were no vigil expenses because the remains were never delivered to the next of kin of the victim. COFAVIC has covered expenses incurred in pursuit of justice.

The health of José Ramon's mother, who already suffered high blood pressure and a heart condition, has worsened since then, and this has led to greater expenses in medicine and more frequent medical appointments. The witness feels very lonely since the death of her brother because he was the person to whom she felt closest; she suffers insomnia, depression, and she especially suffers due to impunity regarding the facts. The grief is the same, but to calm it she hopes to receive her brother's remains.

**33. Aura Rosa Liscano Betancourt**, a sister of José Miguel Liscano Betancourt.

José Miguel Liscano Betancourt was twenty-one when he disappeared after leaving the house to play basketball. He worked as a file clerk at a firm and he attended an accounting course. He was single and had no children. He had contributed income to his family on a weekly basis for a year, and at home he helped support his younger brothers. At the time of the event he earned minimum wage.

The witness lost her job because of the steps she had to take to find out the whereabouts of her brother. She incurred transportation costs while searching for her brother. COFAVIC covered costs involved in seeking justice.

According to his friends, the night he disappeared he had left them to go home, which was about 150 meters away from where he left them. Since he had not arrived by nine p.m., his next of kin went out to search for him, but they were stopped by military agents. At six the following morning, after a sleepless night, all the family members went out to look for him at the hospitals, at the National Guard and at the Metropolitan Police, to no avail. The following day, they went to the city morgues but his name was on none of the entry records. The search lasted three months. The sister went to the Technical Corps of the Judiciary Police to report him as a missing person. The feeling of uncertainty remained until the Inter-American Commission informed her that "the State had answered [the Commission] that [her] brother was dead and buried on the same day" of his disappearance.



For lack of financial means, neither the witness nor her mother, Carmen Betancourt, have received psychological treatment. A couple of months ago COFAVIC undertook to cover the cost of professional psychological aid. The mother continues to await her son; she feels that he is alive. Both the witness and her mother have suffered very much over the last thirteen years due to the uncertainty caused by the victim's absence. The mother continued to wash the victim's clothes five years after his disappearance, and continued to keep daily food for him. The sister helped raise the victim, because the mother worked, so her relationship with José Miguel was like that of a mother and a son. She continues to suffer especially due to the uncertainty of not knowing the exact circumstances of the death of her brother and not having been able to bury him.

**34. Petra Bello**, the mother of Juan Acasio Mena Bello.

Juan Acasio Mena Bello disappeared on February 28, 1989. He worked as an upholsterer; he was single, lived with his common-law spouse Laura Margarita Marrero and had four children: Petra Zulay, Laura Josefina, Maribel Sugey and Jhonny Araujo. At the time of the event he earned minimum wage. He contributed to support the witness and their four children on a weekly basis. The witness stopped working for three months to concentrate on the search for her son, and his common-law spouse had to begin to work to support the children.

She has covered expenses incurred searching for the whereabouts of the victims, travel within the country and telephone calls. COFAVIC has covered costs involved in pursuit of justice.

The witness became ill due to the events and did not go to work for a time. She searched for her son everywhere, at the Technical Corps of the Judiciary Police, at the morgue, in the house where he worked, but did not find him. About eight months before she had lost her mother, and with the death of her son her suffering became even greater. Her most intense wish is to be able to bury her son in an appropriate manner. Her anguish has been due primarily to not knowing where Juan Acasio is, and this has affected the whole family, the victim's children and his common-law spouse. The witness continues to suffer insomnia and has felt disturbed at night, when she feels that her son is going show up at the door of their house any moment. She has had medical expenses which have been covered by another son. All she wants is for justice to be served.

**35. Fernando Enrique Pérez**, a nephew of Abelardo Antonio Pérez.

Abelardo Antonio Pérez worked as a mason and he was a "cabillas" master in building projects at the time of his disappearance. With his work, he helped his mother, Oscarina Pérez, on a monthly basis, and paid for her personal expenses. He was single and had a daughter, with whom his next of kin lost touch. At the time of the event he earned minimum wage. He had helped his mother with household expenses since he was about twenty years old, and they miss his contributions since he disappeared. If he had lived, the financial situation of the family would have improved because it is a very united family and its members cooperated very much among themselves.

COFAVIC has covered all expenses caused by and related to disappearance of the victim and pursuit of justice.

There have been expenses especially for medicine required due to the nervousness of the victim's mother. All the family suffered enormous despair, preoccupation and anguish. The victim's mother was constantly anxious the first years; she still has the expectation that Abelardo Antonio will turn up alive. To date, his mother suffers insomnia, severe depression and nervousness. What is terrible is the uncertainty of not knowing whether the victim is alive or dead. The mother has felt doubt and hope over the last thirteen years, and she now hopes that those responsible are punished and that justice is attained.

**36. Juan Carlos Suárez Sánchez,** a brother of Andrés Eloy Suárez Sánchez.

Andrés Eloy Suárez Sánchez was born on September 22, 1956 and he disappeared on February 27, 1989. He had completed third year of secondary school. He worked as a carpenter and a confectioner, and had taken courses in confectionery, baking, and carpentry. He was single and had no children. He had contributed regularly to household expenses since he began working. At the time of the event he earned minimum wage. Even though his income was low, what he contributed helped the family. However, what grieves his family most is his absence.

COFAVIC has covered all expenses in connection with the efforts to determine the whereabouts of his brother and to attain justice.

The victim's mother, María Antonia Sánchez de Suárez, receives psychiatric treatment at a cost of 180,000.00 Bs. (one hundred and eighty thousand bolívares) monthly, and takes tranquilizers. The most lasting feeling has been one of sadness and powerlessness in face of what happened, and also that of not being able to obtain justice because they are a very poor family. The greatest obstacle to understand what happened has been the uncertainty of not knowing where Andrés Eloy is, non-elucidation of the facts, and not having been able to bury the victim in an appropriate manner. The witness hopes that justice is attained and that his brother's remains are located, to bury him according to his religious beliefs.

**37. Emileydis Ferrán Cedeño,** a sister of Jesús Salvador Cedeño.

Jesús Salvador Cedeño died at age twenty-seven. He studied law, worked as a legal adviser, and was single. After his death, the family found out that he had a child, whom he had not yet acknowledged. He had helped his mother, Sofía Cedeño, financially since he began to work, with monthly contributions. He also helped the witness study, and paid for his own education. At the time of the event he earned minimum wage.

There have been no vigil expenses because the remains of the victim have not been delivered to his next of kin. COFAVIC has covered the cost of legal actions, but since the family moved back to the city of origin, Marutín, its members incurred expenses due to travel and while staying in Caracas to

take the necessary steps, since they had to return the apartment where the victim had lived.

The witness had to stop studying. The father suffered a mental disorder and was admitted to a psychiatric hospital; afterwards he continued to take medication. She covered all these expenses. Her father died four months after the victim's demise. The witness began to work to support the other brothers who studied, as the mother could not support them on her own.

The witness heard what had happened from some friends. At that time she was seventeen, and she had to identify her brother among several dead persons who were piled up at the morgue. Afterwards she did not see him again, and they told her that he had been buried in a common grave. She had to inform the family of what had happened. The mother talked to a priest, seeking comfort, and the children tried to benefit from those conversations too. None of the family members have received psychological treatment. At first, the witness did not accept her brother's death, she cried a lot, could not sleep, did not eat. Since then she has suffered gastritis. She was perturbed at night and suffered insomnia for a long time, as did her mother. The mother required injections with tranquilizers because she constantly expected to see her son come into the house. The mother died without knowing the final whereabouts of her son. Both the witness and her mother suffered very much due to impunity regarding the facts.

**38. Henry Herrera Hurtado**, a victim.

On February 28, 1989 he suffered a firearm wound which damaged his liver, intestines, and some vertebrae. At that time he worked at a furniture store as an assistant and earned minimum wage. He supported himself and made weekly and monthly contributions to his family. He is single and has no children.

His life has changed substantially because before he could support himself and since the facts he has no income and depends absolutely on a social security pension, which he began to receive two years after the event. He has suffered irreversible damage; he lost a kidney and ten centimeters of colon; he suffered liver damage; he has a post-operative wound, and has been left paraplegic, with partial paralysis.

He has had a number of expenses for diapers, catheters, medicine, travel, and still requires urinary catheters, but he does not have receipts. He received medical assistance from social security, while his family has covered the cost of medicine. COFAVIC covered expenses in pursuit of justice.

The witness has been severely hurt by the sudden and total change in his situation. He suffers depression and deep sadness. He is practically tied to his house, because to go out he needs help. The last three years he has been lying on a bed and his perception of what happened is that of a great fracture in the path of his personal realization. He has found some "comfort in spirituality," but even so he feels that the facts have cut short his hopes of establishing a family and fending for himself.

**39. Gregoria Matilde Castillo, a victim.**

Gregoria Matilde Castillo was born on February 25, 1969 and was wounded in the left leg on March 1, 1989, when she was twenty-seven years old. Her leg was amputated at the hospital, and since then she has worn a prosthesis. She worked at a factory as a purse assembler, and she was studying to be a secretary. At the time of the event she earned minimum wage. She was single and had no children. She helped support the family. She had younger brothers who studied. At the time of the facts, the mother of the victim stopped working to take care of her, so both of their incomes were lost. Due to this, one of the younger brothers had to leave school. Currently she is married, has two children and continues to contribute income to the family, though less than before.

She has had expenses for medicine, crutches, and continues to look for an appropriate prosthesis. Social security only paid her for a year after the event, due to which she had to leave her job. Social security services were limited to certain medicine and to medical/hospital service. Since then, her father covered all expenses in connection with her treatment. COFAVIC has covered all expenses regarding the search for justice.

Since the facts, the witness cannot sleep with the lights off. It took two years for her to find a job, and she feels guilty because her younger brother had to leave school. She suffers insomnia, depression, and feels disturbed at night. She cannot see gatherings of people or a soldier on the street without getting nervous. She wanted to study biology at the university. She has received no psychological treatment because she cannot pay for it. More than anything else, she hopes that justice be served after thirteen years.

**40. Noraima Sosa Ríos, a victim.**

Noraima Sosa Ríos was born on April 4, 1954, and she was wounded in the right leg on February 28, 1989, at the age of 34, when she was inside her house. This leg was amputated at the hospital. She was single and had a son, who died in 1990. She worked as a secretary and contributed to household expenses on a monthly basis. At the time of the event she earned minimum wage.

COFAVIC has covered the costs involved in seeking justice.

After the event she had to buy two prostheses, one of which cost 50,000.00 Bs. (fifty thousand bolívares) and the other 1,560,000.00 Bs. (one million five hundred and sixty thousand bolívares). She has also had to cover the cost of medicine for rehabilitation. Furthermore, her left arm was disabled due to a vaccine applied because of the wounds, a disability that has been treated with therapy. However, the damage to the leg and arm is irreversible. She constantly has to spend on bandages, and now she has to buy a valve for her prosthesis. She has covered all expenses in connection with her treatment, but she cannot specify the exact amount spent.

The victim has also received psychological treatment because she suffered insomnia, and due to this she had to take medication. She continues to feel great anguish and suffers depression. She even has difficulty being alone

because it reminds her of what happened. She has not been able to get a job because of the disabled leg and arm; also, if she gets a job she risks losing it because of the medical appointments. She has a problem of stricture in the esophagus, which does not allow her to ingest food well. She feels that all her future projects have been cut short, that her life, plans and dreams changed radically, for which reason she feels as if she were another person.

44. The representatives of the next of kin of the victims also submitted reports by three experts, Magdalena López de Ibáñez, Alicia B. Neuburger and Jesús María Casal, which are summarized below.

**1. Magdalena López de Ibáñez, psychologist.<sup>9</sup>**

In all the cases that were evaluated, with slight nuances, the most frequent psychological effect is the Post-traumatic Stress Disorder, which occurs when a person has experienced or witnessed events “involving deaths or threats to their physical safety or that of others,” and the person tends to experience the episode once again through various symptoms, such as intense psychological malaise or physiological responses when exposed to stimuli that remind him or her of an aspect of the episode; a feeling that the event could be happening at the present time (illusions, hallucinations or flashbacks); recurrent and intruding memories of the fact that cannot be voluntarily avoided; shunning places, activities, or persons that remind him or her of the traumatic event; restriction of emotional life and diminished interest in significant activities; difficulty falling asleep and remaining asleep; persistent irritability or fits of wrath and hyper vigilance vis-à-vis their environment, and sudden fright.

All these elements coexist with a deep depressive disorder in its various categories, significantly restricting the quality of the person’s life.

Individuals who suffer permanent disability, in addition to the aforementioned symptoms, suffer other physical disorders; devalued self-perception; very low self-esteem; forced dependence which increases anger; recurrent death thoughts or wishes; a feeling of a desolate future. Furthermore, there are major effects on their families, who must care for and support the patient.

Repression of anger and hopelessness of the victims and their next of kin, knowing that the system of justice has not functioned, brings fateful effects on physical and psychological health, impedes necessary mourning, and keeps the psychological wounds open. Psychosomatic disorders have been observed which may relate to protracted anger and anguish. These feelings become more acute in face of any figure of authority, in this case agents of the State, which increases the feeling of helplessness and vulnerability suffered by the individual, since those who caused the trauma are precisely those whose social function is to protect the population.

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<sup>9</sup> A Venezuelan psychologist. She has conducted multiple therapeutic interventions with victims and next of kin in the instant case since 1993.

Significant differences are observed in connection with mourning processes in cases of natural death as compared to deaths resulting from external violence. When death is natural, mourning goes through its natural stages and is finally resolved through resignation and resumption of daily life relatively soon. In the case of forced disappearance, daily normality is hardly ever recovered, as mourning remains frozen in one of its stages, linked to rage and non-acceptance of the outcome. There are also feelings of guilt of the survivor together with the impossibility of an adequate closure of the process, for which reason those feelings are a recurrent source of grief and anguish.

The death of a child under conditions of external violence is one of the worst "stressors" that a human being can experience. The traumatic effect on the siblings takes place in two ways: due to the effects of grief and guilt, and the alteration of family dynamics as a whole, caused by the parents' grief, as they are fixed in their memory of the missing child.

The emotional effects of such a trauma can worsen mental or physical illness. In these cases, both the victims and next of kin have shown various types of physical diseases and symptoms in a greater proportion than would be expected for the general population.

In the cases studied, the families were significantly affected in the allocation of intra-family roles and in the general dynamics of their members. Emotional pain due to the circumstances of the traumatic events (lack of information and denial by the bodies responsible, wandering among assistance centers, waiting at the morgue, etc.) created very intense ambivalent feelings. In the case of death or disappearance of the male figure (father, brother, son who was the household provider) they lost their economic status and even minimum subsistence conditions and support for future projects to improve the situation of the family. For survivors with permanent disabilities, the facts also involve loss of jobs, of spouses, and of personal independence, giving rise to a "situation of a dependent burden."

In connection with the families of the victims who do not know the whereabouts of the latter, it is indispensable to establish the whereabouts, and it would be very important for reparation measures to allow them, when this has not yet been done, to identify the remains of their beloved ones with certainty, in some cases, and in others to be able to bury them in an appropriate manner. This will improve the process of overcoming symptoms of depression through adequate development of mourning.

Psychological treatment of the victims and their next of kin is necessary to overcome traumatic episodes, with the assistance of one or more mental health professionals (psychiatrist and psychologist). The cost of treatment depends on the time in therapy, which varies depending on the event and the patient's pre-morbid functional level. Estimated time is one year, with weekly sessions at an approximate cost of US\$30 to US\$40 (thirty to forty United States dollars) per hour of treatment, that is, an average of US\$1,500.00 (one thousand five hundred United States dollars) per patient per year.

The fact that the Court is hearing the case has allowed the victims and their next of kin to have hope regarding the real possibility of justice being served, and it has given them trust in the effectiveness of international bodies.

The expert witness recommends continuation of processes that seek to find or identify the missing persons, and of support to organizations such as COFAVIC, and also providing mental health care to the victims and their next of kin.

To supplement her general report, the expert witness submitted to the Court the individual psychological reports on victims Gregoria Matilde Castillo and Noraima Sosa Ríos, and of the following next of kin of victims: Hilda Rosa Páez, Petra Bello, Olga María Álvarez de Tesara, Catalina Ramos de Guevara, Dilia Mendoza de Ramos, Aura Liscano, Iris Medina, and Maritza Romero.

**2. Alicia Neuburger, psychologist.<sup>10</sup>**

The victims who have suffered the type of violence involved in the facts of the El Caracazo case are deprived of liberty, physical integrity, safety, their life project and their own identity, as well as family ties. No psyche can tolerate that type of violence without severe subjective disorders. The usual consequences include partial or total loss of thought, lack of motivation, anguish crises, anxiety, various types of somatizations, emotional withdrawal, severe depression which can trigger suicide, and they can reach the point of psychotic dissociation, with delirium and hallucinations. Impotence with respect to the situation generates episodes of wrath. If it is known that those responsible were agents of the State, fear increases vis-à-vis the external world as a whole, especially of the authorities. Feelings of mistrust and skepticism toward State institutions appear or become more intense. Feelings of abandonment and defenselessness may be very intense and plunge those directly affected into a state of childish dependence with an ambivalent polarity of intense emotions: frustration-hate, powerlessness-challenge.

The fact that justice has not been served constitutes another wound on top of the previous wound for those affected. The psyche does not accept impunity, and if those responsible are not punished, the wrath will turn against the social body in charge of implementing justice, against the next of kin, or against the affected persons themselves. It is possible that the latter may suffer very severe disorders, which can lead to permanent incapacity or death.

The effects of permanent incapacity are depression, frustration, feelings of self-pity, and devaluation. This generates highly dependent ties, difficulties relating adequately to others, and loss of the capacity of enjoyment. There is a tendency toward isolation from the outside world. Having been caused by violent events, the incapacity to integrate into the new life situation becomes even more acute because the psyche is "incapacitated" to process the damage.

Currently, the concept of mind-body integration is widely accepted. When a person suffers a traumatic event, strength of the immunological system diminishes, which makes the individual more prone to contract illness. This is

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<sup>10</sup> An Argentinean psychologist, specializing in Clinical Psychology. She did not interview victims or next of kin in the instant case.

due to the fact that the psyche tolerates grief and anguish up to a limit. When that limit is surpassed, the psyche resorts to other mechanisms. One of them is to divert a major part of that anguish toward the body. This painful psychic energy then becomes physical disease. The malaise concentrates in the body and diminishes in the mind without the individuals realizing that this dissociation has occurred. This mechanism expresses itself both in less severe symptoms (migraines, gastritis, ulcers, dermatitis, gynecological disturbances in women, etc.) as well as in terminal diseases (cancer) and in cardiovascular conditions.

Extra-judicial execution causes severe effects on all surviving next of kin, although with differences that have to do with their ties with the victim, the moment of their life, and the age of the individual affected. It is quite difficult for normal mourning to follow execution. For this very reason, often the individual enters a psychopathological state of melancholia in which he or she remains in the past. Feelings of injustice and extreme powerlessness are added due to the impossibility of accepting the death, which impedes processing of the grief. The feeling of powerlessness isolates, sorrow and grief are enclosed, causing a psychological damage that can become chronic and is transmitted from one generation to another. There is emotional dissociation, which severely harms and causes deterioration of family bonds.

Forced disappearance generates intra-subjective damage to the family. It causes a sinister duality of thought. The "hope that he or she is still alive" is accompanied by the fantasy, and sometimes the certainty, of horrors suffered by the victim, and is transformed into the "hope that death has put an end to his or her suffering." This doubt affects the future, turning it into a hopeless transitoriness. To consider a person dead when one did not see that individual die is, at a symbolic level, to have to kill him or her oneself. This is the most subtle and complex mechanism of psychological torture for all the next of kin. There is increased guilt, a loss of potentiality, greater mental and emotional disability which can lead to psychosis.

Allowing the next of kin to bury their victims is crucial for the mourning process to commence. The symbolic value of the ritual of vigil and burial is immense, because it indicates the passage between the past and the future, allowing them to bid farewell to someone who was alive and who no longer lives, and thus to begin the task of mourning. The dead person also has to be buried so that he or she does not return as a ghost in nightmares, hallucinations, paranoid anxiety, and delirium.

Progress in the investigations is indispensable to facilitate psychological rehabilitation of the next of kin and their re-integration into society.

Another unavoidable task is that of the medical-forensic team of identifying the persons buried in common graves. Knowing what happened is a fundamental step for the psyche to commence its task of repair.

Events such as the Caracazo cause psychopathological disturbances throughout the household group. The whole structure is affected. They generate sleep and eating disorders, as well as concentration and memory problems; addictions are renewed or worsened. The family becomes more vulnerable to daily problems and is more prone to the risk of accidents and



diseases. If a male member of the family is lost, there is anguish regarding subsistence and the surviving member is overburdened with responsibility as head of the family. The young or adolescent son will have to undertake adult responsibilities for which he is not yet prepared. If the survivor is a woman, the situation is even more difficult because she also has to become a father. The surviving siblings must tolerate the ambivalence caused by the grief or guilt together with anger due to truncation of their projects regarding studies, couple relationships, etc. There may be patterns of psychological alteration, although the individual characteristics of each family must be taken into account.

Death of a child is the worst loss that people may suffer. Psychological problems tend to become chronic. Often the lack of tolerance of this fact generates suicidal behavior of one of the parents. For the mother, the situation is more difficult because of the symbiotic bond she had with the child during his or her early years.

Without psychological assistance, it is impossible to repair the psychological damage, because only psychotherapy allows those affected to remember and integrate the traumatic events in their life, enabling them to develop a new life project. Very often it is necessary for there to be a psychiatric complement, such as anti-depressant medication. Individual treatment alternating with family sessions is the recommended treatment; the number of sessions required will vary depending on the circumstances of each family. Approximate cost of treatment is US\$ 50.00 (fifty United States dollars) per individual session, and US\$ 65 to US\$ 70 (sixty-five to seventy United States dollars) per family therapy session. Thus, the cost of treatment for an individual (reinforced by family sessions) is US\$ 3,200.00 (three thousand two hundred United States dollars) per year.

The proceedings before the Inter-American Court play a key role in reparation, as this is the only way to obtain justice. By attaining an indispensable social reparation, the individuals affected can also attain psychological reparation and regain trust in human and social values.

The symbolic value of having rendered testimony in the proceedings before the Inter-American Court is crucial for restoration of psyche having suffered so much damage as those of the individuals affected, especially because they have made their statement in the public sphere, as this allows channeling and socialized processing of the existing hostility. It allows them to make publicly evident the arbitrariness, the horror and the suffering, and to express what they have kept private for so many years.

### **3. Jesús María Casal, attorney at law.<sup>11</sup>**

Violation of Article 8 of the American Convention by the State originated in the enormous difficulty the victims faced for their complaints and legitimate petitions regarding abridgements of human rights to be addressed by the courts. Access to justice was limited, first, by suspension of guarantees in connection with the events of February 27 and 28, 1989, as it was erroneously interpreted by police and military officials as a temporary

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A Venezuelan attorney and professor of Law, specializing in human rights.

disappearance of human rights in general. Second, by subsequent denial of abuse and the existence of common graves. Resistance of the State to undertake its responsibility did not allow an investigation to take place at a stage in which it was essential to gather evidence and clarify the events. This led to irregular burials conducted in a clandestine manner. Furthermore, the preliminary criminal investigation was secret, as set forth in the Code of Criminal Procedure then in force.

Steps taken to identify and attain the return of the buried corpses were unsuccessful, as only three of the 68 bodies found have been identified with support by Argentinean anthropologists. Subsequently, the process of identification was paralyzed. The last identification announced by the Government Prosecutor's Office refers to three corpses, but independent experts were not asked to participate.

During the evidence gathering stage, the State has withheld evidence. After the entry into force of the Organic Criminal Procedure Code that eliminates the secret preliminary investigative phase called "sumario", full access by the next of kin of the victims or their representatives to all records has not been ensured. To conduct a serious and complete investigation of the facts, it was necessary for the Executive to conduct an administrative or internal investigation of what happened so as to establish the origin of the orders that led to the summary executions.

No criminal or administrative responsibility has so far been established in any of the cases, whether pertaining to the facts that led to violation of human rights or to subsequent complaints with respect to acts by judges and prosecutors. The decision of the Supreme Court of Justice, in response to a request by the Attorney General, to hear the cases in connection with the facts of the case regarding alleged human rights violations, has only enabled ordering of the cases pending, but it has not yielded any tangible results. Currently, the files are in the hands of the Government Prosecutor's Office.

The expert witness believes that acts of the legal bodies have caused a grave denial of justice.

With respect to the legal framework in force in Venezuela, the expert witness pointed out that the 1999 Constitution included in the constitutional order the main obligations derived from adoption of international human rights treaties. As an expression of guarantees of such rights, it established the obligation to investigate the crimes stated therein, and to punish those responsible as well as to ensure comprehensive reparation to the victims or their assignees. Nevertheless, the State has not fully complied with those obligations.

The Code of Criminal Procedure in force in 1989 set forth an inquisitive criminal procedure, lacking minimum due process guarantees. This has led the executive authorities to handle the development and outcome of criminal proceedings with excessively discretionary power, due to the secret nature, even with respect to the detainee and his or her attorney, of the charges during the preliminary investigative stage and absolute police control over the pre-trial proceedings during that stage. The Military Justice Code allowed the

President of the Republic to forbid the opening of an investigation on crimes allegedly committed by members of the military or to dismiss charges in those already begun. This situation has partly been corrected through approval of the Organic Criminal Procedural Code and modifications to the Military Justice Code, now the Organic Military Justice Code. However, the later Code maintains exorbitant powers for the President of the Republic in the ambit of military jurisdiction. The Criminal Code, as amended in the year 2000, defines the crime of forced disappearance of persons, but does so in restrictive terms, as it only refers to the responsibility of whoever deprives someone of his or her liberty and "refuses to recognize the detention or to provide information on the whereabouts or situation of the missing person." Summary execution is only considered under the general crime of homicide and the general aggravation of committing a crime with abuse of authority. Certain definitions of crimes refer only to acts or omissions by public officials that are contrary to liberty and humane treatment, among others. These shortcomings conspired against investigation of the facts because it was not possible to directly prosecute the crime of forced disappearance of persons or summary execution. The expert witness deems it necessary to modify the restrictive definition of the crime of forced disappearance of persons and to include in the Criminal Code the regulation of summary or arbitrary executions. However, he believes that the greatest difficulty for justice to be served is not the existence of an insufficient legal framework but rather official strategy.

The expert witness also deems that three aspects of military legislation hindered enjoyment of the rights enshrined in the Convention:

- Objective and subjective extension of military jurisdiction, which is given competence even when civilians are allegedly involved and without taking into account performance of military functions proper. This situation is contrary to the 1999 Constitution even though its enactment has not led to revision of Articles 123 and 128 of the Organic Military Justice Code. Intervention of the Public Prosecutor's Office in military proceedings is restricted, as military legislation only foresees intervention by the Military Attorney General and the Military Prosecutors, who are furthermore appointed by the President.
- Breadth of powers of the Executive, and especially of the President, with respect to commencement or continuation of the investigation or the criminal proceeding, which allows crimes against human rights committed by the military to remain unpunished. The 1998 amendment of the Military Justice Code established a restrictive list of crimes in connection with which the high executive authorities could exercise such exorbitant powers, but this list continues to be very broad. It even places in the hands of those authorities decisions regarding prosecution of grave violations to International Humanitarian Law.
- Lack of precautionary mechanisms that ensure independence of military courts is a structural flaw of military jurisdiction which incapacitates it from dispensing justice in accordance with international human rights law. Military judges are appointed by the President of the Republic among active officers who, after they finish their appointment, go back to their habitual military tasks, which makes them vulnerable to intervention by their hierarchical superiors. Therefore, the witness deems that competence of the military courts should be restricted to the ambit of military discipline, that is, to hear breaches of military duties while in active service. Furthermore, appointment

methods and the status of military judges should be modified to ensure their independence. It is likewise necessary to assign all military prosecutors to the Public Prosecutor's Office and to establish that they are subordinate to the Attorney General of the Republic. The powers of the President of the Republic in connection with commencement or continuation of investigations or proceedings regarding crimes that go beyond the scope of military discipline should also be suppressed.

The National Police is divided into the Technical Corps of the Judiciary Police (now called the Scientific, Penal and Criminalistic Investigations Corps) and the Directorate of Intelligence and Prevention Services (DISIP). The former is in charge of aiding the Public Prosecutor's Office and the courts in their investigative and criminal prosecution functions, and it is subordinate to the Executive. The latter is a political intelligence corps that investigates persons who are considered subversive or dangerous to the government, often applying unconstitutional measures. It is also not very transparent in its organization, methods, and resources. In the metropolitan area of Caracas there was also the Metropolitan Police, headed by an active military officer. The National Guard acted as military support to maintenance of public order.

Sporadically, the Metropolitan Police has organized courses on human rights for its staff, and the National Armed Forces and the Public Prosecutor's Office have a human rights office. However, there is no systematic design of training plans for police staff regarding human rights. This explains the mistaken view that both the armed forces and even the judges and prosecutors of the Public Prosecutor's Office had regarding the effects of suspension of guarantees.

The expert witness also believes that the Scientific, Penal and Criminalistic Investigations Corps should be subordinated, both organically and functionally, to the Public Prosecutor's Office, and that there should be a general separation between police and military corps.

The Forensic Medicine Service was subordinate to the Ministry of Justice. Its technical and human resources were scarce. Said situation remains unaltered. These shortcomings led to a collapse of the Caracas morgue in face of the volume of bodies transferred during the days of the events by the police and military forces. Lack of independence of the service led to the necessary precautions not being taken to subsequently identify the bodies, and also to responsibilities not being established. The expert witness therefore proposes that the Forensic Medicine Service be constituted as an autonomous institute ascribed to the Public Prosecutor's Office and that it be assigned the resources required to perform its functions. The expert witness deems that minimum rules should be established to ensure common training of all police officials in the area of human rights and to ensure a disciplinary control mechanism within each police corps.

Even though the 1999 Constitution sets forth the duty of the State to comprehensively redress human rights violations, there are no legal procedures to ensure such reparations to the victims or their assignees. It is possible to file a complaint regarding patrimonial responsibility of the Administration for pecuniary and non-pecuniary damage attributable to it, but a causal relation must be proven and, under certain assumptions, evidence of

the culpable action by the official. To file a claim regarding said responsibility, it is indispensable that a prior administrative proceeding be exhausted. The subsequent judicial proceeding is exceedingly protracted.

The expert witness deems, finally, that in connection with violations of human rights, acts of symbolic reparation are crucial.

45. On June 5, 2002, the representatives of the victims and of the next of kin filed eleven documents in connection with several next of kin of the victims who had not appeared in the proceedings before the Court (*supra* para. 25).<sup>12</sup>

46. On July 26, 2002, the representatives of the victims and of the next of kin filed seven documents pertaining to expenses allegedly incurred by CEJIL during the reparations stage of the proceedings before the Court (*supra* para. 32).<sup>13</sup>

47. On August 2, 2002 the representatives of the victims and of the next of kin filed part of the evidence to facilitate adjudication of the case that was requested from them on July 5 of that same year, to which end they sent 59 documents,<sup>14</sup> and a brief containing information regarding the evidence requested on July 16 of that same year.<sup>15</sup> Likewise, on August 13, 2002 they sent six documents in connection with the evidence requested on July 5 and 16 of that same year, as well as 352 documents backing the alleged expenses incurred by COFAVIC during processing of the instant reparations stage (*supra* para. 33).<sup>16</sup>

48. On August 12, 2002 the Commission filed a brief containing information on the evidence to facilitate adjudication, requested on July 16 of that same year (*supra* para. 34).<sup>17</sup>

49. On August 13, 2002 the State filed, as evidence to facilitate adjudication, a report and two documents regarding the exchange rate of Venezuelan currency with

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<sup>12</sup> Cf. processing file for the reparations stage in the Caracazo case, at the Secretariat of the Court, volume III, sheets 800 to 831.

<sup>13</sup> Cf. processing file for the reparations stage in the Caracazo case, at the Secretariat of the Court, volume IV, sheets 1134 to 1143.

<sup>14</sup> Cf. file with evidence on the Caracazo case, under the title "Evidence to facilitate adjudication, filed by the representatives of the victims and their next of kin (August 2, 2002 and August 13, 2002 briefs)," at the Secretariat of the Court.

<sup>15</sup> Cf. processing file for the reparations stage in the Caracazo case, at the Secretariat of the Court, volume V, sheets 1147 to 1163.

<sup>16</sup> Cf. file with evidence on the Caracazo case, under the title "Evidence to facilitate adjudication, filed by the representatives of the victims and their next of kin (August 2, 2002 and August 13, 2002 briefs)" and file with evidence on the Caracazo case, under the title "Documents backing alleged expenses filed by the representatives of the victims and their next of kin, August 13, 2002 brief," at the Secretariat of the Court.

<sup>17</sup> Cf. processing file for the reparations stage in the Caracazo case, at the Secretariat of the Court, volume V, sheets 1166 to 1186.

respect to United States currency, and life expectancy statistics for Venezuela (*supra* para. 35).<sup>18</sup>

### C) PRESUMPTIONS

50. The Court will resort in the instant case to a set of presumptions that, for want of direct evidence, may be used because they are firmly rooted in what has been learned from experience, insofar as they are not weakened in this case by evidence to the contrary:

- a) the presumption according to which all persons who disappeared in a context of violent events and who have been missing for many years are considered dead;
- b) the presumption according to which all adults who receive income and have a family spend most of that income providing for the needs of its members;
- c) the presumption according to which the next of kin of a deceased person cover the costs of his or her funeral;
- d) the presumption according to which every person, from the time he or she attains majority, carries out productive activities and perceives, at least, an income equivalent to minimum legal wage in the country involved.<sup>19</sup> The Court finds no reason to set aside this presumption even in cases where there is evidence that the victim performed only informal or unstable work or was unemployed at the time of the events-; and
- e) the presumption according to which violations of human rights and a situation of impunity regarding those violations cause grief, anguish and sadness, both to the victims and to their next of kin.

### D) ASSESSMENT AND USE OF THE EVIDENCE

51. In the instant case the State, as has been pointed out, acknowledged the facts set forth in the application –that is, the facts regarding the merits of the case– and recognized its responsibility in connection with them. The State unequivocally expressed this at the public hearing on the merits held on November 10, 1999, and in a subsequent brief, dated November 15, 2001.

52. By means of its September 18, 2000 and June 18 and 22, 2002 briefs, the State retracted from the statements mentioned in the previous paragraph, once

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<sup>18</sup> Cf. *file with evidence on the Caracazo case, under the title "Evidence to facilitate adjudication, filed by the State of Venezuela (August 13, 2002 brief)", at the Secretariat of the Court.*

<sup>19</sup> Cf. *"Street Children" Case (Villagrán Morales et al.). Reparations* (Art. 63(1) American Convention on Human Rights). May 26, 2001 Judgment. Series C No. 77, para. 79; *"White Van" Case (Paniagua Morales et al.). Reparations* (Art. 63(1) American Convention on Human Rights). May 25, 2001 Judgment. Series C No. 76, para. 116; and *Castillo Páez Case. Reparations* (Art. 63(1) American Convention on Human Rights). November 27, 1998 Judgment. Series C No. 43, para. 75.

again raising issues regarding the merits of the case. However, the Court deems that, in view of the *estoppel* principle, to which it has resorted several times in its case law,<sup>20</sup> acknowledgment of the facts set forth in the application and recognition of responsibility regarding those facts, made by the State in the instant case, must be given full import. Therefore, the evidence being assessed in the framework of this judgment is that which seeks to establish the relevant facts in the reparations stage, that is, pertaining to the following issues: what was the damage caused, what reparations should be ordered, and who should be the beneficiaries of said reparations.

53. It should be stated that in its September 18, 2000 brief, the State commented on the reparations briefs of the representatives of the victims and the next of kin, as well as of the Commission. Nevertheless, in its November 15, 2001 brief, Venezuela asked that the September 18, 2000 brief with observations on reparations be “annulled”. As a consequence of this, the statements contained in the brief on reparations filed by the representatives of the victims and of the next of kin and that by the Commission, on matters such as composition of the families of said victims and their income and their contributions to cover the needs of the household, were no longer controverted by the State. While the State attempted to change that position in its June 18 and July 22, 2002 briefs, in which it questioned the arguments of its counterparts regarding reparations, the Court must give full import to the November 15, 2001 brief, in view of the *estoppel* principle.

54. Developing the precedents of its case law on this matter,<sup>21</sup> the Court deems it relevant to establish that when the State does not respond to the reparations brief or application, or when it desists from the respective reply, this will constitute an indication in demonstration of the facts on which it remained silent or which the subsequently abandoned reply had addressed, so these facts will be considered proven insofar as no evidence appears that is capable of weakening them, and that other evidence is gathered which, without necessarily being conclusive, contributes to support their veracity.

55. For the purposes of the instant judgment and according to its usual practice, the Court has taken into account, first of all, that the criteria for assessment of the evidence by an international human rights court are broader than those applied by domestic courts, so it has a much greater degree of flexibility than the latter to assess, based on the rules of logic and on experience,<sup>22</sup> the evidence submitted regarding relevant facts, and to resort, specifically, to indirect evidence –such as circumstantial evidence, indications and presumptions-. Despite the above, when it resorts to indirect evidence the Court takes care to examine whether the items of evidence are coherent, whether they corroborate each other, and whether they are in harmony with the whole body of evidence.<sup>23</sup>

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<sup>20</sup> Cf. *Mayagna (Sumo) Awas Tingni Community Case*. Preliminary Objections. February 1, 2000 Judgment. Series C No. 66, para. 57; *Durand and Ugarte Case*. Preliminary Objections. May 28, 1999 Judgment. Series C No. 50, para. 38; and *Garrido and Baigorria Case*. Reparations (Art. 63(1) American Convention on Human Rights). August 27, 1998 Judgment. Series C No. 39, para. 46.

<sup>21</sup> *Hilaire, Constantine, Benjamin et al. Case*, *supra* note 2, para. 67; *Bámaca Velásquez Case*. November 25, 2000 Judgment. Series C No. 70, para. 100; and “*Street Children*” *Case (Villagrán Morales et al.)*. November 19, 1999 Judgment. Series C No. 63, para. 68.

<sup>22</sup> Cf. *Hilaire, Constantine, Benjamin et al. Case*, *supra* note 2, para. 65; *Mayagna (Sumo) Awas Tingni Community Case*. August 31, 2001 Judgment. Series C No. 79, para. 89; and *Ivcher Bronstein Case*. February 6, 2001 Judgment. Series C No. 74, paras. 65 and 66.

56. On the other hand, following the precedent of its case law on this matter, the Court brings to mind that “in proceedings on violations of human rights, the defense of the State cannot lean on the plaintiff’s impossibility to gather evidence that, in many cases, cannot be obtained without the cooperation of the State” and that “the State has control of the means to clarify the facts that took place in its territory.”<sup>24</sup>

57. In the instant case, without detriment to what is stated in subsequent paragraphs regarding statements of the witnesses and their next of kin and expert witness reports, the Court accepts the probatory value of those documents submitted in a timely manner by the parties that were not disputed nor their authenticity questioned.

58. With respect to the reports submitted in writing by Alicia Neuburger and Magdalena López de Ibáñez on the psychological impact of human rights violations committed by the State on the affected individuals and families, and by Jesús María Casal on adequacy of Venezuelan juridical institutions and laws in light of the American Convention and other circumstances of the case, reports filed by the representatives of the victims and of the next of kin (*supra* paras. 23 and 44), the Court deems them useful insofar as they are in accordance with the object of the expert opinion, as ordered by the Court.

59. With respect to written testimony rendered by the three surviving victims and the next of kin of other victims, the Court also deems it relevant insofar as it is in accordance with the object stated by the party offering them and defined by the Court in the order to receive it (*supra* para. 20). The Court notes that, in general, statements by the victims and the next of kin of the victims are especially useful regarding reparations, insofar as they can provide very relevant information regarding the harmful consequences of the violations committed.<sup>25</sup> Nevertheless, as the victims and the next of kin have a direct interest in the instant case, their statements cannot be assessed in an isolated manner, but rather as part of the body of evidence gathered in the proceedings.

60. The Court verifies, in turn, that in the instant case the statements of the victims and of other next of kin of victims, as well as the expert witness reports, were submitted to the proceedings by means of briefs. Their content and the signature of the individuals signing each statement or report were certified by a notary public. This, in itself, contributes to their credibility. Nevertheless, the Court will not consider the respective procedural items to be conclusive evidence –as was also stated in the previous paragraph, regarding the testimony of the victims and

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<sup>23</sup> Cf. *Cantoral Benavides Case*. August 18, 2000 Judgment. Series C No. 69, para. 47; “*Street Children*” *Case (Villagrán Morales et al.)*. November 19, 1999 Judgment. Series C No. 63, para. 69; and *Castillo Petruzzi et al. Case*. May 30, 1999 Judgment. Series C No. 52, para. 62.

<sup>24</sup> *Durand and Ugarte Case*. August 16, 2000 Judgment. Series C No. 68, para. 65. Cf., also, *Cantoral Benavides Case*, *supra* note 23, para. 55; and *Neira Alegría et al. Case. Reparations* (Art. 63(1) American Convention on Human Rights). September 19, 1996 Judgment. Series C No. 29, para. 65.

<sup>25</sup> Cf. *Trujillo Oroza Case. Reparations*, *supra* note 2, para. 52; *Bámaca Velásquez Case. Reparations*, *supra* note 2, para. 27; and “*Street Children*” *Case (Villagrán Morales et al.)*. *Reparations*, *supra* note 19, para. 55.



other next of kin-, but rather will assess their content within the context of the body of evidence and following the rules of competent analysis.<sup>26</sup>

61. The documents submitted by the parties, whether with the brief on reparations (in the case of the representatives of the victims and of the next of kin), or with the brief with observations on reparations (in the case of the State), as they are subject matter of this stage of the proceedings and were supplied at the appropriate procedural time, will be assessed as evidence by the Court, under the appropriate terms. As regards the documents contributed as evidence to facilitate adjudication by the representatives of the victims and of the next of kin (*supra* para. 47) and by the State (*supra* para. 49), the Court deems them useful within the context of the body of evidence and will assess them under the appropriate terms.

62. It should be recalled that the body of evidence in a case is unique and indivisible and is formed by the evidence submitted during all stages of the proceedings,<sup>27</sup> so the evidence supplied by the parties during the merits stage is also part of the probatory material that will be considered during the instant stage.

63. More precisely, the Court will apply the aforementioned criteria and elements of the body of evidence to establish as proven facts those relevant to the instant reparations stage, as follows:

a) it will consider that the homicides, disappearances, violations of the right to humane treatment and violations of the right to fair trial, to due process and to effective remedy, against the 44 victims in this case and their next of kin, as well as the responsibility of the State in this regard, have been duly proven as a result of the merits stage, as was established in the November 11, 1999 judgment; the general circumstances in Venezuela at the time these human rights violations occurred were also proven in the same way, including public order disturbance and the acts of violence that occurred in late February and early March, 1989, and other concomitant or subsequent facts, such as the use of common graves by the authorities and ineffectiveness of domestic judicial investigations regarding the violent events;

b) with respect to the dates of birth and death of the victims, as well as the circumstances of those deaths, and regarding the existence of persons who constituted the families of the victims, as well as the concrete kinship relations linking the latter to the former, the Court will base its decision on the information contained in the birth or death certificates issued by Venezuelan authorities. When such certificates are lacking, it will base its decision for the respective purposes on the reparations briefs filed by the representatives of the victims and their next of kin, or of the Commission, and on the content of other documents included in the body of evidence in accordance with what was stated above, such as the autopsy reports, baptism certificates, statements made before a notary public by the surviving victims and the next of kin of other victims, and the aforementioned reports of the

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<sup>26</sup> Cf. *Hilaire, Constantine, Benjamin et al. Case*, *supra* note 2, para. 69; *Trujillo Oroza Case. Reparations*, *supra* note 2, para. 37; and *Bámaca Velásquez Case. Reparations*, *supra* note 2, para. 15.

<sup>27</sup> Cf. *Trujillo Oroza Case. Reparations*, *supra* note 2, para. 47; *Bámaca Velásquez Case. Reparations*, *supra* note 2, para. 22; and *Cantoral Benavides Case. Reparations* (Art. 63(1) American Convention on Human Rights). December 3, 2001 Judgment. Series C No. 88, para. 34.

three expert witnesses. In any case, the Court specifies that when certificates issued by domestic authorities are lacking, it will only consider these matters proven when several reliable probatory means concur; and

c) as regards the fact that the victims contributed to cover the financial needs of the members of their families, and the origin of the funds required to cover funeral expenses, the Court likewise bases its decision on the reparations briefs, on statements of the surviving victims and the next of kin of other victims before a notary public, on the presumption of an agreement according to which adults who receive income and have a family use a major part of that income to provide for the needs of its members, and on the presumption according to which the next of kin of a deceased person cover the costs of his or her funeral.

64. The Court will resort to the aforementioned criteria to assess evidence, to the end of establishing certain reparations, as follows:

a) as regards the general economic conditions of the victims and their next of kin, the characteristics of their economic activities and their level of income, the Court will base its decision on the aforementioned briefs on reparations, on the statements made before a notary public by the surviving victims and the next of kin of other victims, and on the presumption of an agreement according to which every person, once he or she attains majority, carries out economic activities and receives, at least, an income equivalent to the minimum legal wage in the respective country; and

b) as regards non-pecuniary damage caused in connection with human rights violations such as those which the instant case refers to, the Court will resort to the presumption according to which such violations and the development of a situation of impunity with respect to them, cause grief, anguish and sadness, both to the victims and to their next of kin.

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65. Despite having several times requested that the State supply them (*supra* para. 12), the Court has not received the cassette with the tape recording of the message which should have been broadcast on the radio nor the videotape of the message that should have been broadcast on television, according to the November 21, 2000 Court Order (*supra* para. 9). The fact that these tapes were not sent to the Court could lead to the conclusion that the State did not broadcast the respective messages on the radio and television. In any case, there has been a conduct that is incompatible with the duty of procedural cooperation undertaken by the States when they ratified the Convention and when they accepted the contentious jurisdiction of this Court, one that the latter cannot overlook.

## V PROVEN FACTS

66. With the aim of establishing the appropriate measures in the instant case, the Court will refer to the facts acknowledged by the State and that were deemed proven in the judgment on the merits issued on November 11, 1999. Furthermore, during the instant stage of the proceedings, the parties have filed new probatory elements

seeking to prove the existence of complementary facts that are significant for the decision on measures of reparation. The Court has examined those elements, as well as the arguments of the parties, and considers the following facts to be proven:

*General Facts*

66.1. on February 27, 1989 an unspecified number of persons began a series of disturbances in the city of Guarenas, State of Miranda, as a consequence of an increase in urban transportation fares and non-recognition of the preferential student fare by the Executive. Said disturbances subsequently extended to other zones of the metropolitan area of Caracas;<sup>28</sup>

66.2. on February 28, 1989 the Executive issued Decree No. 49, ordering suspension of several guarantees set forth in the Venezuelan Constitution.<sup>29</sup> In the following days, a curfew was imposed.<sup>30</sup> During the state of emergency, the security bodies of the State (the Metropolitan Police, the National Guard and the Army) conducted a number of operations seeking to repress the riots,<sup>31</sup> and a secret military plan called "Ávila" was put into practice.<sup>32</sup> Constitutional guarantees were reestablished on March 22, 1989;<sup>33</sup>

66.3. as a consequence of the events of February and March, 1989, according to official figures, 276 individuals died, many were wounded, several disappeared, and there were major material losses. This initial figure was questioned by the subsequent appearance of common graves.<sup>34</sup> The vast majority of the deaths were caused by random shots fired by agents of the Venezuelan State or resulted from extra-judicial executions;<sup>35</sup> and

66.4. in this case there was a common pattern marked by the disproportionate use of force by State agents, together with destruction and withholding of evidence, as well as the use of institutional mechanisms to ensure impunity regarding the facts.<sup>36</sup>

*Burial of corpses in common graves:*

66.5. during the February and March, 1989 events, the State ordered, through the Executive, the burial of an unspecified number of persons who died as a consequence of the events in this case, in common graves located

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<sup>28</sup> Cf. *El Caracazo Case*. November 11, 1999 Judgment. Series C. No. 58, para. 2 subparagraph b.

<sup>29</sup> Cf. *El Caracazo Case*, *supra* note 28, para. 2, subparagraph f.

<sup>30</sup> Cf. *El Caracazo Case*, *supra* note 28, para. 2, subparagraph g.

<sup>31</sup> Cf. *El Caracazo Case*, *supra* note 28, para. 2, subparagraph h.

<sup>32</sup> Cf. *El Caracazo Case*, *supra* note 28, para. 2, subparagraph j.

<sup>33</sup> Cf. *El Caracazo Case*, *supra* note 28, para. 2, subparagraph f.

<sup>34</sup> Cf. *El Caracazo Case*, *supra* note 28, para. 2, subparagraph i.

<sup>35</sup> Cf. *El Caracazo Case*, *supra* note 28, para. 2, subparagraph k.

<sup>36</sup> Cf. *El Caracazo Case*, *supra* note 28, para. 2, subparagraph m.

in the sector known as “La Peste” in the General Southern Cemetery in Caracas, in violation of legal and administrative rules that regulate the respective procedures. State officials at first publicly denied the existence of common graves;<sup>37</sup>

66.6. on October 23, 1990 COFAVIC, the Red de Apoyo por la Justicia y la Paz and other persons filed a complaint before the Public Prosecutor’s Office about the alleged irregular burials of unidentified bodies in the General Southern Cemetery in Caracas, which took place from February 27, 1989 to October 15, 1990. The matter was referred to the Tenth Trial Court for Criminal Matters and Safeguarding of Public Patrimony, of the Judicial District of the Metropolitan Area of Caracas, which began a summary investigation on the matter on October 30, 1990;<sup>38</sup>

66.7. on November 5, 1990 the Tenth Trial Court for Criminal Matters and Safeguarding of Public Patrimony, of the Judicial District of the Metropolitan Area of Caracas, conducted judicial inspections in the General Southern Cemetery, to establish whether there had been irregularities in processing of the entry of corpses buried in the common graves. On that occasion, it “certified that the victims of the events of 27/2/89, buried in the North 6 sector (“la Peste”), are not recorded in the registers.” Subsequently, said court ordered the exhumation of bodies in the aforementioned cemetery, which began on November 13, 1990 under the direction of a multidisciplinary team of the General Division of Forensic Medicine;<sup>39</sup>

66.8. on November 28, 1990 the public was informed that the first remains had appeared in plot number 6 north of the “La Peste” sector of the General Southern Cemetery, in the city of Caracas. This was based on exhumation of numerous corpses, of which only 68 died in February or March, 1989. 64 corpses were found and disinterred, and three of these bodies of victims in the instant case were identified and delivered to their next of kin: those of José del Carmen Pirela León, Javier Rubén Rojas Campos, and Leobardo Antonio Salas Guillén. In March, 1991 three additional corpses had been

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<sup>37</sup> Cf. *El Caracazo Case*, supra note 28, para. 2, subparagraphs n and o; and *September 23, 1999 order of the Political-Administrative Court of the Supreme Court of Justice of Venezuela (file with evidence on El Caracazo Case, under the title “Documents submitted by the Republic of Venezuela on November 10, 1999, at the public hearing on the merits of the instant case. Volume I,” at the Secretariat of the Court).*

<sup>38</sup> Cf. *September 23, 1999 order of the Political-Administrative Court of the Supreme Court of Justice of Venezuela (file with evidence on El Caracazo Case, under the title “Documents submitted by the Republic of Venezuela on November 10, 1999, at the public hearing on the merits of the instant case. Volume I,” at the Secretariat of the Court; January 22, 1997 order of the Tenth Trial Court for Criminal Matters; and “Salvuarda del Patrimonio Público de la Circunscripción Judicial del Área Metropolitana de Caracas” (appendix 7 of the application filed by the Inter-American Commission in the Caracazo Case).*

<sup>39</sup> Cf. *El Caracazo Case*, supra note 28, para. 2, subparagraph p; *September 23, 1999 order of the Political-Administrative Court of the Supreme Court of Justice of Venezuela (file with evidence on El Caracazo Case, under the title “Documents submitted by the Republic of Venezuela on November 10, 1999, at the public hearing on the merits of the instant case. Volume I,” at the Secretariat of the Court); and official No. 9700-129-963 of September 14, 2000 from the Head of the General Division of Forensic Medicine, Technical Corps of the Judiciary Police, addressed to the agent of the State appointed before the Court (file with evidence on the Caracazo Case, under the title “Evidentiary appendices supplied by the State of Venezuela together with the brief on Reparations. Volume II,” at the Secretariat of the Court).*

identified by means of forensic fingerprinting, and they are still in the niches; one of them would be that of Jesús Calixto Blanco;<sup>40</sup> and

66.9. in August, 1991 the exhumation and identification of mortal remains was paralyzed. On January 22, 1997 the Tenth Trial Court for Criminal Matters and Safeguarding of Public Patrimony, of the Judicial District of the Metropolitan Area of Caracas decided to keep the criminal investigation open until those responsible for the deaths were fully identified.<sup>41</sup>

*In connection with the criminal investigations*

66.10. since 1989, investigations began which sought to clarify the facts, both regarding the homicides and the irregular burials, by means of criminal investigations originated by complaints filed before the regular and military criminal courts, by next of kin of the deceased and wounded persons, by non-governmental groups, or begun on their own initiative in some cases by the bodies in charge of the preliminary investigation;<sup>42</sup>

66.11. criminal investigations begun regarding the facts of the case were secret and the victims and their next of kin did not have access to them, because they were impeded by procedural provisions in force regarding the secret preliminary investigative stage foreseen in the abolished Code of Criminal Procedure. After entry into force of the Organic Code of Criminal Procedure on July 1, 1999, the secret preliminary investigation stage was eliminated;<sup>43</sup>

66.12. on May 28, 1999 the Attorney General of the Republic of Venezuela filed a request before the Supreme Court of Justice for this body to hear the criminal investigations that sought to clarify the facts, which had begun more than ten years before and most of which did not proceed beyond the "preliminary investigation stage", as it was called, which caused an "evident procedural delay," as no final judgment had been rendered in any case;<sup>44</sup>

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<sup>40</sup> Cf. *El Caracazo Case*, supra note 28, para. 2, subparagraph q; and official letter No. 9700-129-963 of September 14, 2000 from the Head of the General Division of Forensic Medicine, Technical Corps of the Judiciary Police, addressed to the agent of the State appointed before the Court (file with evidence on the Caracazo Case, under the title "Evidentiary appendices supplied by the State of Venezuela together with the brief on Reparations. Volume II," at the Secretariat of the Court).

<sup>41</sup> Cf. *El Caracazo Case*, supra note 28, para. 2, subparagraph o.

<sup>42</sup> Cf. *El Caracazo Case*, supra note 28, para. 2, subparagraph l; and September 23, 1999 order of the Political-Administrative Court of the Supreme Court of Justice of Venezuela (file with evidence on *El Caracazo Case*, under the title "Documents submitted by the Republic of Venezuela on November 10, 1999, at the public hearing on the merits of the instant case. Volume I," at the Secretariat of the Court).

<sup>43</sup> Cf. report by expert witness Jesús María Casal rendered in writing before the Twenty-Ninth Notary Public of Libertador Municipality of the Federal District, filed before the Inter-American Court of Human Rights on April 10, 2002 by the representatives of the victims and of the next of kin (file with evidence on *El Caracazo Case*, under the title "evidence submitted in writing on the testimony and expert witness reports submitted by the representatives of the victims and their next of kin", at the Secretariat of the Court).

<sup>44</sup> Cf. September 23, 1999 order of the Political-Administrative Court of the Supreme Court of Justice of Venezuela (file with evidence on *El Caracazo Case*, under the title "Documents submitted by the

66.13. on September 23, 1999 the Political Administrative Court of the Supreme Court of Justice accepted the request because it deemed that “given the significant number of victims, the persons allegedly responsible for those deaths (members of the military and police forces) as well as the social context in which they occurred, [said investigations] are exceptional in nature, and this nature was not taken into account by the bodies in charge of the investigation, as it is evident that to date, since there has been no decision regarding the aforementioned facts, there has been an aberrant denial of justice, the consequences of which have crossed the national borders, as exemplified by the claims filed against the Venezuelan State before international bodies due to the alleged violations of human rights which the courts, both under regular criminal jurisdiction and under special military jurisdiction, have been incapable of deciding in the course of ten years.” Based on these considerations and also that the “significant judicial delay, as well as the procedural disorder in processing the criminal trials, has constituted an offensive denial of justice,” the aforementioned Court decided to hear and decide on the respective cases. Furthermore, said Court decided that the provisions of the Organic Criminal Procedural Code would apply to proceedings begun after its entry into force, even if the punishable facts occurred before. Finally, the aforementioned Political-Administrative Court ordered the breakdown of the files of all the criminal investigations begun, to then open an individual file for each person who died or was wounded during the events involved in the cases removed to the higher court, with the aim of establishing the existence, if that were the case, of “administrative irregularities that might derive from the actions or omissions of those in charge of the trials and of the bodies intervening in them,” as well as to forward to the Public Prosecutor’s Office those cases in which there is sufficient evidence to presume criminal responsibility of certain persons in the facts of the case;<sup>45</sup>

66.14. on February 24, 2000 the Political-Administrative Court of the Supreme Court of Justice declared the conclusion of the jurisdictional function in connection with the transfer of the cases from the lower to the higher court, and ordered the 437 cases resulting from the breakdown of files on criminal investigations to be referred to the Attorney General of the Republic for the Attorney General to order and direct the investigation of the facts, pursuant to the provisions of the Organic Criminal Procedural Code, so as to establish the identity of the principals and abettors and participants and to carry out the appropriate actions against those who gave the orders, as well as against those who executed those orders;<sup>46</sup>

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*Republic of Venezuela on November 10, 1999, at the public hearing on the merits of the instant case. Volume I,” at the Secretariat of the Court).*

<sup>45</sup> *Cf. September 23, 1999 order of the Political-Administrative Court of the Supreme Court of Justice of Venezuela (file with evidence on El Caracazo Case, under the title “Documents submitted by the Republic of Venezuela on November 10, 1999, at the public hearing on the merits of the instant case. Volume I,” at the Secretariat of the Court).*

<sup>46</sup> *Cf. report by the State on the current situation of the administrative or judicial proceedings undertaken to investigate the facts in the case (evidentiary file on the Caracazo Case, under the title “Evidence to facilitate adjudication, submitted by the State of Venezuela (August 13, 2002 brief),” at the Secretariat of the Court).*

66.15. currently, the 437 cases are in the preliminary phase of the investigation under the responsibility of the Twenty-first Prosecutor of the National Prosecutor's Office with Full Competence, 41 of which correspond to victims of the instant case. There is only one indictment, in the case of Luis Manuel Colmenares, before the Sixteenth Trial Court exercising Control Functions, against two officers of the Metropolitan Police, who were placed under preventive custody. In the case of Crisanto Mederos, the Prosecutor has only identified the accused;<sup>47</sup> and

66.16. on the date of the instant Judgment, the domestic judicial authorities have not issued a final judgment, in any of the cases opened, identifying those responsible and establishing the respective punishments for the facts in the instant case.<sup>48</sup>

*Facts pertaining to each victim*

*Victims of homicide whose remains were delivered to their next of kin*

66.17. Miguel Ángel Aguilera La Rosa

i) he was born on July 26, 1965 and died at the age of twenty-three, on March 2, 1989 due to "internal hemorrhage in the thorax caused by a firearm wound in the thorax and neck." His father covered the cost of the burial;<sup>49</sup>

ii) he worked as an independent merchant. With his income, he supported his children, his wife, and made a weekly contribution to his mother;<sup>50</sup> and

iii) his wife was Lesbia Del Valle Núñez and his children are Lesmi Laurieli, Emily Yannara and Miguel Ángel, all of them Aguilera Del Valle. His son Miguel Ángel was born after he died. His parents are Miguelina La Rosa and Roque Jacinto Aguilera.<sup>51</sup>

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<sup>47</sup> Cf. report by the State on the current situation of the administrative or judicial proceedings undertaken to investigate the facts in the case (evidentiary file on the Caracazo Case, under the title "Evidence to facilitate adjudication, submitted by the State of Venezuela (August 13, 2002 brief)," at the Secretariat of the Court). Note: as of the entry into force of the new Constitution of the Bolivarian Republic of Venezuela on December 30, 1999, the Supreme Court of Justice is called Supreme Tribunal of Justice.

<sup>48</sup> Cf. *El Caracazo Case*, supra note 28, para. 2, subparagraph I; and report by the State on the current situation of the administrative or judicial proceedings undertaken to investigate the facts in the case (evidentiary file on the Caracazo Case, under the title "Evidence to facilitate adjudication, submitted by the State of Venezuela (August 13, 2002 brief)," at the Secretariat of the Court).

<sup>49</sup> Cf. copy of the birth certificate of Miguel Ángel Aguilera La Rosa issued on May 7, 2001 by the Main Office of the Public Records Office of the Federal District; death certificate of Miguel Ángel Aguilera La Rosa No. 350 issued on March 6, 1989 by the Civil Head Office at La Vega, Libertador Municipality, in the Federal District; autopsy record No. 51.205 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Miguelina La Rosa rendered on March 26, 2002 at the 29<sup>th</sup> Notary Public of Libertador Municipality of the Federal District.

<sup>50</sup> Cf. testimony of Miguelina La Rosa rendered on March 26, 2002 at the 29<sup>th</sup> Notary Public of Libertador Municipality of the Federal District.

## 66.18. Armando Antonio Castellanos Canelón

i) he was born on October 1, 1959 and died at the age of twenty-nine, on March 1, 1989 from a "firearm wound to the head," on the Guarenas Old Highway in Barrio Bolívar of Petare Municipality, State of Miranda. Two brothers of the victim, Rafael and Enodio, covered expenses in connection with the vigil;<sup>52</sup>

ii) he was a blue collar worker, a messenger, and a bill-collector. He made weekly contributions to cover the expenses of his own family and of his mother;<sup>53</sup> and

iii) his permanent companion was Ana Dolores Briceño and he had three daughters, Dayimiri Jugeni, Anabel Fabiana and Yaidelis Vanessa, all of them Castellanos Briceño. His parents are Josefa Canelón and Rafael Antonio Castellanos Briceño, who died on July 27, 1989, after the demise of the victim. His siblings are Enodio, Rafael, Pedro, Pablo Antonio, Mery Rosa, Mélida del Carmen, Magaly Josefina, Nancy, María del Carmen, Marlene Margarita, and María Susana, all of them Castellanos.<sup>54</sup>

## 66.19. Luis Manuel Colmenares Martínez

i) he was born on December 14, 1967 and died when he was twenty-one, on March 14, 1989, due to "sepsis, peritonitis, firearm

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<sup>51</sup> Cf. copy of the birth certificate of Miguel Ángel Aguilera La Rosa issued on May 7, 2001 by the Main Office of the Public Records Office of the Federal District; March 17, 1999 certification of the birth certificate of Lesmi Laurieli Aguilera Del Valle issued by the Prefect of the Libertador Municipality, Capital Palo Negro, State of Aragua; March 17, 1999 certification of the birth certificate of Emili Yannara Aguilera Del Valle issued by the Prefect of the Libertador Municipality, Capital Palo Negro, State of Aragua; March 17, 1999 certification of the birth certificate of Miguel Angel Aguilera Del Valle issued by the Prefect of the Libertador Municipality, Capital Palo Negro, State of Aragua; death certificate of Miguel Ángel Aguilera La Rosa No. 350 issued on March 6, 1989 by the Civil Head Office at La Vega, Libertador Municipality, in the Federal District.

<sup>52</sup> Cf. copy of the death certificate of Armando Antonio Castellanos Canelón No. 349, issued on March 13, 1989 by the Prefect of Sucre District, State of Miranda; autopsy record No. 51.343 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony rendered by Rafael Castellanos on March 26, 2002 at the 29<sup>th</sup> Notary Public of Libertador Municipality in the Federal District.

<sup>53</sup> Cf. copy of the death certificate of Armando Antonio Castellanos Canelón No. 349, issued on March 13, 1989 by the Prefect of Sucre District, State of Miranda; work certificate of Rafael Castellanos issued on January 8, 2000 by the head of human resources at Laboratorios Multilente C.A.; and testimony of Rafael Castellanos rendered on March 26, 2002 at the 29<sup>th</sup> Notary Public of the Libertad Municipality of the Federal District.

<sup>54</sup> Cf. copy of the death certificate of Armando Antonio Castellanos Canelón No. 349, issued on March 13, 1989 by the Prefect of Sucre District, State of Miranda; May 27, 1983 certification of the birth certificate of Dayimiri Jugeni Castellanos Briceño on March 23, 1983, issued by the Mayor of the Leoncio Martínez Municipality, Sucre Department, State of Miranda; August 9, 1993 certification of the birth certificate of Anabel Fabiana Castellanos Briceño issued on March 16, 1988 by the Civil Head Office of the Leoncio Martínez Municipality, Department of Sucre, State of Miranda; October 9, 1999 certification of the birth certificate of Yaidelis Vanessa Castellanos Briceño issued on May 5, 1981 by the Mayor of the Leoncio Martínez Municipality, Sucre Department, State of Miranda; copy of the death certificate of Rafael Antonio Castellanos Briceño No. 1191, issued on July 31, 1989 by the Prefect of Sucre District, State of Miranda; and testimony of Rafael Castellanos rendered on March 26, 2002 at the 29<sup>th</sup> Notary Public of the Libertad Municipality of the Federal District.



wound to the abdomen” at the Pérez de León Hospital in Miranda. His parents covered the burial costs;<sup>55</sup>

ii) he was a blue collar worker at a factory. He had previously worked as a policeman. He contributed fortnightly to household expenses;<sup>56</sup> and

iii) he was single. His parents are Mery Marina Castillo and Adelmo de Jesús Colmenares Mendoza.<sup>57</sup>

#### 66.20. Juan José Blanco Garrido

i) he was born on April 18, 1971. He died at age seventeen, on March 1, 1989 due to “internal hemorrhage from firearm wound to the thorax” at the Periférico Hospital in Catia. The family covered expenses in connection with the vigil;<sup>58</sup>

ii) he was a secondary school student and had just begun to work at the time of his death. He contributed to household expenses on a weekly basis;<sup>59</sup> and

iii) he was single. His parents are Ana Jacinta Garrido and Juan Vicente Blanco. His brother is Humberto Enrique Garrido.<sup>60</sup>

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<sup>55</sup> Cf. birth certificate of Luis Manuel Colmenares Martínez issued on January 12, 1968 by the Civil Office at San Juan Parish, Libertador Department, in the Federal District; autopsy record No. 51.533 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; copy of the death certificate of Luis Manuel Colmenares Martínez No. 445 issued on August 1, 1989 by the Prefect of Sucre District, State of Miranda; and testimony of Mery Marina Castillo rendered on March 26, 2002 at the 29<sup>th</sup> Notary Public of Libertador Municipality of the Federal District.

<sup>56</sup> Cf. testimony of Mery Marina Castillo rendered on March 26, 2002 at the 29<sup>th</sup> Notary Public of Libertador Municipality of the Federal District.

<sup>57</sup> Cf. birth certificate of Luis Manuel Colmenares Martínez issued on January 12, by the Civil Head Office of San Juan Parish, Libertador Department, in the Federal District; death certificate of Luis Manuel Colmenares Martínez No. 445 issued on August 1, 1989 by the Prefect of Sucre District, State of Miranda; and testimony of Mery Marina Castillo rendered on March 26, 2002 at the 29<sup>th</sup> Notary Public of Libertador Municipality of the Federal District. Note: Mery Marina stated in her testimony before the notary public that her surname is Castillo, and that due to an error at the Public Records Office the surname Martínez was recorded, for which reason the victim’s name on the birth certificate is Marina Martínez.

<sup>58</sup> Cf. death certificate of Juan José Blanco Garrido No. 259 issued on March 8, 1989 by the Civil Authority of Sucre Parish, Libertador Municipality of the Federal District; autopsy record No. 51.339 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Ana Jacinta Garrido rendered on March 22, 2002 at the 29<sup>th</sup> Notary Public of Libertador Municipality of the Federal District. Note: in the judgment on the merits, the victim’s name was recorded as Juan José Garrido Blanco. In the instant judgment, the surnames Blanco Garrido are used, in accordance with his death certificate.

<sup>59</sup> Cf. death certificate of Juan José Blanco Garrido No. 259 issued on March 8, 1989 by the Civil Authority of Sucre Parish, Libertador Municipality of the Federal District; and testimony of Ana Jacinta Garrido rendered on March 22, 2002 at the 29<sup>th</sup> Notary Public of Libertador Municipality of the Federal District.

<sup>60</sup> Cf. death certificate of Juan José Blanco Garrido No. 259 issued on March 8, 1989 by the Civil Authority of Sucre Parish, Libertador Municipality of the Federal District; birth certificate of Humberto Enrique Garrido issued on February 2, 1987 by the Prefecture of Miranda District in the State of Guárico; and testimony of Ana Jacinta Garrido rendered on March 22, 2002 at the 29<sup>th</sup> Notary Public of Libertador Municipality of the Federal District.

## 66.21. Daniel Alfredo Guevara Ramos

- i) he was born on January 8, 1972. He died at age seventeen, on February 28, 1989 due to "internal hemorrhage from firearm wound caused by multiple bullets in thorax and abdomen" on a street in the city of Caracas. His parents covered vigil expenses;<sup>61</sup>
- ii) he was a secondary school student and at the same time worked with an uncle selling and loading merchandise. He used the money he earned to cover his own expenses;<sup>62</sup> and
- iii) he was single. His parents are Catalina Ramos and Alfredo Guevara.<sup>63</sup>

## 66.22. Pedro Gustavo Guía Laya

- i) he was born on April 26, 1961. He was hospitalized seventeen days and died at the age of twenty-seven, on March 18, 1989 due to "sepsis as a complication derived from a firearm wound to the abdomen" at the Pérez Carreño Hospital in Caracas. His brother Braulio Ramón Guía Laya covered expenses in connection with the vigil;<sup>64</sup>
- ii) he worked waterproofing roofs. He helped the family by contributing money on a weekly basis;<sup>65</sup> and

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<sup>61</sup> Cf. copy of the birth certificate of Daniel Alfredo Guevara Ramos issued on March 9, 1999 by the Civil Head Office at La Vega, Prefecture of the Libertador Municipality in the Federal District; death certificate of Daniel Alfredo Guevara Ramos No. 322 issued on March 6, 1989 by the Civil Head Office of La Vega, Libertador Municipality of the Federal District; autopsy record No. 51.207 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Catalina Ramos de Guevara rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>62</sup> Cf. certificate issued on January 26, 1989 by the Director of the Applied Educational Unit of the teachers' college, Instituto Universitario Pedagógico de Caracas; and testimony of Catalina Ramos de Guevara rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>63</sup> Cf. copy of the birth certificate of Daniel Alfredo Guevara Ramos issued on March 9, 1999 by the Civil Head Office at La Vega, Prefecture of the Libertador Municipality in the Federal District; death certificate of Daniel Alfredo Guevara Ramos No. 322 issued on March 6, 1989 by the Civil Head Office of La Vega, Libertador Municipality of the Federal District; and testimony of Catalina Ramos de Guevara rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>64</sup> Cf. copy of the birth certificate of Pedro Gustavo Guía Laya issued on April 11, 1985 by the Prefect of Sucre District in the State of Miranda; death certificate of Pedro Gustavo Guía Laya No. 459 issued on April 10, 1989 by the Civil Head Office of La Vega, Libertador Municipality of the Federal District; autopsy record No. 51.561 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Braulio Ramón Guía Laya rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>65</sup> Cf. testimony of Braulio Ramón Guía Laya rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District; and work certificate issued on December 2, 1989 by "Imperespadas C.A."

iii) his daughter is Franci Aracelis Guía Martínez. His mother is Baldomera Laya and his father is Vivan Guía. The mother of the victim has cared for his daughter. His brother Braulio Ramón Guía Laya has supported both of them since the facts occurred.<sup>66</sup>

#### 66.23. Mercedes Beatriz Hernández Daza

i) she was born on June 7, 1954. She received a gunshot while she was at home, in front of her sisters and parents. She died at age 34, on March 1, 1989, due to a "firearm wound to the skull" at the Pérez Carreño Hospital in the city of Caracas. Her parents and husband covered expenses in connection with the vigil,<sup>67</sup>

ii) she worked as a staff analyst at the National Nutrition Institute. She had made fortnightly financial contributions to her parents since she began working,<sup>68</sup> and

iii) she was married to Efraín González and her son is Guirvin Efraín González. Her parents are Oscar Rafael Hernández and Carmen Elodia Daza, who died after the victim's demise. Her sister is Xiomara Milagros Hernández Daza.<sup>69</sup>

#### 66.24. Crisanto Mederos

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<sup>66</sup> Cf. testimony of Braulio Ramón Guía Laya rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District; copy of the birth certificate of Pedro Gustavo Guía Laya issued on April 11, 1985 by the Prefect of Sucre District in the State of Miranda; copy of the birth certificate of Franci Aracelis Guía Martínez issued on March 31, 1986 by the Office of the Mayor of Baruta Municipality, Sucre District, State of Miranda; and copy of the birth certificate of Braulio Ramón Guía Laya issued on October 9, 1999 by the Prefect of Sucre Municipality, State of Miranda.

<sup>67</sup> Cf. copy of the birth certificate of Mercedes Beatriz Hernández Daza issued on October 11, 1989 by the Civil Head Office of Santa Rosalía, Prefecture of Libertador Municipality in the Federal District; death certificate of Mercedes Beatriz Hernández Daza No. 332 issued on October 11, 1989 by the Civil Head Office of La Vega, Libertador Municipality of the Federal District; autopsy record No. 51.299 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Xiomara Hernández Daza rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>68</sup> Cf. death certificate of Mercedes Beatriz Hernández Daza No. 332 issued on October 11, 1989 by the Civil Head Office of La Vega, Libertador Municipality of the Federal District; and testimony of Xiomara Hernández Daza rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>69</sup> Cf. copy of the birth certificate of Mercedes Beatriz Hernández Daza issued on October 11, 1989 by the Civil Head Office of Santa Rosalía, Prefecture of Libertador Municipality in the Federal District; death certificate of Mercedes Beatriz Hernández Daza No. 332 issued on October 11, 1989 by the Civil Head Office of La Vega, Libertador Municipality of the Federal District; copy of the birth certificate of Xiomara Hernández Daza issued on November 23, 1982 by the Civil Authority of Santa Rosalía Parish, Libertador Department of the Federal District; and testimony of Xiomara Hernández Daza rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District. Note: in several documents, the name of the father of the victim is recorded as Osquedio Rafael Hernández.

- i) he was born on April 24, 1951 and died at age 37, on March 5, 1989 “at a place [located between] Santa Ana [and] Coromoto due to a firearm wound to the neck, destruction of blood vessels.” His mother and brothers covered expenses in connection with the vigil;<sup>70</sup>
- ii) he worked as a master builder and a painter. He fully and permanently supported his mother and children;<sup>71</sup> and
- iii) he was divorced from Remedios Mojica. His children are Crisanto Bael, Leonor Pilar, and Sara Abigail, all of them Mederos. His mother is Rosa Margarita Hernández.<sup>72</sup>

#### 66.25. Francisco Antonio Moncada Gutiérrez

- i) He was born on January 7, 1981. He died at age eight, on February 28, 1989, from a “firearm wound to the head.” On the day of the facts, his father took him wounded to several hospitals where he was not admitted. Since adequate attention was not provided on time, the child suffered very much in his agony. The father covered expenses in connection with the vigil;<sup>73</sup>
- ii) he was in third grade of primary education, and being a minor he did not contribute material goods to the family;<sup>74</sup> and
- iii) his parents are Ana Alicia Gutiérrez and Francisco Moncada.<sup>75</sup>

<sup>70</sup> Cf. copy of the birth certificate of Crisanto Mederos issued on May 24, 1979 by the Civil Head Office of la Candelaria, Libertador Department of the Federal District; death certificate of Crisanto Mederos No. 100 issued on April 7, 1989 by the Civil Head Office of La Pastora, Libertador Municipality of the Federal District; autopsy record No. 51.416 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and affidavit of Rosa Margarita Hernández de Mederos executed on 4th April, 2002, before the Notary Public of the State of Hawaii in Kailua-Kona, County of Hawaii, State of Hawaii, U.S.A.

<sup>71</sup> Cf. death certificate of Crisanto Mederos No. 100 issued on April 7, 1989 by the Civil Head Office of La Pastora, Libertador Municipality of the Federal District; and affidavit of Rosa Margarita Hernández de Mederos executed on 4th April, 2002, before the Notary Public of the State of Hawaii in Kailua-Kona, County of Hawaii, State of Hawaii, U.S.A.

<sup>72</sup> Cf. affidavit of Rosa Margarita Hernández de Mederos executed on 4th April, 2002, before the Notary Public of the State of Hawaii in Kailua-Kona, County of Hawaii, State of Hawaii, U.S.A.; death certificate of Crisanto Mederos No. 100 issued on April 7, 1989 by the Civil Head Office of La Pastora, Libertador Municipality of the Federal District; and copy of the birth certificate of Crisanto Mederos issued on May 24, 1979 by the Civil Head Office of la Candelaria, Libertador Department of the Federal District.

<sup>73</sup> Cf. copy of the birth certificate of Francisco Antonio Moncada Gutiérrez issued on August 26, 1999 by the Civil Head Office of the “23 de enero” Parish, Prefecture of Libertador Municipality in the Federal District; autopsy record No. 51.309 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Francisco Moncada rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>74</sup> Cf. testimony of Francisco Moncada rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>75</sup> Cf. copy of the birth certificate of Francisco Antonio Moncada Gutiérrez issued on August 26, 1999 by the Civil Head Office of the “23 de enero” Parish, Prefecture of Libertador Municipality in the Federal District; and testimony of Francisco Moncada rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

## 66.26. Héctor Daniel Ortega Zapata

- i) he was born on March 19, 1965 and died at age twenty-three, on February 28, 1989 due to a “firearm wound to the head” at the Pérez Carreño Hospital in Caracas. His sister Ingrid Ortega Zapata covered expenses in connection with the vigil;<sup>76</sup>
- ii) he was a student and he worked as a mason. He made monthly contributions to cover household expenses;<sup>77</sup> and
- iii) he was single. His parents are Ligia Zapata and Asisclo Ortega. His sister is Ingrid Ortega Zapata.<sup>78</sup>

## 66.27. Richard José Páez Páez

- i) he was born on October 2, 1971 and he died at age seventeen, on March 2, 1989 due to “internal hemorrhage caused by a firearm wound to thorax and abdomen” at the Pérez de León Hospital in the city of Caracas. Expenses in connection with the vigil were covered by funds contributed by the community where his family lived, together with those his parents were able to contribute;<sup>79</sup>
- ii) he was in fourth year of secondary school and did not work;<sup>80</sup> and

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<sup>76</sup> Cf. copy of the birth certificate of Héctor Daniel Ortega Zapata issued on April 28, 2000 by the Civil Head Office at La Vega, Libertador Municipality of the Federal District; death certificate of Héctor Daniel Ortega Zapata issued on March 21, 1989 by the Civil Head Office at La Vega, Libertador Municipality of the Federal District; autopsy record No. 51.204 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Ingrid Ortega Zapata rendered on March 22, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>77</sup> Cf. death certificate of Héctor Daniel Ortega Zapata issued on March 21, 1989 by the Civil Head Office at La Vega, Libertador Municipality of the Federal District; and testimony of Ingrid Ortega Zapata rendered on March 22, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>78</sup> Cf. copy of the birth certificate of Héctor Daniel Ortega Zapata issued on April 28, 2000 by the Civil Head Office at La Vega, Libertador Municipality of the Federal District; death certificate of Héctor Daniel Ortega Zapata issued on March 21, 1989 by the Civil Head Office at La Vega, Libertador Municipality of the Federal District; copy of the birth certificate of Ingrid Ortega Zapata issued on August 2, 2002 by the Main Office of the Public Records Office of the Federal District; and testimony of Ingrid Ortega Zapata rendered on March 22, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>79</sup> Cf. copy of the birth certificate of Richard José Páez Páez issued on May 24, 1985 by the Prefect of Sucre District, State of Miranda; death certificate of Richard José Páez Páez No. 358 issued on November 21, 1989 by the Prefect of the Municipality of Petare, Sucre District, State of Miranda; autopsy record No. 51.405 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Hilda Rosa Páez rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>80</sup> Cf. registration certificate of Richard José Páez Páez issued on September 27, 1988 by the “Gustavo Herrera” Educational Unit of Chacao; and testimony of Hilda Rosa Páez rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

iii) he was single. His parents are Hilda Rosa Páez and José Luis Páez Osorio. His brother is José Luis Páez Páez.<sup>81</sup>

66.28. Carlos Elías Parra Ojeda

i) he was born on June 22, 1961, and died when he was twenty-seven years old, on February 28, 1989, due to “brain hemorrhage caused by cranial-encephalic traumatism,” at the Pérez Carreño Hospital in the city of Caracas.

His parents covered expenses in connection with the vigil;<sup>82</sup>

ii) at the time of the facts he worked as a messenger to support the family with weekly contributions;<sup>83</sup> and

iii) he was single. His parents are Toribia Ojeda and Félix Parra Martínez. His siblings are Hugo Agustín and Benilda Margarita, both of them Parra Ojeda.<sup>84</sup>

66.29. José del Carmen Pirela León

i) he was born on November 22, 1972 and died at age sixteen, on February 28, 1989, from a “firearm wound to the skull (pellets).” His body was buried on March 3, 1989 in a common grave in the General Southern Cemetery “in compliance with specific sanitary instructions”

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<sup>81</sup> Cf. copy of the birth certificate of Richard José Páez Páez issued on May 24, 1985 by the Prefect of Sucre District, State of Miranda; death certificate of Richard José Páez Páez No. 358 issued on November 21, 1989 by the Prefect of the Municipality of Petare, Sucre District, State of Miranda; copy of the birth certificate of José Luis Páez Páez issued on June 13, 1991 by the Prefect of Sucre District, State of Miranda; and testimony of Hilda Rosa Páez rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>82</sup> Cf. copy of the birth certificate of Carlos Elías Parra Ojeda issued on April 6, 1999 by the Civil Head Office of San Juan, Prefecture of Libertador Municipality in the Federal District; death certificate of Carlos Elías Parra Ojeda No. 381 issued on March 9, 1989 by the Civil Head Office of La Vega, Libertador Municipality of the Federal District; autopsy record No. 51.176 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Toribia Ojeda rendered on March 22, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District. Note: in the judgment on the merits the name of the victim was recorded as Carlos Elías Ojeda Parra. In the instant Judgment it is recorded with the surnames Parra Ojeda, in accordance with his birth certificate.

<sup>83</sup> Cf. death certificate of Carlos Elías Parra Ojeda No. 381 issued on March 9, 1989 by the Civil Head Office of La Vega, Libertador Municipality of the Federal District; personnel action dated September 21, 1987 of the Human Resources Directorate of the Ministry of Foreign Affairs; and testimony of Toribia Ojeda rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>84</sup> Cf. copy of the birth certificate of Carlos Elías Parra Ojeda issued on April 6, 1999 by the Civil Head Office of San Juan, Prefecture of Libertador Municipality in the Federal District; death certificate of Carlos Elías Parra Ojeda No. 381 issued on March 9, 1989 by the Civil Head Office of La Vega, Libertador Municipality of the Federal District; copy of the birth certificate of Hugo Agustín Parra Ojeda issued on May 7, 1981 by the Civil Authority of San Juan, Prefecture of Libertador Municipality in the Federal District; copy of the birth certificate of Benilda Margarita Parra Ojeda issued on October 15, 1976 by the Civil Authority of San Juan, Prefecture of Libertador Municipality in the Federal District; and testimony of Toribia Ojeda rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

and was returned to the family two years later, after exhumation and identification (*supra* para. 66.8). His aunt Ivonne Pirela Chacón covered expenses in connection with the burial;<sup>85</sup>

ii) he was a secondary school student and in his free time he was a craftsman. He contributed to household expenses on a weekly basis;<sup>86</sup> and

iii) he was single. His mother is Francisca Gerónima León Machado and his father was José Antonio Pirela Chacón, who died on May 21, 2001. He lived with his aunt Ivonne Pirela Chacón. His siblings are Sandy Antonio, Erika Yurley, Markielys Xiomara, Mepysel, Yorleydy Katherine, and Mónica Pamela, all of them Pirela.<sup>87</sup>

#### 66.30. José Vicente Pérez Rivas

i) he was born on June 25, 1970 and died when he was eighteen, on February 28, 1989 due to a "firearm wound to the skull" on 14<sup>th</sup> street, in the Libertador Municipality of Caracas. His father covered costs in connection with the vigil;<sup>88</sup>

ii) he worked as a cold meats salesman. He contributed to household expenses on a weekly basis;<sup>89</sup> and

iii) he was single. His parents are María Teresa Rivas Ibarra and José Vicente Pérez. His sister is Mayumi Pérez.<sup>90</sup>

#### 66.31. Jorge Daniel Quintana

i) he was born on July 2, 1972 and died at age sixteen, on February 27, 1989, due to "internal hemorrhage [caused by] a firearm wound to the left hemi-thorax," at the Pérez de León Hospital in

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<sup>85</sup> Cf. copy of the birth certificate of José del Carmen Pirela León issued on July 13, 1999 by the Civil Head Office of San Juan, Prefecture of Libertador Municipality in the Federal District; death certificate of José del Carmen Pirela León No. 1209 issued on October 30, 1990 by the Civil Head Office de San José, Libertador Municipality of the Federal District; autopsy record No. 51.218 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Yvonne Josefina Pirela Chacón rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>86</sup> Cf. testimony of Yvonne Josefina Pirela Chacón rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>87</sup> Cf. testimony of Yvonne Josefina Pirela Chacón rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District; and death certificate of José Antonio Pirela Chacón issued on May 21, 2001 by Candelaria Parish in Valencia Municipality, State of Carabobo.

<sup>88</sup> Cf. copy of the birth certificate of José Vicente Pérez Rivas issued on November 12, 1986 by the Civil Head Office of San Juan, Prefecture of Libertador Municipality in the Federal District; death certificate of José Vicente Pérez Rivas No. 157 issued on October 28, 1989 by the Civil Head Office of El Valle, Libertador Municipality of the Federal District; autopsy record No. 51.249 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of María Teresa Rivas rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>89</sup> Cf. testimony of María Teresa Rivas rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>90</sup> Cf. testimony of María Teresa Rivas rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

Caracas. His mother covered funerary costs in connection with the vigil;<sup>91</sup>

ii) he worked as a street vendor during the day and was a sixth grade student in the evenings;<sup>92</sup> and

iii) he was single. His mother is Juliana Quintana.<sup>93</sup>

#### 66.32. Wolfgang Waldemar Quintana Vivas

i) he was born on December 19, 1968 and died at home on March 2, 1989 when he was twenty years old due to "internal hemorrhage caused by a firearm wound to the thorax". Expenses in connection with the vigil were covered with benefit payments of the victim;<sup>94</sup>

ii) he worked as a salesman at a bookstore and with his work he supported his permanent companion, his daughter and his mother;<sup>95</sup> and

iii) his permanent companion was Iris Medina, his daughter is Luzdenny Estefanía Quintana Medina. His parents are María Esperanza Vivas and Rodolfo Quintana.<sup>96</sup>

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<sup>91</sup> Cf. copy of the birth certificate of Jorge Daniel Quintana issued on August 9, 1978 by the Civil Head Office of San Juan, Prefecture of Libertador Municipality in the Federal District; death certificate of Jorge Daniel Quintana No. 330 issued on April 14, 1989 by the Head Office of Sucre District in the State of Miranda; autopsy record No. 51.185 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Juliana Quintana rendered on March 22, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>92</sup> Cf. registration certificate issued on May 4, 1989 issued by the Basic Adult Education Center "Rafael Napoleón Baute" in Petare, State of Miranda; and testimony of Juliana Quintana rendered on March 22, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>93</sup> Cf. copy of the birth certificate of Jorge Daniel Quintana issued on August 9, 1978 by the Civil Head Office of San Juan, Prefecture of Libertador Municipality in the Federal District; death certificate of Jorge Daniel Quintana No. 330 issued on April 14, 1989 by the Head Office of Sucre District in the State of Miranda; and testimony of Juliana Quintana rendered on March 22, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>94</sup> Cf. copy of the birth certificate of Wolfgang Waldemar Quintana Vivas issued on July 1, 1987 by the Civil Head Office of Táriba Municipality in Cárdenas District, State of Táchira; death certificate of Wolfgang Waldemar Quintana Vivas No. 210 issued on March 16, 1989 by the Civil Head Office of the San Juan Parish in Libertador Municipality of the Federal District; autopsy record No. 51.361 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Iris Medina rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>95</sup> Cf. work certificate of Wolfgang Waldemar Quintana Vivas issued on February 9, 2000 by the Manager of Distribuidora Márquez; and testimony of Iris Medina rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>96</sup> Cf. copy of the birth certificate of Wolfgang Waldemar Quintana Vivas issued on July 1, 1987 by the Civil Head Office of Táriba Municipality in Cárdenas District, State of Táchira; copy of the birth certificate of Luzdenny Estefanía Quintana issued on May 16, 1989 by the Civil Head Office San Juan Parish of Libertador Municipality of the Federal District; death certificate of Wolfgang Waldemar Quintana



## 66.33. Yurima Milagros Ramos Mendoza

- i) she was born on August 26, 1968 and died at home at age twenty, on February 27, 1989 due to a “firearm wound to the head and neck; [she was] approximately five months pregnant.” The family covered expenses in connection with the vigil;<sup>97</sup>
- ii) she was a university student and did not work;<sup>98</sup> and
- iii) she was single. Her parents are Dilia Pastora Mendoza and Héctor Ramos Ramírez. Her sisters are Yanira Margarita and Yuraima Mercedes, both Ramos Mendoza.<sup>99</sup>

## 66.34. Iván Rey

- i) he was born on November 2, 1963. On February 28, 1989 he was at home when he received a shot and State agents did not allow his next of kin to take him to the hospital immediately. He died the following day due to a “firearm wound in the pelvis” at the Pérez de León Hospital in Caracas when he was twenty-one. His wife covered vigil expenses;<sup>100</sup>
- ii) he worked as a carpenter at a firm and supported his family;<sup>101</sup> and

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*Vivas No. 210 issued on March 16, 1989 by the Civil Head Office of San Juan Parish in Libertador Municipality of the Federal District; and testimony of Iris Medina rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.*

<sup>97</sup> *Cf. copy of the birth certificate of Yurima Milagros Ramos Mendoza issued on April 20, 1999 by the Civil Head Office of Catedral Parish, Prefecture of Libertador Municipality in the Federal District; death certificate of Yurima Milagros Ramos Mendoza No. 141 issued on March 9, 1989 by the Head Office at El Valle, Libertador Municipality of the Federal District; autopsy record No. 51.235 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Dilia Mendoza de Ramos rendered on March 21, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.*

<sup>98</sup> *Cf. solvency certificate issued on July 15, 1988 for Yurima Milagros Ramos Mendoza of the library of Community College Fermín Toro de Barquisimeto-Acarigua; and testimony of Dilia Mendoza de Ramos rendered on March 21, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.*

<sup>99</sup> *Cf. copy of the birth certificate of Yurima Milagros Ramos Mendoza issued on April 20, 1999 by the Civil Head Office of Catedral Parish, Prefecture of Libertador Municipality in the Federal District; death certificate of Yurima Milagros Ramos Mendoza No. 141 issued on March 9, 1989 by the Head Office at El Valle, Libertador Municipality of the Federal District; copy of the birth certificate of Yanira Margarita Ramos Mendoza issued on June 27, 1980 by the Civil Head Office of San Juan Parish, Prefecture of Libertador Municipality in the Federal District; copy of the birth certificate of Yuraima Mercedes Ramos Mendoza issued on August 1, 2002 by the Civil Head Office of Candelaria Parish, Prefecture of Libertador Municipality in the Federal District; and testimony of Dilia Mendoza de Ramos rendered on March 21, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.*

<sup>100</sup> *Cf. copy of the identification document of Iván Rey No. 6-230-382; death certificate of Iván Rey No. 327 issued on April 17, 1989 by the Civil Head Office of Sucre District of the State of Miranda; autopsy record No. 51.187 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Deisy Crespo rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.*

iii) his wife was Deisy Crespo and his son is Iván José Rey, who was born on May 21, 1989.<sup>102</sup>

#### 66.35. Javier Rubén Rojas Campos

i) he was born on September 8, 1965 and died on March 1, 1989 at the age of twenty-three, due to “internal hemorrhage caused by a firearm wound to the right hemi-thorax.” His body was buried in a common grave in the General Southern Cemetery and was exhumed and delivered to his family in 1990 (*supra* para. 66.8). His mother and his brother Carlos Rafael covered vigil expenses;<sup>103</sup>

ii) at the time of the facts he worked at a factory and supported his daughter and his mother with weekly contributions. His brother Carlos Rafael currently supports them both;<sup>104</sup> and

iii) he was single. His daughter is Haymar Rojas Campos. His mother is María Encarnación Campos Salazar. His brother is Carlos Rafael Rojas Campos.<sup>105</sup>

#### 66.36. Esteban Luciano Rosillo García

i) he was born on May 24, 1969 and died on February 28, 1989 at the age of nineteen, “due to a firearm wound with loss and exposure of encephalic material” at the Rafael Medina Jiménez Hospital. His mother covered the vigil expenses;<sup>106</sup>

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<sup>101</sup> Cf. death certificate of Iván Rey No. 327 issued on April 17, 1989 by the Civil Head Office of Sucre District of the State of Miranda; and testimony of Deisy Crespo rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>102</sup> Cf. death certificate of Iván Rey No. 327 issued on April 17, 1989 by the Civil Head Office of Sucre District of the State of Miranda; copy of the birth certificate of Iván José Rey Crespo issued on May 14, 1996 by the Prefect of Sucre District in the State of Miranda; and testimony of Deisy Crespo rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>103</sup> Cf. copy of the birth certificate of Javier Rubén Rojas Campos issued on August 6, 1999 by the Prefect of Sucre District in the State of Miranda; death certificate of Javier Rubén Rojas Campos No. 439 issued on April 3, 1989 by the Civil Head Office of Sucre District of the State of Miranda; autopsy record No. 51.291 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of María Encarnación Campos Salazar rendered on March 22, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District. Note: in the judgment on the merits the name of the victim was recorded as Rubén Javier Rojas Campos. In the instant Judgment the name Javier Rubén Rojas Campos is recorded, in accordance with his birth certificate.

<sup>104</sup> Cf. work certificate of Javier Rubén Rojas Campos issued on October 19, 1988 the by the General Manager of Human Resources of the firm Rori Internacional S.A.; and testimony of María Encarnación Campos Salazar rendered on March 22, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>105</sup> Cf. copy of the birth certificate of Javier Rubén Rojas Campos issued on August 6, 1999 by the Prefect of Sucre District in the State of Miranda; death certificate of Javier Rubén Rojas Campos No. 439 issued on April 3, 1989 by the Civil Head Office of Sucre District of the State of Miranda; copy of the birth certificate of Carlos Rafael Rojas Campos issued on June 3, 1986 by the Prefect of Sucre District in the State of Miranda; and testimony of María Encarnación Campos Salazar rendered on March 22, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>106</sup> Cf. copy of the birth certificate of Esteban Luciano Rosillo García issued on May 8, 1981 by the Civil Head Office of la Guaira, Vargas Department in the Federal District; death certificate of Esteban

ii) at the time of the facts he had graduated from the Naval School of the Armed Forces three months earlier and had not yet begun to work. While he was at that school, he contributed his earnings to household expenses;<sup>107</sup> and

iii) he was single. His mother is Fredez Binda García Hernández and his father is Freddy Rubén Rosillo Díaz. His siblings are Elio Benjamín Reyes García, Nadia del Valle Reyes García, Ángel Felipe Tovar García, and Franklin Beanney García Hernández.<sup>108</sup>

#### 66.37. Leobardo Antonio Salas Guillén

i) he was born on September 9, 1966 and died on March 3, 1989 at the age of twenty-two, due to “a firearm wound to the skull.” His body was buried in a common grave at the General Southern Cemetery and the authorities did not give the next of kin any information on the exact whereabouts of the body until it was exhumed, identified and delivered in 1990 (*supra* para. 66.8). His next of kin covered the cost of shipping his mortal remains to the State of Mérida as well as funeral expenses;<sup>109</sup>

ii) he worked in a private parking lot and contributed fortnightly to cover household needs;<sup>110</sup> and

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*Luciano Rosillo García issued on February 28, 1989 by the Planning Directorate of the Ministry of Public Health and Social Assistance; and testimony of Fredez Binda García Hernández rendered on March 22, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.*

<sup>107</sup> *Cf. specialization certificate of Esteban Luciano Rosillo García issued on November 11, 1988 by the Captain of the Turiano Naval Command Station, Logistics Naval Command, Navy, Ministry of Defense; “Botón del Reservista” badge diploma of Esteban Luciano Rosillo García awarded by the Ministry of Defense on November 5, 1988; and testimony of Fredez Binda García Hernández rendered on March 22, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.*

<sup>108</sup> *Cf. copy of the birth certificate of Esteban Luciano Rosillo García issued on May 8, 1981 by the Civil Head Office of la Guaira, Vargas Department in the Federal District; copy of the birth certificate of Elio Benjamín Reyes García issued on July 15, 2002 by the First Civil Authority, Maiquetía Parish, Vargas Municipality, State of Vargas; copy of the birth certificate of Ángel Felipe Tovar García issued on July 15, 2002 by the First Civil Authority, Maiquetía Parish, Vargas Municipality, State of Vargas; copy of the birth certificate of Franklin Beanney García Hernández issued on June 30, 1989 by the First Civil Authority, Maiquetía Parish, Vargas Municipality, State of Vargas; copy of the birth certificate of Nadia del Valle Reyes García issued on October 20, 1993 by the Prefect of Valentín Valiente Municipality, Sucre Department, State of Sucre; and testimony of Fredez Binda García Hernández rendered on March 22, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.*

<sup>109</sup> *Cf. copy of the birth certificate of Leobardo Antonio Salas Guillén issued on April 27, 1999 by the Civil Prefect of Alberto Adriani Municipality in the State of Mérida; death certificate of Leobardo Antonio Salas Guillén issued by the Planning Directorate of the Ministry of Public Health and Social Assistance; autopsy record No. 51.422 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of María Neria Guillén Pereira rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.*

<sup>110</sup> *Cf. work certificate of Leobardo Antonio Salas Guillén issued by the firm Estacionamiento Onsalvil, s.r.l.; and testimony of María Neria Guillén Pereira rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.*

iii) he was single. His parents are María Neria Guillén Pereira and Antonio Ramón Salas. His siblings are Oney Coromoto, Ayarith del Rocío, Francis Nereida, Ingrid Katuska, Fanny Yanette, Antonio Ramón, Mario Lionel, Richard Rafael, Douglas Orangel and Ramón Enrique, all of them Salas Guillén.<sup>111</sup>

66.38. Tirso Cruz Tesara Álvarez

i) he was born on August 28, 1965. On February 28, 1989 he was wounded and was hospitalized until March 10, 1989, when he died at the age of twenty-three, at the Hospital de Coche in Caracas due to "a firearm wound to the thorax";<sup>112</sup>

ii) he worked as a messenger for a radio station and helped his father cover household expenses;<sup>113</sup> and

iii) he was single. His parents are Olga María Álvarez and Cruz Tesara. Lilia Olga, Erika Jasmín, Janethe Isidora, Naire Aliria and Argenia Alejandrina, all of them Tesara Álvarez, are his sisters.<sup>114</sup>

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<sup>111</sup> Cf. copy of the birth certificate of Leobardo Antonio Salas Guillén issued on April 27, 1999 by the Civil Prefect of Alberto Adriani Municipality in the State of Mérida; copy of the birth certificate of Oney Coromoto Salas Guillén issued by the Civil Prefect of Alberto Adriani Municipality in the State of Mérida; copy of the birth certificate of Ayarith del Rocío Salas Guillén issued on April 1, 2002 by the Civil Prefect of Alberto Adriani Municipality in the State of Mérida; copy of the birth certificate of Francis Nereida Salas Guillén issued on May 30, 1995 by the Civil Prefect of Alberto Adriani Municipality in the State of Mérida; copy of the birth certificate of Ingrid Katuska Salas Guillén issued on July 27, 1987 by the Civil Prefect of Alberto Adriani Municipality in the State of Mérida; copy of the birth certificate of Fanny Yanette Salas Guillén issued on July 27, 2002 by the Civil Prefect of Alberto Adriani Municipality in the State of Mérida; copy of the birth certificate of Antonio Ramón Salas Guillén issued on July 11, 1973 by the Civil Prefect of Alberto Adriani Municipality in the State of Mérida; copy of the birth certificate of Mario Lionel Salas Guillén issued on July 11, 1973 by the Civil Prefect of Alberto Adriani Municipality in the State of Mérida; copy of the birth certificate of Richard Rafael Salas Guillén issued on March 21, 1977 by the Civil Prefect of Alberto Adriani Municipality in the State of Mérida; copy of the birth certificate of Douglas Orangel Salas Guillén issued on January 23, 1979 by the Civil Prefect of Alberto Adriani Municipality in the State of Mérida; copy of the birth certificate of Ramón Enrique Salas Guillén issued on September 20, 1967 by the Civil Prefect of Alberto Adriani Municipality in the State of Mérida; and testimony of María Neria Guillén Pereira rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>112</sup> Cf. copy of the birth certificate of Tirso Cruz Tesara Álvarez issued on March 16, 1999 by the Main Office of the Public Records Office of the Federal District; death certificate of Tirso Cruz Tesara Álvarez No. 204 issued on August 18, 1989 by the Civil Head Office of El Valle of the Prefecture of Libertador Municipality in the Federal District; autopsy record No. 51.490 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Olga María Álvarez rendered on March 22, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>113</sup> Cf. work certificate of Tirso Cruz Tesara Álvarez issued on April 7, 1989 by Radio Caracas Radio C.A.; and testimony of Olga María Álvarez rendered on March 22, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>114</sup> Cf. copy of the birth certificate of Tirso Cruz Tesara Álvarez issued on March 16, 1999 by the Main Office of the Public Records Office of the Federal District; copy of the birth certificate of Erika Jasmín Tesara Álvarez issued on July 26, 1994 by the Civil Prefect of Del Valle Parish, Libertador Municipality, Federal District; copy of the birth certificate of Janethe Isidora Tesara Álvarez issued on January 8, 1979 by the Civil Prefect of Del Valle Parish, Libertador Municipality, Federal District; copy of the birth certificate of Naire Aliria Tesara Álvarez issued on July 13, 1999 by the Civil Prefect of Del Valle Parish, Libertador Municipality, Federal District; copy of the birth certificate of Erika Jasmín Tesara Álvarez issued on July 26, 1994 by the Civil Prefect of Del Valle Parish, Libertador Municipality, Federal District; copy of the birth certificate of Argenia Alejandrina Tesara Álvarez issued on February 4, 1976 by the Civil Prefect of Del

## 66.39. Héctor José Lugo Cabriles

- i) he was born on July 10, 1961 and died on March 3, 1989 at the age of twenty-seven, at the Hospital de Coche in Caracas due to "wounds caused by multiple firearm shots causing intra-abdominal hemorrhage." His family covered vigil expenses;<sup>115</sup>
- ii) he worked as a mason in a factory and contributed income on a weekly basis to cover household expenses and pay for his siblings' studies;<sup>116</sup> and
- iii) he was single. His parents are Carmen Rufina Cabriles and Desiderio Antonio Lugo.<sup>117</sup>

*Homicide victims whose mortal remains were not delivered to their next of kin*

## 66.40. Benito del Carmen Aldana Bastidas

- i) he was born on March 12, 1942. He died on March 1, 1989 at the age of 46, at the Pérez Carreño Hospital in Caracas due to "a firearm wound to the thorax, internal hemorrhage, perforation of viscerae." That same day, his body was taken to the morgue, but it was never delivered to his next of kin;<sup>118</sup>
- ii) he worked in the security area of a firm and supported his daughters;<sup>119</sup> and

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*Valle Parish, Libertador Municipality, Federal District; and copy of the birth certificate of Lilia Olga Tesara Alvarez issued on February 26, 1999 by the Civil Prefect of San Juan Parish, Libertador Municipality.*

<sup>115</sup> Cf. copy of the birth certificate of Héctor José Lugo Cabriles issued on May 16, 2000 by the Civil Head Office of San Juan, Prefecture of Libertador Municipality in the Federal District; death certificate of Héctor José Lugo Cabriles No. 178 issued on April 10, 1989 by the Civil Head Office of El Valle del Libertador Municipality of the Federal District; autopsy record No. 51.374 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Carmen Rufina Cabriles rendered on March 25, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>116</sup> Cf. testimony of Carmen Rufina Cabriles rendered on March 25, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>117</sup> Cf. copy of the birth certificate of Héctor José Lugo Cabriles issued on May 16, 2000 by the Civil Head Office of San Juan, Prefecture of Libertador Municipality in the Federal District; death certificate of Héctor José Lugo Cabriles No. 178 issued on April 10, 1989 by the Civil Head Office of El Valle, Libertador Municipality of the Federal District; and testimony of Carmen Rufina Cabriles rendered on March 25, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>118</sup> Cf. copy of the birth certificate of Benito del Carmen Aldana Bastidas issued on April 18, 1986 by the Prefect of Matriz Municipality, District and State of Trujillo; death certificate of Benito del Carmen Aldana Bastidas No. 420 issued on April 3, 1989 by the Civil Head Office at La Vega, Libertador Municipality of the Federal District; autopsy record No. 51.406 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Rosa Julia Aldana Bastidas rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>119</sup> Cf. death certificate of Benito del Carmen Aldana Bastidas No. 420 issued on April 3, 1989 by the Civil Head Office at La Vega, Libertador Municipality of the Federal District; work certificate of Benito del Carmen Aldana Bastidas issued on February 8, 2000 by the General Manager of Human Resources of Centro Simón Bolívar C.A.; and testimony of Rosa Julia Aldana Bastidas rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

iii) he was single. Mayerling Margarita, Celeste Senaid, and Jilka Josefina, all of them Aldana Pérez, are his daughters. His siblings are Rosa Julia, Atilio, Marcial, Auxiliadora, María, Olida, Gallevis, María de las Mercedes, and José Dolores, all of them Bastidas. His mother Jacinta Bastidas passed away on March 21, 1990.<sup>120</sup>

#### 66.41. Boris Eduardo Bolívar Marcano

i) he was born on February 25, 1967 and died on March 4, 1989 at the age of twenty-two, due to “a firearm wound to the skull”. At the Technical Corps of the Judiciary Police they informed his mother that the victim was on the list of deceased persons, and she identified him by means of a photograph. His body was buried in a common grave, where it remains to date;<sup>121</sup>

ii) he worked as an independent merchant and contributed income to household expenditures;<sup>122</sup> and

iii) his permanent companion was Carmen Sanoja Volcán. His parents are Nelly Marcano and Cleto Marcelino Bolívar.<sup>123</sup>

#### 66.42. Julio César Freitez

i) he was born on April 22, 1971 and died at age seventeen, on February 28, 1989 due to “perforation of the heart by multiple firearm wounds.” When his mother went to claim the body, she was informed

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<sup>120</sup> Cf. copy of the birth certificate of Mayerling Margarita Aldana Pérez issued on April 13, 1989 by the Main Office of the Public Records Office of the Federal District; copy of the birth certificate of Celeste Senaid Aldana Pérez issued on October 14, 1992 by the Main Office of the Public Records Office of the Federal District; copy of the birth certificate of Jilka Josefina Aldana Pérez issued on November 17, 1992 by the Main Office of the Public Records Office of the Federal District; death certificate No. 117 of Jacinta Tomasa Bastidas issued on March 30, 1990 by the First Civil Authority of La Pastora Parish, in Libertador Municipality of the Federal District; and testimony of Rosa Julia Aldana Bastidas rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District. Note: as was established in the body of evidence, Rosa Julia, Atilio, Marcial, Auxiliadora, María, Olida, Gallevis, María de las Mercedes and José Dolores, are siblings of the victim at least on the part of the mother; however, there is no certainty regarding their surnames, so the Court records their surname as Bastidas for the relevant purposes.

<sup>121</sup> Cf. copy of the birth certificate of Boris Eduardo Bolívar Marcano issued on April 13, 1989 by the Main Office of the Public Records Office of the Federal District; death certificate of Boris Eduardo Bolívar Marcano issued on April 17, 1989 by the Civil Head Office of Antimano in Libertador Municipality of the Federal District; death certificate issued by the Planning Directorate of the Ministry of Public Health and Social Assistance and autopsy record No. 51.444 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Nelly Marcano rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>122</sup> Cf. testimony of Nelly Marcano rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>123</sup> Cf. testimony of Nelly Marcano rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

that it had been buried in a common grave. To date, the remains have not been delivered to the next of kin;<sup>124</sup>

ii) he studied accounting and did not work;<sup>125</sup> and

iii) he was single. His mother is Nelly Freitez. His siblings are José Moisés and María Andreína, both of them Aponte Freitez.<sup>126</sup>

#### 66.43. Gerónimo Valero Suárez

i) he was born on July 20, 1965 and died on February 28, 1989 at the age of twenty-three due to "internal hemorrhage caused by a firearm wound to the thorax." The next day his sister, María Casilda Valero Suárez, asked for the body at the morgue but they informed her that it had been buried in a common grave. To date the remains of the victim have not been delivered to his next of kin;<sup>127</sup>

ii) he was a blue-collar worker at a factory and at the same time was a blacksmith. He contributed on a weekly basis to cover his mother's and sister's expenses;<sup>128</sup>

iii) he was single. His mother is Benedicta Suárez and his sister is María Casilda Valero Suárez.<sup>129</sup>

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<sup>124</sup> Cf. copy of the birth certificate of Julio César Freitez issued on April 5, 1999 by the Main Office of the Public Records Office at Barquisimeto, in the State of Lara; autopsy record No. 51.264 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Nelly Freitez rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>125</sup> Cf. study certificate issued on January 30, 1989 for Julio César Freitez by the Centro de Formación Comercial "San Martín" of the Instituto Nacional de Cooperación Educativa; and testimony of Nelly Freitez rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>126</sup> Cf. copy of the birth certificate of Julio César Freitez issued on April 5, 1999 by the Main Office of the Public Records Office at Barquisimeto, in the State of Lara; certification of the birth certificate of José Moisés Aponte Freitez issued on December 22, 1997 by the Civil Authority of Catedral Parish, Iribarren Municipality, State of Lara; certification of the birth certificate of María Andreína Aponte Freitez issued on August 17 1998 by the Civil Authority of Catedral Parish, Iribarren Municipality, State of Lara; and testimony of her mother Nelly Freitez rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>127</sup> Cf. copy of the birth certificate of Gerónimo Valero Suárez issued on September 1, 1999 by the Civil Authority of Juan Ignacio Montilla Municipality in the State of Trujillo; autopsy record No. 51.179 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of María Casilda Valero Suárez rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>128</sup> Cf. testimony of María Casilda Valero Suárez rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>129</sup> Cf. copy of the birth certificate of Gerónimo Valero Suárez issued on September 1, 1999 by the Civil Authority of Juan Ignacio Montilla Municipality in the State of Trujillo; copy of the birth certificate of María Casilda Valero Suárez issued on July 18, 2002 by the Prefect of Juan Ignacio Mantilla, Valera

## 66.44. Jesús Calixto Blanco

- i) he was born on October 14, 1934 and died on March 2, 1989 at the age of 54, due to “a firearm wound to the head.” According to a report by the General Forensic Medicine Division of the Technical Corps of the Judiciary Police, his mortal remains have been identified. His remains have not yet been delivered to his next of kin (*supra* para. 66.8);<sup>130</sup>
- ii) he worked as a messenger and supported the whole family;<sup>131</sup> and
- iii) his permanent companion was Ana Mary García. His daughters are Haydee Mavilú and Rayza Magali, both of them Blanco García. His mother is Victoria Blanco.<sup>132</sup>

## 66.45. Fidel Orlando Romero Castro

- i) he was born on March 23, 1963. He was wounded on February 27, 1989 and his brother Oscar Alfredo Romero Castro took him to a hospital, where he died on March 1, 1989 at the age of twenty-five due to “internal hemorrhage caused by a firearm wound to the right gluteus.” His body was buried in a common grave and, to date, has not been delivered to his next of kin;<sup>133</sup>

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*Municipality, State of Trujillo; and testimony of María Casilda Valero Suárez rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.*

<sup>130</sup> Cf. copy of the birth certificate of Jesús Calixto Blanco issued on July 21, 1975 by the Civil Head Office at La Vega, Prefecture of the Libertador Municipality in the Federal District; official letter No. 9700-129-963 dated September 2000 from the Head of the General Division of Forensic Medicine, Technical Corps of the Judiciary Police, addressed to the agent of the State appointed before the Court (evidence file in the Caracazo case, under the title “Appendices with evidence submitted by the State of Venezuela together with the brief on Reparations. Volume II”, at the Secretariat of the Court); and testimony of Haydee Mavilú Blanco García rendered on March 21, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>131</sup> Cf. photocopy of Jesús Calixto Blanco’s identification card at the General Comptrollership of the Republic issued on January 21, 1980; and testimony of Haydee Mavilú Blanco García rendered on March 21, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>132</sup> Cf. copy of the birth certificate of Jesús Calixto Blanco issued on July 21, 1975 by the Civil Head Office at La Vega, Prefecture of Libertador Municipality in the Federal District; copy of the birth certificate of Haydee Mavilú Blanco García issued on March 9, 1978 by the Civil Authority of San Juan Parish, Prefecture of Libertador Municipality in the Federal District; copy of the birth certificate of Rayza Magaly Blanco García issued on June 12, 1989 by the Main Office of the Public Records Office of the Federal District; and testimony of Haydee Mavilú Blanco García rendered on March 21, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>133</sup> Cf. copy of the birth certificate of Fidel Orlando Romero Castro issued on April 16, 1999 by the Prefect of Baruta Autonomous Municipality of the State of Miranda; autopsy record No. 51.289 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Maritza Romero rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.



ii) we was a blue-collar worker and contributed to household expenses on a weekly basis;<sup>134</sup> and

iii) he was single. His parents are Rosa Jacinta Castro and Pedro Romero Echerri. His siblings are Oscar Alfredo and Maritza Isabel, both of them Romero Castro.<sup>135</sup>

66.46. Roberto Segundo Valbuena Borjas

i) he was born on June 20, 1966 and died on March 1, 1989 at the age of twenty-two due to "internal hemorrhage caused by a thoracic-abdominal firearm wound." The next of kin were never informed by the authorities of the whereabouts of the corpse, which has not yet been delivered to them;<sup>136</sup>

ii) he was a machine operator. He contributed to household economic needs on a weekly basis;<sup>137</sup> and

iii) he was single. His parents are Rubí Borjas and Roberto Valbuena. Since he was sixteen he lived with his aunt Judith Borjas.<sup>138</sup>

66.47. Elsa Teotiste Ramírez Caminero

i) she was born on November 21, 1948 and died at the age of forty, on February 28, 1989. Her sister recognized the victim in a photograph. The authorities never informed the next of kin of the whereabouts of the victim, and her remains were never delivered to them;<sup>139</sup>

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<sup>134</sup> Cf. testimony of Maritza Romero rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>135</sup> Cf. copy of the birth certificate of Fidel Orlando Romero Castro issued on April 16, 1999 by the Prefect of Baruta Autonomous Municipality of the State of Miranda; copy of the birth certificate of Maritza Isabel Romero Castro issued on July 31, 2002 by the Prefect of Baruta Municipality of the State of Miranda; copy of the birth certificate of Oscar Alfredo Romero Castro issued on July 1, 2002 by the Prefect of Baruta Municipality of the State of Miranda; and testimony of Maritza Romero rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>136</sup> Cf. copy of the birth certificate of Roberto Segundo Valbuena Borjas issued on October 8, 1985 by the Prefect of Cabimas Municipality, Bolívar District of the State of Zulia; autopsy record No. 51.294 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Judith Borjas rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>137</sup> Cf. photocopy of the identification card of Roberto Segundo Valbuena Borjas issued by "Carraraven C.A." on September 15, 1988; and testimony of Judith Borjas rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>138</sup> Cf. copy of the birth certificate of Roberto Segundo Valbuena Borjas issued on October 8, 1985 by the Prefect of Cabimas Municipality, Bolívar District of the State of Zulia; and testimony of Judith Borjas rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>139</sup> Cf. testimony of Ybelice Altigracia Ramirez rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

ii) she worked as a waitress and the income she contributed paid for her children's studies and to support the family; she helped her mother financially on a fortnightly or weekly basis;<sup>140</sup> and

iii) she was married. Her children are Alejandro Idelfonso, Yovanny Manuel, Ydel Ramón, all of them Ramírez, Elsa Julia Batista Ramírez, and Ybelice Altagracia Ramírez. Her sister is Marisol Vitalina Ramírez Caminero.<sup>141</sup>

66.48. José Ramón Montenegro Cordero

i) he was born on May 27, 1960 and died on March 3, 1989 at the age of twenty-eight due to "intra-cranial hemorrhage, a firearm wound to the skull." The next of kin were never informed of the whereabouts of the corpse;<sup>142</sup>

ii) he worked as a mason and a painter; he supported his mother and his younger siblings with his contributions;<sup>143</sup> and

iii) he was single. His parents are Nicasia Cordero and José Gregorio Montenegro. His siblings are Marisol, José Ramón, and Francisco Rafael, all of them Montenegro Cordero.<sup>144</sup>

66.49. Jesús Alberto Cartaya

i) he was born on April 28, 1961 and died on March 1, 1989 at the age of twenty-seven due to an "acute pulmonary edema";<sup>145</sup> and

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<sup>140</sup> Cf. testimony of Ybelice Altagracia Ramírez rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>141</sup> Cf. excerpt from birth certificate of Alejandro Idelfonso Ramírez dated April 12, 2000 issued by the Administrative Office on Marital Status of the Central Electoral Board of the Dominican Republic; excerpt from birth certificate of Yovanny Manuel Ramírez dated April 12, 2000 issued by the Administrative Office on Marital Status of the Central Electoral Board of the Dominican Republic; excerpt from birth certificate of Ybelice Altagracia Ramírez dated April 25, 2000 issued by the Administrative Office on Marital Status of the Central Electoral Board of the Dominican Republic; excerpt from birth certificate of Ydel Ramón Ramírez dated April 12, 2000 issued by the Administrative Office on Marital Status of the Central Electoral Board of the Dominican Republic; and excerpt from birth certificate of Elsa Julia Batista Ramírez dated July 20, 2000 issued by the Administrative Office on Marital Status of the Central Electoral Board of the Dominican Republic.

<sup>142</sup> Cf. copy of the birth certificate of José Ramón Montenegro Cordero issued on September 16, 1999 by the Civil Head Office of San Juan, Prefecture of Libertador Municipality in the Federal District; autopsy record No. 51.446 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; and testimony of Marisol Montenegro Cordero rendered on March 22, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>143</sup> Cf. testimony of Marisol Montenegro Cordero rendered on March 22, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>144</sup> Cf. copy of the birth certificate of José Ramón Montenegro Cordero issued on September 16, 1999 by the Civil Head Office of San Juan, Prefecture of Libertador Municipality in the Federal District; copy of the birth certificate of Marisol Montenegro Cordero issued on January 23, 1997 by the Civil Head Office of San Juan, Prefecture of Libertador Municipality in the Federal District; and testimony of Marisol Montenegro Cordero rendered on March 22, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

ii) his permanent companion was Elsa Marina López Nieto, his son is Jesús Yonathan López. His mother is Gervasia Antonia Cartaya.<sup>146</sup>

66.50. Sabas Reyes Gómez

i) on February 27, 1989 he suffered several firearm wounds and died the following day due to "internal hemorrhage". To date, his mortal remains have not been delivered to his next of kin;<sup>147</sup> and

ii) his daughter is Beatriz Ismelda Gómez Carrillo.

66.51. Alís Guillermo Torres Flores

iii) she died on March 3, 1989 due to "multiple firearm wounds";<sup>148</sup> and

ii) her mother is Rosa Flores.

*Missing victims*

66.52. José Miguel Liscano Betancourt

i) he was born on November 27, 1967 and he disappeared at the age of twenty-one, after leaving his home during the afternoon of February 28, 1989;<sup>149</sup>

ii) his next of kin took various steps before the Public Prosecutor's Office and the criminal courts to find him or establish the whereabouts of his remains. They searched for him in hospitals, morgues, detention centers, among others. On March 20, 1989 his sister

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<sup>145</sup> Cf. photocopy of the identification document of Jesús Alberto Cartaya; autopsy record No. 51.290 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police; copy of the death certificate of Jesús Alberto Cartaya issued by the Planning Directorate of the Ministry of Public Health and Social Assistance; and certified copy dated February 9, 1994 of the document by means of which Elsa Marina López Nieto grants custody of her son Jesús Yonathan López to Gervasia Antonia Cartaya.

<sup>146</sup> Cf. certified copy dated February 9, 1994 of the document by means of which Elsa Marina López Nieto grants custody of her son Jesús Yonathan López to Gervasia Antonia Cartaya.

<sup>147</sup> Cf. death certificate of Sabas Reyes Gómez issued on February 28, 1999 by the Planning Directorate of the Ministry of Public Health and Social Assistance; and autopsy record No. 51.203 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police.

<sup>148</sup> Cf. autopsy record No. 51.445 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police. Note: in the judgment on the merits the name of the victim was recorded as Alís Guillermo Flores Torres. In the instant Judgment the surnames recorded are Torres Flores.

<sup>149</sup> Cf. copy of the birth certificate of José Miguel Liscano Betancourt issued on July 28, 1975 by the Civil Authority of San Juan Parish, Libertador Department, in the Federal District; report filed on March 20, 1989 by Aura Rosa Liscano Betancourt before Investigation Control of the Technical Corps of the Judiciary Police; autopsy record No. 51.251 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police and official letter No. DF-10-700 dated December 16, 1991 from the Tenth Prosecutors' Office of the Court Circuit of the Federal District and the State of Miranda of the Office of the Attorney General addressed to Aura Rosa Liscano; and testimony of Aura Rosa Liscano Betancourt rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

reported him missing at the Technical Corps of the Judiciary Police and requested exhumation of the bodies buried in common graves. To date, the whereabouts of the remains of the victim are not known;<sup>150</sup>

iii) he worked as a clerk at a firm. He made weekly contributions from his income to cover household expenses;<sup>151</sup> and

iv) he was single. His parents are Carmen Betancourt and Nepomuceno Liscano. His sisters are Mirian Josefina, Leida Josefina, Nanci del Carmen, and Carmen Cecilia, all of them Liscano Betancourt.<sup>152</sup>

#### 66.53. Juan Acasio Mena Bello

i) he was born on May 22, 1950 and disappeared on February 28, 1989 at the age of 38. The State has not made any statement regarding his whereabouts;<sup>153</sup>

ii) he worked as an upholsterer and contributed weekly income to cover household expenses;<sup>154</sup> and

iii) his permanent companion was Laura Margarita Marrero Chenique. His daughters are Petra Zulay Mena Marrero, Laura Josefina Marreno and Maribel Suguey Marrero. His mother is Petra Bello.<sup>155</sup>

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<sup>150</sup> Cf. report filed on March 20, 1989 by Aura Rosa Liscano Betancourt before Investigation Control of the Technical Corps of the Judiciary Police; request for exhumation of the corpses buried in the La Peste sector of the General Southern Cemetery, dated October 10, 1990 filed by Aura Rosa Liscano Betancourt before the Government Attorneys' Office of the Republic; November 6, 1991 and January 15, 1992 briefs by Aura Rosa Liscano Betancourt filed before the Tenth Prosecutors' Office of the Court Circuit of the Federal District of the Office of the Attorney General; October 21, 1991 brief filed by Aura Rosa Liscano Betancourt before the 19<sup>th</sup> Criminal Trial Court of the Court Circuit of the Federal District and State of Miranda; official letter No. DF-10-700 dated December 16, 1991 from the 10<sup>th</sup> Prosecutors' Office of the Court Circuit of the Federal District and State of Miranda to the Office of the Attorney General, addressed to Aura Rosa Liscano Betancourt; and testimony of Aura Rosa Liscano Betancourt rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>151</sup> Cf. testimony of Aura Rosa Liscano Betancourt rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>152</sup> Cf. copy of the birth certificate of José Miguel Liscano Betancourt issued on July 28, 1985 by the Civil Authority of San Juan Parish, Libertador Department, in the Federal District; copy of the birth certificate of Aura Rosa Liscano Betancourt issued on August 28, 1995 by the Civil Authority of San Juan Parish, Libertador Department, in the Federal District; copy of the birth certificate of Miriam Josefina Liscano Betancourt issued on December 18, 1975 by the Civil Authority of San Juan Parish, Libertador Department, in the Federal District; copy of the birth certificate of Leida Josefina Liscano Betancourt issued on July 10, 1972 by the Civil Authority of San Juan Parish, Libertador Department, in the Federal District; copy of the birth certificate of Nanci del Carmen Liscano Betancourt issued on April 29, 1999 by the Civil Authority of San Juan Parish, Libertador Department, in the Federal District; copy of the birth certificate of Carmen Cecilia Liscano Betancourt issued on April 4, 1984 by the Civil Authority of San Juan Parish, Libertador Department, in the Federal District; and testimony of Aura Rosa Liscano Betancourt rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>153</sup> Cf. testimony of birth and baptism of Juan Acasio Mena Bello on August 5, 1999 at San José Parish, Guarenas Diocese, San José de Barlovento, State of Miranda; and testimony of Petra Bello rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>154</sup> Cf. testimony of Petra Bello rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

*Victims of violations of the right to fair trial and to judicial protection*

66.54. Abelardo Antonio Pérez

- i) he was born on March 22, 1948 and disappeared when he was forty years old, on March 22, 1948. At the date of the instant judgment, his whereabouts had not yet been established;<sup>156</sup>
- ii) he was a master “cabillas” builder and he contributed income to cover household expenses;<sup>157</sup> and
- iii) His mother is Oscarina Pérez.<sup>158</sup>

66.55. Andrés Eloy Suárez Sánchez

- i) he was born on September 22, 1956 and he disappeared at the age of 32 on February 27, 1989;<sup>159</sup> and
- ii) he was single. His parents are María Antonia Sánchez and Graciliano Suárez. His siblings are Juan Carlos and María Lourdes, both of them Suárez Sánchez.<sup>160</sup>

66.56. Jesús Rafael Villalobos

- iii) he has been missing since February 28, 1989;<sup>161</sup> and
- iv) his brother is Franco José Márquez Villalobos.

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<sup>155</sup> Cf. March 5, 1993 certification of the birth certificate of Petra Zulay Mena Marrero issued by the Main Records Office of the State of Miranda; birth certificate of Laura Josefina Marrero issued on September 8, 1989 by the Civil Authority of Sucre, Libertador Department of the Federal District; birth certificate of Maribel Sugey Marrero issued on September 8, 1989 by the Civil Authority of Sucre, Libertador Department of the Federal District; and testimony of Petra Bello rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>156</sup> Cf. *El Caracazo Case*, *supra* note 28, para. 1; and testimony of Fernán Enrique Pérez rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>157</sup> Cf. testimony of Fernán Enrique Pérez rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>158</sup> Cf. testimony of Fernán Enrique Pérez rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>159</sup> Cf. copy of the birth certificate of Andrés Eloy Suárez Sánchez by the Prefect of San Juan Bautista Municipality in the Federal District; and testimony of Juan Carlos Suárez Sánchez rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>160</sup> Cf. copy of the birth certificate of María Lourdes Suárez Sánchez issued on December 7, 1976 by the Prefect of San Sebastián Municipality in the San Cristóbal District; copy of the birth certificate of Juan Carlos Suárez Sánchez issued on April 21, 1978 by the Prefect of San Juan Bautista Municipality in the Federal District; and testimony of Juan Carlos Suárez Sánchez rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>161</sup> Cf. *El Caracazo Case*, *supra* note 28, para. 1.

## 66.57. Jesús Salvador Cedeño

- i) he was born on December 24, 1962 and died on February 27, 1989 at the age of twenty-six, due to a “a myocardial infarct caused by a cardio angio sclerosis, without external signs of violence.” He was buried after forensic tests at a place which has not been established. His remains have not been delivered to his next of kin;<sup>162</sup>
- ii) at the time of the facts he studied law and worked as a legal adviser in the “retén de Catia”; he helped his mother financially and covered the cost of his sister’s studies;<sup>163</sup> and
- iii) he was single. His siblings are Wilfredo del Carmen and Emileydis del Carmen, both of them Cedeño. His mother was Sofia Cedeño, who died after the victim’s demise.<sup>164</sup>

*Wounded victims*

## 66.58. Henry Eduardo Herrera Hurtado

- i) he was born on September 29, 1957. On February 28, 1989 at the age of 31, he received a bullet wound that harmed his liver, intestines, and several vertebrae. He was hospitalized and as a consequence of the facts became paraplegic with partial paralysis, also lost a kidney and ten centimeters of colon, and suffered liver damage;<sup>165</sup>
- ii) at the time of the facts he worked as an assistant at a furniture store. He supported himself with his salary and helped his family with monthly and weekly contributions. He has not received any income since the day of the facts. After two years, he began to receive a pension and is completely dependent on social security;<sup>166</sup>
- iii) he has incurred substantial expenses since the facts occurred, to buy medicine and other requirements in connection with his health

<sup>162</sup> Cf. *El Caracazo Case*, supra note 28, para. 1; *autopsy record No. 51.168 prepared by the Forensic Medicine Division of the Technical Corps of the Judiciary Police*; and *testimony of Emileydis del Carmen Ferrán Cedeño rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District*.

<sup>163</sup> Cf. *testimony of Emileydis del Carmen Ferrán Cedeño rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District*.

<sup>164</sup> Cf. *copy of the birth certificate of Wilfredo del Carmen Ferrán Cedeño issued on March 28, 1991 by the Civil Authority of Maturín Municipality, State of Monagas*; *copy of the birth certificate of Emileydis del Carmen Ferrán Cedeño issued on August 4, 1987 by the Civil Authority of Maturín Municipality, State of Monagas*; and *testimony of Emileydis del Carmen Ferrán Cedeño rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District*.

<sup>165</sup> Cf. *testimony of Henry Eduardo Herrera Hurtado rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District*; and *hospitalization certificate issued on December 11, 1989 by the Centro Nacional de Rehabilitación of the Instituto Venezolano de Seguros Sociales of the Ministry of Labor*.

<sup>166</sup> Cf. *testimony of Henry Eduardo Herrera Hurtado rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District*.

problems. Medical care has been provided by social security, while his family has covered the cost of his medicine;<sup>167</sup> and

iv) he lost mobility in his body and became disabled, for which reason he spends most of his time at home without being able to contribute to cover household expenses. He suffers depression and has perceived what happened as a major disruption in his personal fulfillment.<sup>168</sup>

66.59. Gregoria Matilde Castillo

i) she was born on February 25, 1969. On March 1, 1989, when she was twenty, she received a bullet wound on her left leg, which was amputated at a hospital;<sup>169</sup>

ii) at the time of the facts she worked at a factory. She was studying to become a secretary. She helped support the family. After being wounded, she could not get a job for two years. Currently she continues to contribute income to the family on a weekly basis, though less than before the facts;<sup>170</sup>

iii) she continues to search for an appropriate prosthesis. She has expenses for crutches and medicine. Social security stopped making payments to her a year after the facts, because she had to stop working. Her father covered the expenses;<sup>171</sup> and

iv) she suffers depression and nighttime disorders. She has not been able to pay for psychological treatment. She is currently married and has two children.<sup>172</sup>

66.60. Noraima Sosa Ríos

i) she was born on April 4, 1954 and was 34 at the time of the facts. On February 28, 1989, while she was inside her home, she received a firearm wound on her right leg. She was taken to the

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<sup>167</sup> Cf. testimony of Henry Eduardo Herrera Hurtado rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>168</sup> Cf. testimony of Henry Eduardo Herrera Hurtado rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>169</sup> Cf. June 2, 1997 medical report issued by the traumatologist physician of the Sub-regional Health Directorate of the State of Miranda of the Ministry of Public Health and Social Assistance; and testimony of Gregoria Matilde Castillo rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>170</sup> Cf. testimony of Gregoria Matilde Castillo rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District; and work certificate of Gregoria Matilde Castillo issued on February 11, 2000 by the firm Grupo Impresión C.A.

<sup>171</sup> Cf. testimony of Gregoria Matilde Castillo rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>172</sup> Cf. testimony of Gregoria Matilde Castillo rendered on March 26, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

hospital where that leg was amputated. Her right arm is disabled because of a vaccine they applied due to the wounds suffered on her leg;<sup>173</sup>

ii) at the time of the facts she worked as a secretary; she contributed on a monthly basis to household expenses and earned minimum wage. She has not been able to get a job because of her missing leg and disabled arm;<sup>174</sup>

iii) she is single;<sup>175</sup> and

iv) after the facts she had to buy two prostheses, a valve for one of these, and the medicine required for rehabilitation. She constantly has to buy bandages. She has received therapy for her arm, but the damage is irreversible. She has suffered insomnia and depression and has undergone psychological treatment. She has covered all expenses in connection with her treatment, but cannot specify the exact amount spent.<sup>176</sup>

#### *Other facts*

66.61. The next of kin of the victims suffered pecuniary and non-pecuniary damage due to the deaths, disappearances or wounds of the victims, and due to the difficulties to obtain justice and to attempt that the facts not remain unpunished;<sup>177</sup>

66.62. that on April 24, 1989 the Civil Association Comité de Familiares de las Víctimas de los Sucesos de Febrero – Marzo (COFAVIC) was established with the main goals of “demanding elucidation of the facts pertaining to all the human rights violations during the February-March, 1989 events, by the bodies responsible for defense of citizens’ rights; accompanying and

<sup>173</sup> Cf. testimony of Noraima Sosa Ríos rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>174</sup> Cf. testimony of Noraima Sosa Ríos rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>175</sup> Cf. testimony of Noraima Sosa Ríos rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District.

<sup>176</sup> Cf. testimony of Noraima Sosa Ríos rendered on March 27, 2002 at the 29th Notary Public of Libertador Municipality of the Federal District; March 20, 1989 invoice by Clínica Atías, Hospitalización y Servicios C.A.; and May 29, 1998 invoice of Fundación Hospital Ortopédico Infantil for change of prosthesis.

<sup>177</sup> Cf. reports by experts Magdalena López de Ibáñez, Alicia B. Neuburger and Jesús María Casal and statements by Margarita Mederos, Francisco Moncada, Fernando Enrique Pérez, Braulio Ramón Guía Laya, Catalina Ramos de Guevara, Juan Carlos Suárez Sánchez, Henry Eduardo Herrera Hurtado, Rafael Castellanos, Iris Medina, Dilia Mendoza de Ramos, Gregoria Matilde Castillo, Xiomara Hernández, Rosa Julia Aldana Bastidas, Nelly Marcano, Nelly Freitez, Miguelina La Rosa, Emileidys Ferrán Cedeño, Mery Marina Castillo, Aura Rosa Liscano Betancourt, Hilda Rosa Páez, María Casilda Valero Suárez, Haydée Mavilu Blanco, María Teresa Rivas, Petra Bello, María Encarnación Salazar Campos, Noraima Sosa, Ana Jacinta Garrido, Toribia Ojeda, Olga María Álvarez de Tesara, Carmen Rufina Cabriles, Ivonne Josefina Pirela Chacón, Maritza Romero, Ingrid Ortega Zapata, Judith Borjas, Deisy Crespo, Ybelice Altagracia Ramírez, Juliana Quintana, Fredez Binda García Hernández, María Nería Guillén Pereira, Marisol Montenegro Cordero, submitted to the Inter-American Court of Human Rights on April 5, 8, 10 and 11, 2002 by the representatives of the victims and of the next of kin.



supporting the victims or next of kin who have requested help in case of violations of human rights, both individual and collective, in the process of systematically following up on complaints resulting from said human rights violations;<sup>178</sup>

66.63. that the next of kin of the victims took steps to search for those victims and have participated in domestic proceedings pertaining to the facts of this case, steps and proceedings that involved expenses. COFAVIC covered the costs of these efforts;<sup>179</sup>

66.64. the victims and some of their next of kin have been represented before the Commission and the Court by members of COFAVIC, which has incurred expenses domestically and before the bodies of the inter-American system, during domestic proceedings and the instant proceeding. CEJIL and Human Rights Watch have also participated as representatives of the victims and of the next of kin in proceedings before the Commission and the Court, and the former incurred expenses as a consequence thereof.<sup>180</sup>

<sup>178</sup> Cf. copy of the April 24, 1989 legal document establishing the non-profit civil association *Asociación Civil Comité de Familiares de las Víctimas de los Sucesos de Febrero-Marzo*, certified on April 16, 1991 by the Deputy Office of the Second Public Records Circuit of Libertador Municipality of the Federal District, Caracas, Venezuela.

<sup>179</sup> Cf. three evidence files in *El Caracazo Case*, under the title "appendices with evidence submitted by the representatives of the victims and their next of kin together with the brief on Reparations," at the Secretariat of the Court, and evidence filed in *El Caracazo Case*, under the title "Documentation backing the alleged expenses filed by the representatives of the victims and their next of kin, August 13, 2002 brief," at the Secretariat of the Court.

<sup>180</sup> Cf. copy of the April 24, 1989 legal document establishing the non-profit civil association *Asociación Civil Comité de Familiares de las Víctimas de los Sucesos de Febrero-Marzo*, certified on April 16, 1991 by the Deputy Office of the Second Public Records Circuit of Libertador Municipality of the Federal District, Caracas, Venezuela; special power of attorney granted on April 14, 1999 by Ivonne Josefina Pirela Chacón in favor of Lilliana Ortega Mendoza before the First Notary Public of San Cristóbal, State of Táchira, Venezuela; special power of attorney granted on April 16, 1999 by Ana Jacinta Garrido Cortez in favor of Lilliana Ortega Mendoza before the Twenty-Ninth Notary Public of Libertador Municipality of the Federal District, Caracas, Venezuela; special power of attorney granted on March 18, 1999 by Noraima Sosa Ríos, Olga María Álvarez de Tesara, María Teresa Rivas de Ávila, Nelly Pastora Freitez, Juan Carlos Suárez Sánchez, Rafael José Castellanos Canelón, Mery Marina Castillo, Braulio Ramón Guía Laya, Juliana Quintana and Toribia Ojeda in favor of Lilliana Ortega Mendoza before the Twenty-Ninth Notary Public of Libertador Municipality of the Federal District, Caracas, Venezuela; special power of attorney granted on June 26, 1999 by María Casilda Valero Suárez in favor of Lilliana Ortega Mendoza before the Twenty-Ninth Notary Public of Libertador Municipality of the Federal District, Caracas, Venezuela; special power of attorney granted on June 26, 1999 by María Casilda Valero Suárez in favor of Lilliana Ortega Mendoza, Héctor Faúndez Ledesma, José Miguel Vivanco, Viviana Krsticevic and María Claudia Pulido before the Twenty-Ninth Notary Public of Libertador Municipality of the Federal District, Caracas, Venezuela; special power of attorney granted on March 5, 1999 by María Neria Guillén Pereira in favor of Lilliana Ortega Mendoza before the Twenty-Ninth Notary Public of Libertador Municipality of the Federal District, Caracas, Venezuela; special power of attorney granted on February 25, 1999 by Emileidys del Carmen Ferrán Cedeño, Rosa Julia Aldana Bastidas, Petra Bello, Judith Borjas Romero, Catalina Ramos de Guevara, Carmen Gregoria Daza, Osquedio Rafael Hernández Rodríguez, María Encarnación Salazar Campos, Rosa Margarita Hernández de Mederos, Miguelina del Jesús La Rosa, Fredez Binda García Hernández, María Josefina Herrera Hurtado, Iris del Valle Medina Cova, Hilda Rosa Páez, Aura Rosa Liscano Betancourt, Maritza Isabel Romero Castro, Francisco Moncada, Dilia Ramos, Marisol Montenegro Cordero, Deisy Crespo and Haydée Mavilu Blanco García in favor of Lilliana Ortega Mendoza before the Twenty-Ninth Notary Public of Libertador Municipality of the Federal District, Caracas, Venezuela; special power of attorney granted on May 28, 1999 by Lilliana Ortega Mendoza, as Executive Director of COFAVIC and proxy for the next of kin of the victims, in favor of Héctor Faúndez Ledesma, José Miguel Vivanco, Viviana Krsticevic and María Claudia Pulido before the Twenty-Ninth Notary Public of Libertador Municipality of the Federal District, Caracas, Venezuela; special power of attorney granted on April 5, 2001 by Nelly Elena Marcano, Ligia Rosa Zapara Reverón, Ybelice Altagracia Ramírez, Fernando Enrique Pérez

## VI BENEFICIARIES

67. Given the complexity of the instant case, the Court deems it appropriate to establish that, pursuant to the judgment on the merits, the instant case refers to several categories of victims, constituted as follows:

- a) 35 homicide victims with respect to whom the State was found to be responsible in the judgment on the merits –the whereabouts of several of the mortal remains of these victims is not known- (*supra* paras. 66.17 to 66.51);
- b) two missing victims due to facts in connection with which the State was also found to be responsible in the judgment on the merits, and who, for purposes of the reparations to be ordered, are considered to be dead (*supra* paras. 66.52 and 66.53);
- c) three surviving victims, whose right to humane treatment was gravely violated during the development of the facts, the State having been found responsible in this regard in the judgment on the merits (*supra* paras. 66.58 to 66.60);
- d) four victims who presumably died in the context of the facts of the instant case, without the Court's judgment on the merits having found the State to be responsible in this regard, although it did establish that these persons' rights protected by Articles 8 and 25 of the Convention were violated (*supra* paras. 66.54 to 66.57);
- e) the next of kin of the 44 victims, whose rights protected by Articles 8 and 25 of the Convention were found, pursuant to the judgment on the merits, to have been violated.

For sake of clarity of terminology, the instant Judgment uses the expression "victims" to refer to the persons included under subparagraphs a), b), c) and d) of this paragraph, and the expressions "next of kin" or "next of kin of the victims" to refer to persons included under subparagraph e), even though strictly speaking said next of kin are also victims in this case, insofar as their rights under articles 8 and 25 of the Convention were violated.

68. The Court found, in operative paragraph two of the judgment on the merits issued on November 11, 1999, that the State violated several of the rights protected by the American Convention, to the detriment of the 44 individuals listed in paragraph 1 of that judgment, who are the following persons: Miguel Ángel Aguilera La Rosa, Armando Antonio Castellanos Canelón, Luis Manuel Colmenares Martínez,

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*and Carmen Rufina Cabriles in favor of Lilliana Ortega Mendoza before the Twenty-Ninth Notary Public of Libertador Municipality of the Federal District, Caracas, Venezuela; and special power of attorney granted on April 25, 2001 by Lilliana Ortega Mendoza, as Executive Director of COFAVIC and proxy for the next of kin of the victims, in favor of José Miguel Vivanco, Viviana Krsticevic and María Claudia Pulido before the Twenty-Ninth Notary Public of Libertador Municipality of the Federal District, Caracas, Venezuela; three evidence files in El Caracazo Case, under the title "appendices with evidence submitted by the representatives of the victims and their next of kin together with the brief on Reparations," at the Secretariat of the Court, and evidence file in El Caracazo Case, under the title "Documentation backing alleged expenses filed by the representatives of the victims and their next of kin, August 13, 2002 brief," at the Secretariat of the Court; and processing file for the Reparations stage in El Caracazo Case, at the Secretariat of the Court, volume IV, sheets 1134 to 1143.*

Juan José Blanco Garrido, Daniel Alfredo Guevara Ramos, Pedro Gustavo Guía Laya, Mercedes Beatriz Hernández Daza, Crisanto Mederos, Francisco Antonio Moncada Gutiérrez, Héctor Daniel Ortega Zapata, Richard José Páez Páez, Carlos Elías Parra Ojeda, José del Carmen Pirela León, José Vicente Pérez Rivas, Jorge Daniel Quintana, Wolfgang Waldemar Quintana Vivas, Yurima Milagros Ramos Mendoza, Iván Rey, Javier Rubén Rojas Campos, Esteban Luciano Rosillo García, Leobardo Antonio Salas Guillén, Tirso Cruz Tesara Álvarez, Héctor José Lugo Cabriles, Benito del Carmen Aldana Bastidas, Boris Eduardo Bolívar Marcano, Julio César Freitez, Gerónimo Valero Suárez, Jesús Calixto Blanco, Fidel Orlando Romero Castro, Roberto Segundo Valbuena Borjas, Elsa Teotiste Ramírez Caminero, José Ramón Montenegro Cordero, Jesús Alberto Cartaya, Sabas Reyes Gómez, Alís Guillermo Torres Flores, José Miguel Liscano Betancourt, Juan Acasio Mena Bello, Abelardo Antonio Pérez, Andrés Eloy Suárez Sánchez, Jesús Rafael Villalobos, Jesús Salvador Cedeño, Henry Eduardo Herrera Hurtado, Gregoria Matilde Castillo, and Noraima Sosa Ríos.

69. The aforementioned persons, insofar as victims, are entitled to reparation of damage caused by the violation of their rights. In the case of homicide victims and missing victims, the aforementioned right to reparation passes on to their next of kin, pursuant to the provisions of the relevant paragraphs of the instant Judgment (*infra* paras. 91, 93, 101 and 111).

70. Violations of human rights generally cause damage to persons other than those directly entitled to those rights, and this occurs, specifically, in connection with the next of kin of the victims (*supra* paras. 66.61 and 64.b). Such damages must also be redressed.

71. Pursuant to Article 2(15) of the Rules of Procedure in force,<sup>181</sup> the expression next of kin refers to “the immediate family [of the victim], that is, the direct ascendants and descendants, siblings, spouses or permanent companions, or those determined by the Court, if applicable.”

72. The Court notes that due to the specificities of the instant case, including the substantial number of victims and the time elapsed since the facts occurred, it is difficult to establish precisely who the next of kin of the victims were or are, in terms of the meaning given to this expression by the Rules of Procedure. To establish this, the Court has proceeded as described in chapter IV of this Judgment under the title “Evidence” and, especially, paragraph 63.b of same. Nevertheless, the Court notes that in the instant case there are circumstances such as the following:

- a) the briefs on reparations refer to certain next of kin of the victims and state their names, without their existence nor their ties with said victims being supported by any other evidence supplied during the proceedings (such as birth certificates of the victims or their alleged next of kin, or statements before a notary public);
- b) the hypothesis dealt with in the previous subparagraph sometimes occurs with respect to statements made before a notary public: in some such

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<sup>181</sup> Article 2(15) of the Rules of Procedure adopted by the November 24, 2000 Court Order, which entered into force on June 1, 2001.

statements, the existence of certain next of kin of the victims is mentioned, and their names are stated, without the respective statements being supported by any other evidence (not even in the statements in the briefs on reparations); and

c) in the statements made before a notary public and submitted to the file, reference is sometimes made to the victim having had certain next of kin, such as siblings or children, without the person who makes the statement duly identifying them with their names and other relevant circumstances.

As was established before (*supra* paras. 63 and 64), the Court deems that to attain probatory value, statements not disputed by parties and the statements referred to in the above subparagraphs, must be supported by other evidence.

73. Pursuant to what has already been stated, the Court will consider as beneficiaries of reparations, first of all the victims, and secondly their next of kin (*supra* para. 67). In the latter case it will be necessary for the family tie to be duly proven, according to the aforementioned probatory standards (*supra* para. 63.b). In connection with persons whose existence and ties with the victims do not have the backing required by the aforementioned standards, being in the situations described in one of the hypotheses of the previous paragraph, or in other similar situations, the Court will proceed in the instant Judgment as follows: it will consider them beneficiaries of reparations for non-pecuniary damage and order compensation paid to them in that regard, if they come before the State within twenty-four months after the date this Judgment is rendered and provide authentic evidence, pursuant to domestic legislation, that they are next of kin of one of the victims, under the terms of the aforementioned Article 2(15) of the Rules of Procedure in force.

74. As follows from the paragraphs of the instant chapter, the next of kin of the victims will be considered beneficiaries of reparations in terms of a double status: as persons affected by the homicides, disappearances and wounds suffered by their beloved ones, and as direct victims of violation of Articles 8 and 25 of the Convention.

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75. The Court notes that the next of kin of Jesús Alberto Cartaya, Sabas Reyes Gómez, Jesús Rafael Villalobos and Alís Guillermo Torres Flores, have not appeared in the proceedings, whether personally or by means of representatives, although the representatives of the other victims and next of kin have acted on their behalf as unofficial agents, and have requested measures of reparation on their behalf. In the instant case, the Court will address the respective requests based on the fact that the judgment on the merits, with is an inescapable precedent in the itinerary of the proceedings, found that Mr. Cartaya, Mr. Reyes, Mr. Villalobos and Mr. Torres were victims.

## VII OBLIGATION TO MAKE REPARATIONS

76. With respect to Article 63(1) of the American Convention, the Court has stated that this provision reflects an unwritten law that is one of the basic principles of contemporary international law regarding the responsibility of the States. Thus,

when an illicit fact occurs that is attributable to a State, there immediately arises an international responsibility of that State due to the violation of an international rule, with the consequent duty to redress and to make cease the consequences of the violation.<sup>182</sup>

77. Reparation of the damage caused by violation of an international obligation requires, whenever possible, full restitution (*restitutio in integrum*), which involves the reestablishment of the previous situation. If this is not possible, as in the instant case, the international court must order a set of measures to, in addition to ensuring the rights infringed, redress the consequences of the breaches, as well as to decide on payment of indemnification as compensation for the damage caused.<sup>183</sup> This obligation to make reparations is regulated, in all its aspects (scope, nature, modes, and determination of beneficiaries) by international law, and cannot be modified by the respondent State nor can it fail to comply with it, invoking to this end provisions of its domestic law.<sup>184</sup>

78. As their name indicates, reparations are measures that tend to eliminate the effects of violations that were committed. Their nature and amount depend on the damage caused at both the pecuniary and non-pecuniary level. Reparations cannot involve enrichment nor impoverishment of the victim or his heirs.<sup>185</sup> In this regard, reparations established in this Judgment must be consistent with the violations found in the judgment on the merits.

## VIII REPARATIONS

79. In operative paragraph four of the November 11, 1999 judgment on the merits, the Court decided to open the reparations and legal costs stage in the instant case. In this judgment the Court will establish, pursuant to Article 63(1) of the American Convention, with the probatory elements gathered during the various stages of the proceedings and in light of criteria set forth in its case law, the reparations that must be made by the Venezuelan State.

### A) *Pecuniary Damage*

#### *Arguments of the representatives of the victims and of the next of kin*

80. As regards compensation for pecuniary damage, the representatives of the victims and of the next of kin argued as follows:

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<sup>182</sup> Cf. *Hilaire, Constantine and Benjamin et al. Case*, supra note 2, para. 202; *Trujillo Oroza Case. Reparations*, supra note 2, para. 60; and *Bámaca Velásquez Case. Reparations*, supra note 2, para. 38.

<sup>183</sup> Cf. *Hilaire, Constantine and Benjamin et al. Case*, supra note 2, para. 203; *Trujillo Oroza Case. Reparations*, supra note 2, para. 61; and *Bámaca Velásquez Case. Reparations*, supra note 2, para. 39.

<sup>184</sup> Cf. *Hilaire, Constantine and Benjamin et al. Case*, supra note 2, para. 203; *Trujillo Oroza Case. Reparations*, supra note 2, para. 61; and *Bámaca Velásquez Case. Reparations*, supra note 2, para. 39.

<sup>185</sup> Cf. *Hilaire, Constantine and Benjamin et al. Case*, supra note 2, para. 205; *Trujillo Oroza Case. Reparations*, supra note 2, para. 63; and *Bámaca Velásquez Case. Reparations*, supra note 2, para. 41.

- a) the Court in its case law on reparations has established that pecuniary damage includes consequential damage, lost earnings, and patrimonial damage to the household;
- b) it is impossible to have authentic evidence of the victims' jobs and the income they received, because most of them worked in the informal sector of the Venezuelan economy, as can be inferred from the statements of the next of kin of the victims;
- c) in the cases of extra-judicial executions, consequential damage must include expenses in connection with the search for the corpses, expenses for medical treatment of next of kin, those resulting from exhumation of the bodies, and other similar items. In cases of forced disappearance, they must include expenses originating in steps taken to establish the whereabouts of the victim and those incurred searching for the bodies;
- d) lost earnings, which correspond in this case to the loss of income caused by the non-voluntary interruption of the victims' work life, must be quantified based on certain objective indicators (age of the deceased, life expectancy in the country, the victims' occupational activity, wages earned or minimum monthly wage in force in the country). To estimate the amount of their request in connection with lost earnings in the instant case, said representatives took into account the minimum wage in force in Venezuela;<sup>186</sup>
- e) pecuniary damage to the victim's household must be compensated for as such, and this refers to various patrimonial losses, such as reduction of household income, bankruptcy of family business, loss of jobs, etc.; and
- f) compensation must also be paid for expenses in connection with burial and funerary services, incurred by the next of kin of the executed victims (wives, parents, siblings, permanent companions, aunts).

81. Pursuant to the above, the representatives submitted a specific quantitative estimate of compensation for material damage with respect to each of the victims, distinguishing between "consequential damage," "lost earnings" and the sum of both items. The Court took that estimate into account as a reference element, as pointed out below.

#### *Arguments of the Commission*

82. With respect to pecuniary damage, the Commission argued as follows:

- a) the State must be ordered to pay consequential damage and lost earnings in accordance with the request made by the representatives of the victims and of the next of kin;

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<sup>186</sup> The representatives of the victims and the next of kin asked the Court to take into account the minimum wage in force on November 11, 1999, the date when the Judgment on the merits of the case was delivered, which amounted to 120,000.00 bolivares.

b) the State must be ordered to provide medical assistance benefits required to address the physical and psychological damage suffered by the victims due to the wounds and tortures, as well as those suffered by the next of kin of the executed and missing persons. If the State does not provide this care itself, it must be ordered to pay the amount of money required to cover the respective treatments; and

c) the statements made before a notary public by the next of kin of the victims and the expert witness reports provide sufficient information to prove both pecuniary and non-pecuniary damage.

#### *Arguments of the State*

83. For the reasons stated before regarding application of the *estoppel* principle, in the chapter on assessment and use of the evidence (*supra* paras. 51 to 54), the Court will not refer, in this section, to the arguments of the State regarding pecuniary damage.

#### *Considerations of the Court*

84. Taking into account the evidence gathered in the instant case, the case law of the Court itself, and the arguments of the representatives of the victims and of the next of kin, as well as those of the Commission, the Court will now establish the reparations for pecuniary damage suffered by the victims and their next of kin.

#### *a) Consequential damage*

85. With respect to compensation for funerary expenses incurred by the next of kin of Miguel Ángel Aguilera La Rosa, Armando Antonio Castellanos Canelón, Luis Manuel Colmenares Martínez, Juan José Blanco Garrido, Daniel Alfredo Guevara Ramos, Pedro Gustavo Guía Laya, Mercedes Beatriz Hernández Daza, Crisanto Mederos, Francisco Antonio Moncada Gutiérrez, Héctor Daniel Ortega Zapata, Richard José Páez Páez, Carlos Elías Parra Ojeda, José del Carmen Pirela León, José Vicente Pérez Rivas, Jorge Daniel Quintana, Wolfgang Waldemar Quintana Vivas, Yurima Milagros Ramos Mendoza, Iván Rey, Javier Rubén Rojas Campos, Esteban Luciano Rosillo García, Leobardo Antonio Salas Guillén, Tirso Cruz Tesara Álvarez, and Héctor José Lugo Cabriles, all of them homicide victims whose bodies were delivered by the authorities, the Court deems it appropriate to set them, in fairness, at US\$600.00 (six hundred United States dollars) for each of the victims (*infra* para. 90).

86. As regards compensation for other attendant expenses in connection with the facts of the case, such as those incurred by the next of kin to search for and locate the victims in various offices, and those incurred or to be incurred for medical treatment required by the next of kin due to those facts, the Court deems it appropriate to set it, in fairness, at US\$1,000.00 (one thousand United States dollars) for the 37 homicide victims and missing persons (*infra* para. 90). Said compensation will not, however, apply to the three surviving victims, who will be assigned an item in the following paragraph, nor regarding the four victims in the instant case with respect to whom the judgment on the merits only found a violation of their rights protected by Articles 8 and 25 of the Convention.

87. As regards compensation for expenses incurred or to be incurred for medical treatment and purchase of the necessary means to alleviate the disability caused to the three surviving victims by the facts of this case, and because said expenses were not fully covered by social security, the Court deems that said compensation must be set, in fairness, as follows: US\$15,000.00 (fifteen thousand United States dollars) in favor of Henry Eduardo Herrera Hurtado, who became paraplegic, and US\$7,000.00 (seven thousand United States dollars) each to Gregoria Matilde Castillo and Noraima Sosa Ríos, each of whom lost a leg due to amputation (*infra* para. 90).

*b) Lost earnings*

88. To establish compensation for lost earnings of Miguel Ángel Aguilera La Rosa, Armando Antonio Castellanos Canelón, Luis Manuel Colmenares Martínez, Juan José Blanco Garrido, Daniel Alfredo Guevara Ramos, Pedro Gustavo Guía Laya, Mercedes Beatriz Hernández Daza, Crisanto Mederos, Francisco Antonio Moncada Gutiérrez, Héctor Daniel Ortega Zapata, Richard José Páez Páez, Carlos Elías Parra Ojeda, José del Carmen Pirela León, José Vicente Pérez Rivas, Jorge Daniel Quintana, Wolfgang Waldemar Quintana Vivas, Yurima Milagros Ramos Mendoza, Iván Rey, Javier Rubén Rojas Campos, Esteban Luciano Rosillo García, Leobardo Antonio Salas Guillén, Tirso Cruz Tesara Álvarez, Héctor José Lugo Cabriles, Benito del Carmen Aldana Bastidas, Boris Eduardo Bolívar Marcano, Julio César Freitez, Gerónimo Valero Suárez, Jesús Calixto Blanco, Fidel Orlando Romero Castro, Roberto Segundo Valbuena Borjas, Elsa Teotiste Ramírez Caminero, José Ramón Montenegro Cordero, Jesús Alberto Cartaya, Sabas Reyes Gómez, Alís Guillermo Torres Flores, José Miguel Liscano Betancourt, and Juan Acasio Mena Bello, all of them victims of homicide or missing persons, the Court will presume that they earned or would have earned, since they attained majority, and up to the age of life expectancy in Venezuela, a remuneration equivalent to minimum wage.<sup>187</sup> As it has done in previous cases,<sup>188</sup> the Court takes into account the respective lost wages, set in accordance with the minimum legal wage in force in the country at the time of the events that breached rights protected by the Convention, and adjusts them to present value, after having deducted 25% of that minimum which, according to estimates, would cover the victim's personal expenses. There will, however, be no such compensation for the four victims of this case with respect to whom the judgment on the merits only found a violation of the rights protected by Articles 8 and 25 of the Convention.

89. To establish the compensation to be paid for lost earnings of the three surviving victims, the Court will proceed as follows:

- a) with respect to Henry Eduardo Herrera and Noraima Sosa Ríos it will apply the provision set forth in the previous paragraph, but it will not discount any part of the minimum wage that is the basis for calculations to establish the amount of lost wages because these are victims who survived the facts, who therefore have continued to incur living expenses and who suffer total work disability (*infra* para. 90); and

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<sup>187</sup> For the respective estimate, the Court applied the minimum wage in force in 1989, which according to Executive Decree No. 26 of February 19, 1989, was 4,000.00 Bs. (four thousand bolívaes) monthly.

<sup>188</sup> Cf. "Street Children" Case (*Villagrán Morales et al.*). *Reparations*, *supra* note 19, para. 81; "White Van" Case (*Paniagua Morales et al.*). *Reparations*, *supra* note 19, paras. 116 and 117; and *Castillo Páez Case*. *Reparations*, *supra* note 19, para. 75.



b) with respect to Gregoria Matilde Castillo, 25% of the minimum wage will be deducted to establish the amount of lost wages, because despite being in the situation mentioned in the previous subparagraph, she does not suffer total work disability and is capable of continuing to do work that will generate some income for her (*infra* para. 90).

90. In the following table, the Court states the respective amounts of compensation to be paid, for pecuniary damage, with respect to each of the victims:

<i>PECUNIARY DAMAGE</i>			
<i>Homicide victims whose remains were delivered to their next of kin</i>			
<b>Victim</b>	<b>Consequential damage</b>	<b>Lost earnings</b>	<b>Total</b>
Miguel Ángel Aguilera la Rosa	US \$ 1,600.00	US \$ 37,000.00	US \$ 38,600.00
Armando Antonio Castellanos Canelón	US \$ 1,600.00	US \$ 36,500.00	US \$ 38,100.00
Luis Manuel Colmenares Martínez	US \$ 1,600.00	US \$ 37,000.00	US \$ 38,600.00
Juan José Blanco Garrido	US \$ 1,600.00	US \$ 37,500.00	US \$ 39,100.00
Daniel Alfredo Guevara Ramos	US \$ 1,600.00	US \$ 37,500.00	US \$ 39,100.00
Gustavo Pedro Guía Laya	US \$ 1,600.00	US \$ 36,500.00	US \$ 38,100.00
Mercedes Beatriz Hernández Daza	US \$ 1,600.00	US \$ 35,000.00	US \$ 36,600.00
Crisanto Mederos	US \$ 1,600.00	US \$ 35,000.00	US \$ 36,600.00
Francisco Antonio Moncada Gutiérrez	US \$ 1,600.00	US \$ 38,000.00	US \$ 39,600.00
Héctor Daniel Ortega Zapata	US \$ 1,600.00	US \$ 37,000.00	US \$ 38,600.00
Richard José Páez Páez	US \$ 1,600.00	US \$ 37,500.00	US \$ 39,100.00
Carlos Elías Parra Ojeda	US \$ 1,600.00	US \$ 36,500.00	US \$ 38,100.00
José del Carmen Pirela León	US \$ 1,600.00	US \$ 37,500.00	US \$ 39,100.00
José Vicente Pérez Rivas	US \$ 1,600.00	US \$ 37,500.00	US \$ 39,100.00
Jorge Daniel Quintana	US \$ 1,600.00	US \$ 37,500.00	US \$ 39,100.00
Wolfgang Waldemar Quintana Vivas	US \$ 1,600.00	US \$ 37,000.00	US \$ 38,600.00
Yurima Milagros Ramos Mendoza	US \$ 1,600.00	US \$ 37,000.00	US \$ 38,600.00
Iván Rey	US \$ 1,600.00	US \$	US \$

		37,000.00	38,600.00
Javier Rubén Rojas Campos	US \$ 1,600.00	US \$ 37,000.00	US \$ 38,600.00
Esteban Luciano Rosillo García	US \$ 1,600.00	US \$ 37,500.00	US \$ 39,100.00
Leobardo Antonio Salas Guillén	US \$ 1,600.00	US \$ 37,000.00	US \$ 38,600.00
Tirso Cruz Tesara Álvarez	US \$ 1,600.00	US \$ 37,000.00	US \$ 38,600.00
Héctor José Lugo Cabriles	US \$ 1,600.00	US \$ 36,500.00	US \$ 39,100.00

<i>Homicide victims whose mortal remains were not delivered to their next of kin</i>			
<b>Victim</b>	<b>Consequential damage</b>	<b>Lost earnings</b>	<b>Total</b>
Benito del Carmen Aldana Bastidas	US \$ 1,000.00	US \$ 33,000.00	US \$ 34,000.00
Boris Eduardo Bolívar Marcano	US \$ 1,000.00	US \$ 37,000.00	US \$ 38,000.00
Julio César Freitez	US \$ 1,000.00	US \$ 37,500.00	US \$ 38,500.00
José Gerónimo Valero Suárez	US \$ 1,000.00	US \$ 37,000.00	US \$ 38,000.00
Jesús Calixto Blanco	US \$ 1,000.00	US \$ 30,500.00	US \$ 31,500.00
Fidel Orlando Romero Castro	US \$ 1,000.00	US \$ 37,000.00	US \$ 38,000.00
Roberto Segundo Valbuena Borjas	US \$ 1,000.00	US \$ 36,500.00	US \$ 37,500.00
Elsa Teotiste Ramírez Caminero	US \$ 1,000.00	US \$ 34,500.00	US \$ 35,500.00
José Ramón Montenegro Cordero	US \$ 1,000.00	US \$ 36,500.00	US \$ 37,500.00
Jesús Alberto Cartaya	US \$ 1,000.00	US \$ 36,500.00	US \$ 37,500.00
Sabas Reyes Gómez	US \$ 1,000.00	US \$ 33,000.00	US \$ 34,000.00
Alís Guillermo Torres Flores	US \$ 1,000.00	US \$ 37,000.00	US \$ 38,000.00

<b>Missing victims</b>			
<i>José Miguel Liscano Betancourt</i>	US \$ 1,000.00	US \$ 37,000.00	US \$ 38,000.00
Juan Acasio Mena Bello	US \$ 1,000.00	US \$ 35,000.00	US \$ 36,000.00

<b>Wounded victims</b>			
<b>Victim</b>	<b>Consequential damage</b>	<b>Lost earnings</b>	<b>Total</b>
Henry Eduardo Herrera	US\$ 15,000.00	US \$ 48,000.00	US\$

Hurtado			63,000.00
Gregoria Matilde Castillo	US\$ 7,000.00	US \$ 37,000.00	US\$ 44,000.00
Noraima Sosa Ríos	US\$ 7,000.00	US \$ 46,500.00	US\$ 53,500.00

*c) Recipients of the payments*

91. Reparations for pecuniary damage must be distributed among the next of kin of the homicide victims and missing persons, established in the instant Judgment in the table of paragraph 10, in accordance with the following criteria:

a) fifty percent (50%) of the compensation will be distributed, in equal parts, among the children of the victim. If one or several of the children have already died, their part will augment that of the other children of that same victim;

b) twenty-five percent (25%) of the compensation must be paid to whoever was the spouse, companion or permanent companion of the victim, at the time of the latter's demise;

c) twenty-five percent (25%) of the compensation will be paid to the parents. If one of the parents has died, the respective part will augment that of the other. Ivonne Pirela Chacón and Judith Borjas, the aunts of victims José del Carmen Pirela León and Roberto Segundo Valvuená Borjas, respectively, who lived under the same roof as their aforementioned nephews and had close ties of affection with them, will be assimilated, for purposes of their participation in compensation for pecuniary damage, to the condition of mothers of those victims, so the percentage of the compensation mentioned in this subparagraph will be distributed, in equal parts, between each of these ladies and the fathers of the respective two victims;

d) if the victim had no children nor spouse nor companion or permanent companion, compensation for pecuniary damage will be distributed as follows: fifty percent (50%) will be paid to his or her parents, and the remaining fifty percent (50%) will be distributed in equal parts among the siblings of said victim;

e) if there were no next of kin in one or several of the categories defined in the previous subparagraphs, the part that would have fallen to the next of kin under that or those categories, will proportionally augment the part that falls to the remaining ones.

92. Compensation for pecuniary damage caused in connection with the three surviving victims will be paid to each of them.

93. The provisions regarding recipients of the payments of compensation for pecuniary damage set forth in the two previous paragraphs will also be applied to distribution of compensation for non-pecuniary damage (*infra* paras. 101, 102 and 111).

*B) NON-PECUNIARY DAMAGE*

94. The Court will now consider the injurious effects of the facts of the case which are not economic or patrimonial. Non-pecuniary damage may include suffering and affliction caused to the direct victims and their relatives, detriment to very significant values of persons, as well as non-pecuniary alterations in the conditions of existence of a victim or his or her family. Since it is not possible to assign a precise monetary equivalent to non-pecuniary damage, for purposes of comprehensive reparation to the victims, it can only be compensated for, and this in two ways. First, by means of payment of an amount of money or delivery of goods or services that can be estimated in monetary terms, which the Court will establish through reasonable application of judicial discretion and in terms of fairness. And secondly, by means of acts or works which are public in their scope or repercussion and that have effects such as remembrance of the victims, recognition of their dignity, consolation to their relatives, or transmittal of a message of official reproof of the human rights violations involved and of commitment to efforts seeking to avoid their repetition.<sup>189</sup> The first aspect of reparation for non-pecuniary damage will be analyzed in this section, and the second aspect in the following one.

*Arguments of the representatives of the victims and of the next of kin*

95. The representatives of the victims and of the next of kin argued, with respect to non-pecuniary damage, as follows:

- a) said damage has been sufficiently proven by the sworn testimony rendered by the next of kin of the victims;
- b) as the Court has stated in other cases, it is inherent to human nature for any person subject to aggression and abuse to experience moral suffering, and it must be considered that it causes moral suffering of the next of kin who are directly affected by the abuse suffered by the victim. Given these circumstances, they requested that the respective compensation be set in fairness and based on a judicious estimate of the moral prejudice ;
- c) reparation of the damage caused by the death and forced disappearance of the victims should not be limited to reimbursement of expenses incurred by the next of kin as a consequence of the facts that occurred, the income the victims would have generated, and the moral prejudice suffered by the next of kin due to their deaths. There is a value attributable to the life of each individual which transcends those items, and from which a different right than the rights of the next of kin derives, and its violation generates an independent obligation to make reparations. Protection of the right to life in the Convention requires that it be granted an autonomous value. Therefore, the representatives of the victims and of the next of kin request that the Court establish that value and the measures that in its opinion constitute equitable reparation for it in the instant case; and
- d) denial of justice as an autonomous violation of Articles 8 ad 25 of the Convention also generates a specific obligation of the State to make reparations.

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<sup>189</sup> Cf. *Trujillo Oroza Case. Reparations, supra* note 2, para. 77; *Bámaca Velásquez Case. Reparations, supra* note 2, para. 56; and *Cantoral Benavides Case. Reparations, supra* note 27, para. 53.

96. Pursuant to the above, the representatives submitted a specific quantitative estimate of compensation for “moral prejudice ” with respect to each of the victims and their next of kin, an estimate that has been taken into account by the Court, as a reference point, as pointed out below.

*Arguments of the Commission*

97. With respect to non-pecuniary damage, the Commission pointed out that

a) in accordance with the criteria set forth by the Court in its case law, injury to the rights of the direct victims has gravely affected them emotionally and caused a psychological trauma to both the direct victims, if they survived, and the next of kin of all victims. Said injury must be indemnified by the State due to moral prejudice , and it is for the Court to set compensation based on its judicious estimate;

b) the Court has recognized damage to the life project in the Loayza Tamayo case. Certain domestic legislation has resorted to that concept. The State must be ordered, in the instant case, to indemnify for the damage caused to the life project of the victims whose right to humane treatment was breached, insofar as the wounds suffered became obstacles that prevented them from attaining their vocation; and

c) it has been proven that one of the sources of deep suffering of the next of kin of executed victims and disappeared persons in the instant case has been the circumstance that 13 years have gone by without the truth of the facts being known, due among other factors to secrecy of the preliminary investigative phase, which systematically hindered said next of kin’s access to the case files under domestic jurisdiction. This aspect of the damage must also be indemnified.

*Arguments of the State*

98. For the reasons stated regarding application of the *estoppel* principle in the chapter on assessment and use of the evidence, the Court will not refer, in this section, to the arguments of the State regarding non-pecuniary damage.

**Considerations of the Court**

99. Given the grave circumstances of the instant case, the intensity of suffering caused by the respective facts to the victims and also to their next of kin, disturbance of the conditions of existence of the victims and their next of kin, and other non-pecuniary consequences brought upon the latter, the Court deems that it must order payment of compensation for non-pecuniary damage, in fairness.<sup>190</sup> The Court will do so, in the following paragraphs, based on the evidence gathered and specifically on the presumptions enunciated in the chapter on evidence, and taking into account the arguments of the representatives of the victims and of the next of kin and of the Commission.

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<sup>190</sup> Cf. *Trujillo Oroza Case. Reparations*, supra note 2, para. 83; *Bámaca Velásquez Case. Reparations*, supra note 2, para. 60; and *Cantoral Benavides Case. Reparations*, supra note 27, para. 57.

100. The facts in the instant case caused the victims and their next of kin various types of physical and psychological ailments, grief, anguish, intense fear, and frustration. The Court deems that the damage caused by these injurious impacts on the persons involved must be compensated for, in fairness, in the following manner.

101. The 37 homicide victims and missing persons were subjected, before their death, to circumstances that caused the ailments mentioned in the previous paragraph. The damage suffered by each of them must be indemnified, in fairness, by payment of US\$15,000.00 (fifteen thousand United States dollars) to their next of kin, an amount that will be distributed among them in the same proportions set forth in this Judgment with respect to distribution of compensation for material damage (*supra* para. 93 and *infra* para. 111). The victims to whom this refers are the following: Miguel Ángel Aguilera La Rosa, Armando Antonio Castellanos Canelón, Luis Manuel Colmenares Martínez, Juan José Blanco Garrido, Daniel Alfredo Guevara Ramos, Pedro Gustavo Guía Laya, Mercedes Beatriz Hernández Daza, Crisanto Mederos, Francisco Antonio Moncada Gutiérrez, Héctor Daniel Ortega Zapata, Richard José Páez Páez, Carlos Elías Parra Ojeda, José del Carmen Pirela León, José Vicente Pérez Rivas, Jorge Daniel Quintana, Wolfgang Waldemar Quintana Vivas, Yurima Milagros Ramos Mendoza, Iván Rey, Javier Rubén Rojas Campos, Esteban Luciano Rosillo García, Leobardo Antonio Salas Guillén, Tirso Cruz Tesara Álvarez, Héctor José Lugo Cabriles, Benito del Carmen Aldana Bastidas, Boris Eduardo Bolívar Marcano, Julio César Freitez, Gerónimo Valero Suárez, Jesús Calixto Blanco, Fidel Orlando Romero Castro, Roberto Segundo Valbuena Borjas, Elsa Teotiste Ramírez Caminero, José Ramón Montenegro Cordero, Jesús Alberto Cartaya, Sabas Reyes Gómez, Alís Guillermo Torres Flores, José Miguel Liscano Betancourt, and Juan Acasio Mena Bello.

102. At the time of their death seven of the victims mentioned in the previous paragraph were minors; these are: Juan José Blanco Garrido, Daniel Alfredo Guevara Ramos, Francisco Antonio Moncada Gutiérrez, Richard José Páez Páez, José del Carmen Pirela León, Jorge Daniel Quintana, and Julio César Freitez. Therefore, they were especially vulnerable persons and they should have received special protection by the State and by its security agents.<sup>191</sup> It can be presumed that the suffering caused by the facts of the case with respect to said minors was especially intense. Therefore, the compensation for the damage to which the previous paragraph refers must be additionally compensated, in fairness, by payment of US\$5,000.00 (five thousand United States dollars), which will augment the US\$15,000.00 (fifteen thousand United States dollars) amount indicated in the previous paragraph. Said additional amount will be paid to the next of kin of each of the seven aforementioned victims and will be distributed among them in the same proportions set forth in the previous paragraph.

103. The surviving victims in the instant case not only suffered the conditions of anguish and anxiety generated immediately by the facts, but they have also had to endure, and will continue to endure, the trauma of a severe physical limitation. The damage suffered by these victims must be compensated, in fairness, by payment of US\$50,000.00 (fifty thousand United States dollars) to Henry Eduardo Herrera Hurtado, US\$25,000.00 (twenty-five thousand United States dollars) to Noraima

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<sup>191</sup> Cf. "Street Children" Case (Villagrán Morales et al.). Reparations, *supra* note 19, paras. 89 and 91 subparagraph b; and "Street Children" Case (Villagrán Morales et al.), *supra* note 23, paras. 195 to 197.

Sosa Ríos and US\$15,000.00 (fifteen thousand United States dollars) to Gregoria Matilde Castillo.

104. The next of kin of 37 homicide victims and missing persons were affected by the violation of the latter's human rights, they themselves suffered the accompanying grief and anguish, and they suffered a harmful modification of their emotional milieu. The Court deems that the respective damage must be compensated, in fairness, by payment, to each of such next of kin of the victims, if they exist, of the following amounts:

- a) US\$20,000.00 (twenty thousand United States dollars) in the case of the mother; of the father, of the spouse or companion or permanent companion and of each son or daughter; and
- b) US\$5,000.00 (five thousand United States dollars) in the case of each sister or brother.

The remains of several of the homicide victims and missing persons have not been delivered to their next of kin. This omission is linked to a set of highly reprehensible patterns of State action in connection with the handling of the corpses of the victims, such as the irregular use of common graves and denial of the existence of the latter. The Court deems that the amounts referred to in this paragraph must be increased by thirty percent in the cases of victims whose remains have not been delivered to their next of kin.

105. Ivonne Pirela Chacón, an aunt of José del Carmen Pirela León, and Judith Borjas Romero, an aunt of Roberto Segundo Valbuena Borjas, who have shown that they lived under the same roof with their respective nephew and had close emotional ties with him, will be treated, for the purposes set forth in the previous paragraph, in the same manner it establishes for the mothers of the victims.

106. The next of kin of the victims who survived and were disabled by the facts of this case, have also been affected by their suffering. The resulting damage must be compensated, in fairness, by payment, to each of said next of kin of the victims, if there were any, of the following amounts:

- a) US\$10,000.00 (ten thousand United States dollars) in the case of the mother and of the father; and
- b) US\$2,000.00 (two thousand United States dollars) in the case of each sister or brother.

As the next of kin of the surviving victims have not been identified in the development of the proceedings, the provision set forth in the chapter on beneficiaries (*supra* para. 73) will be applied to them, for purposes of the compensation referred to in this paragraph. Therefore, for them to be recipients of the respective payments, they must appear before the State within twenty-four months of the date when this Judgment is issued, supplying authentic evidence, pursuant to domestic legislation, of their status as next of kin of the victims, under the terms set forth in article 2(15) of the Rules of Procedure in force.

107. The next of kin of the 37 homicide victims and missing persons and of the three surviving victims, insofar as they had the rights to fair trial, to due process and to effective remedy which they were denied and which were abridged, directly suffered a non-pecuniary damage. The Court deems that this damage must be compensated, in fairness, by payment, to each of said next of kin, of the following amounts:

- a) US\$5,000.00 (five thousand United States dollars) in the case of the mother, of the father, of the spouse or of the companion or permanent companion and of every son and daughter; and
- b) US\$2,000.00 (two thousand United States dollars) in the case of each sister or brother.

Violation of the rights to fair trial, to due process and to effective remedy will be compensated, in identical terms, in the case of the four persons who lost their lives under the circumstances that are the context of the facts of the instant case, but whose deaths were not attributed to the State in the judgment on the merits because there was no recognition of State responsibility in this regard. Said next of kin did not have access to justice to elucidate the circumstances and responsibilities in connection with the demise of the four aforementioned persons, and this caused them a non-pecuniary damage that must be compensated in the manner stated.

108. Ivonne Pirela Chacón, an aunt of José del Carmen Pirela León, and Judith Borjas Romero, an aunt of Roberto Segundo Valbuena Borjas, will be treated, for the purposes set forth in the previous paragraph, in the same manner as the mothers of the victims.

109. The surviving victims, Henry Eduardo Herrera Hurtado, Gregoria Matilde Castillo and Noraima Sosa Ríos, also suffered violation of their rights to fair trial, to due process and to effective remedy, which generated non-pecuniary damage to them. The Court deems that this damage must be compensated, in fairness, by means of payment, to each of them, of US\$5,000.00 (five thousand United States dollars).

110. In the following table, the Court presents the amounts of compensation that must be paid, for non-pecuniary damage, in connection with each of the victims and their next of kin:

<b>Non-pecuniary Damage</b>		
<i>Homicide victims whose remains were delivered to their next of kin</i>		
Victim	Miguel Ángel Aguilera La Rosa	US \$ 15,000.00
Next of kin	Lesbia Del Valle Núñez (wife)	US \$ 25,000.00
	Lesmi Laurieli Aguilera Del Valle (daughter)	US \$ 25,000.00
	Emily Yannara Aguilera Del Valle (daughter)	US \$ 25,000.00
	Miguel Ángel Aguilera Del Valle (son)	US \$ 25,000.00
	Miguelina La Rosa (mother)	US \$ 25,000.00



	Roque Jacinto Aguilera (father)	US \$ 25,000.00
Victim	Armando Antonio Castellanos Canelón	US \$ 15,000.00
Next of kin	Ana Dolores Briceño (permanent companion)	US \$ 25,000.00
	Dayimiri Jugeni Castellanos Briceño (daughter)	US \$ 25,000.00
	Anabel Fabiana Castellanos Briceño (daughter)	US \$ 25,000.00
	Yaidelis Vanesa Castellanos Briceño (daughter)	US \$ 25,000.00
	Rafael Antonio Castellanos Briceño (father)	US \$ 25,000.00
	Josefa Canelón (mother)	US \$ 25,000.00
	Enodio Castellanos Canelón (brother)	US \$ 7,000.00
	Rafael Castellanos Canelón (brother)	US \$ 7,000.00
	Pedro Castellanos (brother)	US \$ 7,000.00
	Pablo Antonio Castellanos (brother)	US \$ 7,000.00
	Mery Rosa Castellanos (sister)	US \$ 7,000.00
	Mélida del Carmen Castellanos (sister)	US \$ 7,000.00
	Magaly Josefina Castellanos (sister)	US \$ 7,000.00
	María del Carmen Castellanos (sister)	US \$ 7,000.00
	Marlene Margarita Castellanos (sister)	US \$ 7,000.00
María Susana Castellanos (sister)	US \$ 7,000.00	
Nancy Castellanos (sister)	US \$ 7,000.00	
Victim	Luis Manuel Colmenares Martínez	US \$ 15,000.00
Next of kin	Mery Marina Castillo (mother)	US \$ 25,000.00
	Adelmo de Jesús Colmenares Mendoza (father)	US \$ 25,000.00
Victim	Juan José Blanco Garrido	US \$ 20,000.00
Next of kin	Ana Jacinta Garrido (mother)	US \$ 25,000.00
	Juan Vicente Blanco (father)	US \$ 25,000.00
	Humberto Enrique Garrido (brother)	US \$ 7,000.00

Victim	Daniel Alfredo Guevara Ramos	US \$ 20,000.00
Next of kin	Alfredo Guevara (father)	US \$ 25,000.00
	Catalina Ramos (mother)	US \$ 25,000.00
Victim	Pedro Gustavo Guía Laya	US \$ 15,000.00
Next of kin	Franci Aracelis Guía Martínez (daughter)	US \$ 25,000.00
	Baldomera Laya (mother)	US \$ 25,000.00
	Vivan Guía (father)	US \$ 25,000.00
	Braulio Ramón Guía Laya (brother)	US \$ 7,000.00
Victim	Mercedes Beatriz Hernández Daza	US \$ 15,000.00
Next of kin	Efraín González (husband)	US \$ 25,000.00
	Guirvin Efraín González (son)	US \$ 25,000.00
	Oscar Rafael Hernández (father)	US \$ 25,000.00
	Carmen Elodia Daza (mother)	US \$ 25,000.00
	Xiomara Milagros Hernández Daza (sister)	US \$ 7,000.00
Victim	Crisanto Mederos	US \$ 15,000.00
Next of kin	Crisanto Bael Mederos (son)	US \$ 25,000.00
	Leonor Pilar Mederos (daughter)	US \$ 25,000.00
	Sara Abigail Mederos (daughter)	US \$ 25,000.00
	Rosa Margarita Hernández (mother)	US \$ 25,000.00
Victim	Francisco Antonio Moncada Gutiérrez	US \$ 20,000.00
Next of kin	Francisco Moncada (father)	US \$ 25,000.00
	Ana Alicia Gutiérrez (mother)	US \$ 25,000.00

Victim	Héctor Daniel Ortega Zapata	US \$ 15,000.00
Next of kin	Ligia Zapata (mother)	US \$ 25,000.00
	Asisclo Ortega (father)	US \$ 25,000.00

	Ingrid Ortega Zapata (sister)	US \$ 7,000.00
Victim	Richard José Páez Páez	US \$ 20,000.00
Next of kin	Hilda Rosa Páez (mother)	US \$ 25,000.00
	José Luis Páez Osorio (father)	US \$ 25,000.00
	José Luis Páez Páez (brother)	US \$ 7,000.00
Victim	Carlos Elías Parra Ojeda	US \$ 15,000.00
Next of kin	Toribia Ojeda (mother)	US \$ 25,000.00
	Félix Armando Parra (father)	US \$ 25,000.00
	Hugo Agustín Parra Ojeda (brother)	US \$ 7,000.00
	Benilda Margarita Parra Ojeda (sister)	US \$ 7,000.00
Victim	José del Carmen Pirela León	US \$ 20,000.00
Next of kin	Ivonne Pirela Chacón (aunt)	US \$ 25,000.00
	José Antonio Pirela Chacón (father)	US \$ 25,000.00
	Francisca Gerónima León Machado (mother)	US \$ 25,000.00
	Sandy Antonio Pirela (brother)	US \$ 7,000.00
	Erika Yurley Pirela (sister)	US \$ 7,000.00
	Markielys Xiomara Pirela (sister)	US \$ 7,000.00
	Mepysel Pirela (sister)	US \$ 7,000.00
	Yorleydy Katherine Pirela (sister)	US \$ 7,000.00
	Mónica Pamela Pirela (sister)	US \$ 7,000.00
Victim	José Vicente Pérez Rivas	US \$ 15,000.00
Next of kin	María Teresa Rivas Ibarra (mother)	US \$ 25,000.00
	José Vicente Pérez (father)	US \$ 25,000.00
	Mayumi Pérez (sister)	US \$ 7,000.00
Victim	Jorge Daniel Quintana	US \$ 20,000.00
Next of kin	Juliana Quintana (mother)	US \$ 25,000.00

Victim	Wolfgang Waldemar Quintana Vivas	US \$ 15,000.00
Next of kin	Iris Medina (permanent companion)	US \$ 25,000.00
	Luzdenny Estefanía Quintana Medina (daughter)	US \$ 25,000.00
	Maria Esperanza Vivas (mother)	US \$ 25,000.00
	Rodolfo Quintana (father)	US \$ 25,000.00
Victim	Yurima Milagros Ramos Mendoza	US \$ 15,000.00
Next of kin	Dilia Pastora Mendoza (mother)	US \$ 25,000.00
	Héctor Ramos Ramírez (father)	US \$ 25,000.00
	Yanira Margarita Ramos Mendoza (sister)	US \$ 7,000.00
	Yuraima Mercedes Ramos Mendoza (sister)	US \$ 7,000.00
Victim	Iván Rey	US \$ 15,000.00
Next of kin	Deisy Crespo (wife)	US \$ 25,000.00
	Iván José Rey (son)	US \$ 25,000.00
Victim	Javier Rubén Rojas Campos	US \$ 15,000.00
Next of kin	Haymar Rojas Campos (daughter)	US \$ 25,000.00
	María Encarnación Campos Salazar (mother)	US \$ 25,000.00
	Carlos Rafael Rojas (brother)	US \$ 7,000.00

Victim	Esteban Luciano Rosillo García	US \$ 15,000.00
Next of kin	Fredez Binda García Hernández (mother)	US \$ 25,000.00
	Freddy Rubén Rosillo Díaz (father)	US \$ 25,000.00
	Elio Benjamín Reyes García (brother)	US \$ 7,000.00
	Nadia del Valle Reyes García (brother)	US \$ 7,000.00
	Ángel Felipe Tovar García (brother)	US \$ 7,000.00
	Franklin Beanney García Hernández (brother)	US \$ 7,000.00
Victim	Leobardo Antonio Salas Guillén	US \$ 15,000.00

Next of kin	María Neria Guillén Pereira (mother).	US \$ 25,000.00
	Antonio Ramón Salas (father)	US \$ 25,000.00
	Oney Coromoto Salas Guillén (brother)	US \$ 7,000.00
	Ayarith del Rocío Salas Guillén (sister)	US \$ 7,000.00
	Francis Nereida Salas Guillén (sister)	US \$ 7,000.00
	Ingrid Katuska Salas Guillén (sister)	US \$ 7,000.00
	Fanny Yanette Salas Guillén (sister)	US \$ 7,000.00
	Antonio Ramón Salas Guillén (brother)	US \$ 7,000.00
	Mario Lionel Salas Guillén (brother)	US \$ 7,000.00
	Richard Rafael Salas Guillén (brother)	US \$ 7,000.00
	Douglas Orangel Salas Guillén (brother)	US \$ 7,000.00
	Ramón Enrique Salas Guillén (brother)	US \$ 7,000.00
Victim	Tirso Cruz Tesara Álvarez	US \$ 15,000.00
Next of kin	Olga María Álvarez (mother)	US \$ 25,000.00
	Cruz Tesara (father)	US \$ 25,000.00
	Lilia Olga Tesara Álvarez (sister)	US \$ 7,000.00
	Erika Jasmín Tesara Álvarez (sister)	US \$ 7,000.00
	Janethe Isidora Tesara Álvarez (sister)	US \$ 7,000.00
	Naire Aliria Tesara Álvarez (sister)	US \$ 7,000.00
	Argenia Alejandrina Tesara Álvarez (sister)	US \$ 7,000.00
Victim	Héctor José Lugo Cabriles	US \$ 15,000.00
Next of kin	Carmen Rufina Cabriles (mother)	US \$ 25,000.00
	Desiderio Antonio Lugo (father)	US \$ 25,000.00

<b>Homicide victims whose mortal remains were not delivered to their next of kin</b>		
Victim	Benito del Carmen Aldana Bastidas	US \$ 15,000.00

Next of kin	Mayerling Margarita Aldana Pérez (daughter)	US \$ 31,000.00
	Celeste Senaid Aldana Pérez (daughter)	US \$ 31,000.00
	Jilka Josefina Aldana Pérez (daughter)	US \$ 31,000.00
	Jacinta Bastidas (mother)	US \$ 31,000.00
	Rosa Julia Bastidas (sister)	US \$ 8,500.00
	Atilio Bastidas (brother)	US \$ 8,500.00
	Marcial Bastidas (brother)	US \$ 8,500.00
	Auxiliadora Bastidas (sister)	US \$ 8,500.00
	María Bastidas (sister)	US \$ 8,500.00
	Olida Bastidas (sister)	US \$ 8,500.00
	Gallevis Bastidas (sister)	US \$ 8,500.00
	María de las Mercedes Bastidas (sister)	US \$ 8,500.00
	José Dolores Bastidas (brother)	US \$ 8,500.00
	Victim	Boris Eduardo Bolívar Marcano
Next of kin	Carmen Sanoja Volcán (permanent companion)	US \$ 31,000.00
	Nelly Marcano (mother)	US \$ 31,000.00
	Cleto Marcelino Bolívar (father)	US \$ 31,000.00
Victim	Julio César Freitez	US \$ 20,000.00
Next of kin	Nelly Freitez (mother)	US \$ 31,000.00
	José Moisés Aponte Freitez (brother)	US \$ 8,500.00
	María Andreína Aponte Freitez (brother)	US \$ 8,500.00
Victim	Gerónimo Valero Suárez	US \$ 15,000.00
Next of kin	Benedicta Suárez (mother)	US \$ 31,000.00
	María Casilda Valero Suárez (sister)	US \$ 8,500.00
Victim	Jesús Calixto Blanco	US \$ 15,000.00
Next of kin	Ana Mary García (permanent companion)	US \$ 31,000.00

	Victoria Blanco (mother)	US \$ 31,000.00
	Haydee Mavilú Blanco García (daughter)	US \$ 31,000.00
	Rayza Magali Blanco García (daughter)	US \$ 31,000.00
Victim	Fidel Orlando Romero Castro	US \$ 15,000.00
Next of kin	Rosa Jacinta Castro (mother)	US \$ 31,000.00
	Pedro Romero Echerri (father)	US \$ 31,000.00
	Oscar Alfredo Romero Castro (brother)	US \$ 8,500.00
	Maritza Isabel Romero Castro (sister)	US \$ 8,500.00
Victim	Roberto Segundo Valbuena Borjas	US \$ 15,000.00
Next of kin	Rubí Borjas (mother)	US \$ 31,000.00
	Roberto Valbuena (father)	US \$ 31,000.00
	Judith Borjas (aunt)	US \$ 31,000.00
Victim	Elsa Teotiste Ramírez Caminero	US \$ 15,000.00
Next of kin	Alejandro Idelfonso Ramírez (son)	US \$ 31,000.00
	Yovanny Manuel Ramírez (son)	US \$ 31,000.00
	Ydel Ramón Ramírez (son)	US \$ 31,000.00
	Elsa Julia Batista Ramírez (daughter)	US \$ 31,000.00
	Ybelice Altagracia Ramírez (daughter)	US \$ 31,000.00
	Marisol Vitalina Ramírez Caminero (sister)	US \$ 8,500.00
Victim	José Ramón Montenegro Cordero	US \$ 15,000.00
Next of kin	Nicasia Cordero (mother)	US \$ 31,000.00
	José Gregorio Montenegro (father)	US \$ 31,000.00
	Marisol Montenegro (sister)	US \$ 8,500.00
	José Ramón Montenegro Cordero (brother)	US \$ 8,500.00
	Francisco Rafael Montenegro Cordero (brother)	US \$ 8,500.00
Victim	Jesús Alberto Cartaya	US \$ 15,000.00

Next of kin	Elsa Marina López Nieto (permanent companion)	US \$ 31,000.00
	Jesús Yonathan López (son)	US \$ 31,000.00
	Gervasia Antonia Cartaya (mother)	US \$ 31,000.00
Victim	Sabas Reyes Gómez	US \$ 15,000.00
Next of kin	Beatriz Ismelda Gómez Carrillo (daughter)	US \$ 31,000.00
Victim	Alís Guillermo Torres Flores	US \$ 15,000.00
Next of kin	Rosa Flores (mother)	US \$ 31,000.00

<b>Missing victims</b>		
Victim	José Miguel Liscano Betancourt	US \$ 15,000.00
Next of kin	Carmen Betancourt (mother)	US \$ 31,000.00
	Juan Nepomuceno Liscano (father)	US \$ 31,000.00
	Aura Rosa Liscano Betancourt (sister)	US \$ 8,500.00
	Mirian Josefina Liscano Betancourt (sister)	US \$ 8,500.00
	Leida Josefina Liscano Betancourt (sister)	US \$ 8,500.00
	Nancy del Carmen Liscano Betancourt (sister)	US \$ 8,500.00
	Carmen Cecilia Liscano Betancourt (sister)	US \$ 8,500.00
Victim	Juan Acasio Mena Bello	US \$ 15,000.00
Next of kin	Laura Margarita Marrero Chenique (permanent companion)	US \$ 31,000.00
	Petra Zulia Mena Marreno (daughter)	US \$ 31,000.00
	Laura Josefina Marreno (daughter)	US \$ 31,000.00
	Maribel Sughey Marreno (daughter)	US \$ 31,000.00
	Petra Bello (mother)	US \$ 31,000.00

<b>Victims of violations of the right to fair trial and to judicial protection</b>		
Victim	Abelardo Antonio Pérez	----
Next of kin	Oscarina Pérez (mother)	US \$ 5,000.00
Victim	Andrés Eloy Suárez Sánchez	----
Next of kin	María Antonia Sánchez (mother)	US \$ 5,000.00
	Graciliano Suárez (father)	US \$ 5,000.00
	Juan Carlos Suárez Sánchez (brother)	US \$ 2,000.00



	María Lourdes Suárez Sánchez (sister)	US \$ 2,000.00
Victim	Jesús Rafael Villalobos	-----
	Franco José Márquez Villalobos (brother)	US \$ 2,000.00
Victim	Jesús Salvador Cedeño	-----
Next of kin	Sofía Cedeño (mother)	US \$ 5,000.00
	Wilfredo del Carmen Cedeño (brother)	US \$ 2,000.00
	Emileydis del Carmen Cedeño (sister)	US \$ 2,000.00

<b>Wounded victims</b>		
Victim	Henry Eduardo Herrera Hurtado	US \$ 55,000.00
Victim	Noraima Sosa Ríos	US \$ 30,000.00
Victim	Gregoria Matilde Castillo	US \$ 20,000.00

111. Pursuant to what has been stated above (*supra* paras. 93, 101 and 102), provisions regarding the recipients of compensation payments for pecuniary damages will also be applied to the distribution of compensation for non-pecuniary damage directly caused to the victims in the instant case.

## **IX OTHER FORMS OF REPARATION**

### *Arguments of the representatives of the victims and of the next of kin*

112. The representatives of the victims and of the next of kin requested that the Court, as measures of satisfaction and non-recidivism, order the State, among other things, to:

- a) continue and complete the process of identification of the corpses exhumed in 1990 from the common graves, establish the wounds that caused the deaths, and deliver the remains to the next of kin;
- b) investigate the whereabouts of the missing victims and return their bodies;
- c) conduct a thorough investigation to identify, prosecute, and punish those responsible for the deaths and wounds of the victims and all those who, by action or omission, allowed impunity to prevail in this case. Also, to investigate and administratively punish those responsible for the grave acts committed at the Forensic Medicine Institute, which led to burial of an unspecified number of corpses in common graves. To this end, the State must lift the veil of secrecy that it maintains with respect to the judicial files regarding the facts of this case under domestic jurisdiction;
- d) legislative reforms:
  - d.i) to amend the Venezuelan Criminal Code so as to define the crime of forced disappearance of persons, considering the violation of the right to life with the aggravation of the active perpetrator being a

State official; and to establish that the terms for extinguishment of crimes against human rights be suspended while de facto situations that impede or hinder exercise of the respective legal actions continue; and

d.ii) to amend the Military Justice Code to make it compatible with the American Convention, the Constitution and domestic laws, specifically as regards elimination of the concept of due obedience to all types of orders in the line of duty; to modify the concept of military honor; and to include participation of the Attorney General of the Republic in all military proceedings;

e) to formally effect educational reforms to the study programs at the military and police academies, and in general in the training and professional improvement centers of those institutions, with mandatory courses on protection of human rights, taught by specialized professors; and to implement participation of non-governmental human rights organizations;

f) to reestablish the good name of the victims and develop collective remembrance to avoid repetition of these facts, and specifically to solemnly and explicitly reestablish the dignity of the victims by means of a public statement; to build a monument to the memory of the victims of the events of February and March, 1989; and to decree that February 27 will be "National Human Rights Day;"

g) with respect to public security, to establish a civil body of the National Police, respectful of human rights, to carry out public security tasks; and

h) to offer the victims and their next of kin the necessary means for special and professionalized rehabilitation care, and for each victim to be able to choose the professional who will provide this care. Also, to consult with the schools of psychology and psychiatry at Universidad Central de Venezuela to implement the above.

#### *Arguments of the Commission*

113. The Commission in turn requested that the Court order the State:

c) As a guarantee of procedural assurance:

To continue the judicial proceedings in course that seek to establish the facts and punish the principals, abettors and accessories after the fact, giving the former the necessary procedural impetus for them to be completed within a reasonable time, allowing the direct victims and their next of kin to exercise control over actions taken. This investigation must include correct identification of the bodies irregularly buried in the General Southern Cemetery and their delivery to their next of kin, as well as establishment of the whereabouts of the missing persons. For this, the Venezuelan authorities must take into account the standards set forth in the "Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions" of the Economic and Social Council of the United Nations.

d) As a guarantee of reparations:

To make reparations to the victims for denial of their rights, by means of payment of a pecuniary compensation, to be established by the Court. The Commission endorses all the measures for public acknowledgment of responsibility and correction of the wrongs to the good name and honor of the victims by the State, requested by the representatives of the victims and of the next of kin.

e) As a guarantee of sanctions:

To conduct a serious, independent, and impartial investigation to individually identify and punish the State agents responsible for the unreasonable delay of the military and judicial proceedings opened.

f) As a guarantee of non-recidivism:

To order the legislative and other provisions necessary to prevent and avoid repetition of similar violations in the future, and to punish their perpetrators, modifying domestic legislation if this is necessary. The Commission supports the request made by the representatives of the victims and of the next of kin, for the State to include courses on protection of human rights in the study programs of military and police academies and to promote the establishment of a strictly civil Police corps in charge of public security.

#### *Arguments of the State*

114. For the reasons stated before regarding application of the *estoppel* principle, in the chapter on assessment and use of the evidence, the Court will not refer, in this section, to the arguments of the State pertaining to other forms of reparation of the damage caused by the facts in this case.

#### *Considerations of the Court*

115. All the States party to the American Convention have the duty to investigate human rights violations and to punish the perpetrators and accessories after the fact in said violations. And any person who considers himself or herself to be a victim of such violations has the right to resort to the system of justice to attain compliance with this duty by the State, for his or her benefit and that of society as a whole.<sup>192</sup>

116. The Court notes that in this case there are several circumstances attributable to the State and that constituted obstacles to investigation of the facts, and to identification and punishment of those responsible, as follows: a) lack of willingness and commitment of the competent authorities to undertake the respective criminal proceedings under regular and military jurisdiction, which led to numerous irregularities and unjustifiable delays; b) lack of access by the victims, their next of kin or their representatives to the criminal investigations and proceedings due to the so called "secrecy of the preliminary investigations;" and c) use of common graves and subsequent denial of their existence by the authorities.

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<sup>192</sup> Cf. *Trujillo Oroza Case. Reparations*, *supra* note 2, para. 99; *Bámaca Velásquez Case. Reparations*, *supra* note 2, paras. 75 and 77; and *Cantoral Benavides Case. Reparations*, *supra* note 27, paras. 69 and 70.

117. At the date of the instant Judgment, after more than thirteen years, neither those responsible for the homicides, disappearances and grave wounds suffered by the victims nor those who ordered burial of the deceased in common graves have been identified and punished. This has led to a situation of grave impunity regarding the respective facts, a situation which constitutes an infringement of the aforementioned duty of the State. It is injurious to the victims, their next of kin and society as a whole, and fosters chronic recidivism of the human rights violations involved.

118. It is therefore necessary for the State to undertake an effective investigation of the facts in this case, to identify those responsible for them, both the principals and the abettors, as well as possible accessories after the fact, and to punish them administratively and criminally as appropriate. The domestic proceedings involved must address the violations of the right to life, the right to humane treatment, and the right to fair trial, due process and effective remedy, to which the judgment on the merits referred. They must also address the use of common graves, by means of irregular burials, and the cover-up of the use of such graves. The next of kin of the victims and the surviving victims must have full access and the capacity to act during all stages and levels of said investigations, pursuant to domestic law and to the provisions of the American Convention. Their results must be made known to the public, for Venezuelan society to know the truth.

119. The State must ensure that domestic proceedings directed toward investigation and punishment of those responsible for the facts in this case have the desired effects and, specifically, not resort to measures such as amnesty, extinguishment and measures designed to eliminate responsibility. In this regard, the Court has pointed out that:

[...] all amnesty provisions, provisions on prescription and the establishment of measures designed to eliminate responsibility are inadmissible, because they are intended to prevent the investigation and punishment of those responsible for serious human rights violations such as torture, extrajudicial, summary or arbitrary execution and forced disappearance, all of them prohibited because they violate non-derogable rights recognized by international human rights law.<sup>193</sup>

Public officials and private citizens who hamper, divert or unduly delay investigations tending to clarify the truth of the facts must be punished, rigorously applying, in this regard, provisions of domestic legislation.

120. The State must effect the necessary legislative amendments to fulfill the duties dealt with in the previous paragraphs.

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121. The Court has established that the whereabouts of the mortal remains of the following victims in this case are unknown, the State having been declared internationally responsible for their homicides and disappearances in the judgment on the merits: Benito del Carmen Aldana Bastidas, Boris Eduardo Bolívar Marcano,

<sup>193</sup> *Barrios Altos Case*. March 14, 2001 Judgment. Series C No. 75, para. 41. By the same token, *Cf. Trujillo Oroza Case. Reparations*, *supra* note 2, para. 106; and *Barrios Altos Case. Interpretation of the Judgment on the Merits*. (Art. 67 American Convention on Human Rights). September 3, 2001 Judgment. Series C No. 83, para. 15.

Julio César Freitez, Gerónimo Valero Suárez, Jesús Calixto Blanco, Fidel Orlando Romero Castro, Roberto Segundo Valbuena Borjas, Elsa Teotiste Ramírez Caminero, José Ramón Montenegro Cordero, Jesús Alberto Cartaya, Sabas Reyes Gómez, Alís Guillermo Torres Flores, José Miguel Liscano Betancourt, and Juan Acasio Mena Bello. This circumstance and continuation of impunity in this regard constitute a source of extraordinary humiliation and suffering of their next of kin.

122. This Court has several times stated that the next of kin have the right to know the whereabouts of the mortal remains of their beloved ones. It has also stated that their demands in this regard are in accordance with “a just expectation that the State is obligated to use the means at its disposal to satisfy”.<sup>194</sup>

123. The Court deems that delivery of the mortal remains is in itself an act of reparation as it leads to restore the dignity of the victims, to honor the value of their memory to those who were their beloved ones, and to allow them to adequately bury them.<sup>195</sup>

124. The State must, therefore, locate, exhume, identify by means of undoubtedly suitable techniques and instruments, the remains of the victims mentioned in the paragraphs immediately above. The costs of the ensuing burial, in the place chosen by the next of kin, must be covered by the State. The mortal remains of Elsa Teotiste Ramírez Caminero, in accordance with the wishes of her next of kin, must be transferred and buried in the Dominican Republic, which is the country of origin of the victim, and the cost must be covered by the State.

125. The State must, also, locate, exhume, identify and deliver to the next of kin the remains of those persons whose deaths were not attributed to the State in the judgment on the merits, but whose next of kin also have the right to know their whereabouts. These persons are: Jesús Salvador Cedeño, Jesús Rafael Villalobos, Abelardo Antonio Pérez, and Andrés Eloy Suárez Sánchez, who are the victims of a violation of Articles 8 and 25 of the Convention.

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126. So as to give impetus to the criminal proceedings in connection with the facts, to provide guarantees of non-recidivism of the latter, to take steps in the struggle against impunity, and to advance in the process of locating the mortal remains of all the aforementioned victims, it is relevant for the State to take all necessary steps to renew and complete, as soon as possible and applying suitable techniques and instruments, the process of exhumation and identification of the persons buried in the “La Peste” Sector of the General Southern Cemetery, in Caracas. Specifically, it must renew and complete the identification of the persons whose bodies were

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<sup>194</sup> *Velásquez Rodríguez Case*. July 29, 1988 Judgment. Series C No. 4, para. 181. Cf. also, *Trujillo Oroza Case. Reparations*, *supra* note 2, para. 113; and *Bámaca Velásquez Case. Reparations*, *supra* note 2, para. 76.

<sup>195</sup> *Trujillo Oroza Case. Reparations*, *supra* note 2, para. 115; *Bámaca Velásquez Case. Reparations*, *supra* note 2, para. 81; and *Blake Case*. January 24, 1998 Judgment. Series C No. 36, para. 115.

exhumed in 1990 (*supra* para. 66.7 and 66.8) and it must deliver their remains to their next of kin, for them to bury those remains in the appropriate manner at the place they choose.

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127. The characteristics of the facts in the instant case reveal that the armed forces and security agencies of the State were not prepared to face public order disturbances by applying means and methods that respect human rights. It is necessary to avoid by all means any repetition of the circumstances described. The State must adopt all necessary provision to this end, and specifically those for education and training of all members of its armed forces and its security agencies on principles and provisions of human rights protection and regarding the limits to which the use of weapons by law enforcement officials is subject, even in a state of emergency. The pretext of maintenance of public security cannot be invoked to violate the right to life. The State must, also, adjust operational plans regarding public disturbances to the requirements of respect and protection of those rights, adopting to this end, among other measures, those geared toward control of actions by all members of the security forces in the very field of action to avoid excess. Finally, the State must ensure that, if it is necessary to resort to physical means to face situations of disturbance of public order, the members of its armed forces and its security bodies will use only those means that are indispensable to control such situations in a rational and proportional manner,<sup>196</sup> and respecting the rights to life and to humane treatment.

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128. Acknowledgment of responsibility by the State has been a positive contribution to the development of these proceedings and to effectiveness of the principles that inspire the American Convention.<sup>197</sup> Nevertheless, the Court deems that for said recognition to have the full effect of reparation to the victims and to serve as a guarantee of non-recidivism of facts such as those in the instant case, the State must publish within a reasonable time, in the Official Gazette and in a daily newspaper with national circulation, at least once, chapter I, under the title Introduction of the Case, paragraph 1 subparagraphs a),b),c),d),e),f) and (a) and the operative paragraphs of chapter VII of the judgment on the merits; and paragraphs 66 to 66.16 of the instant Judgment.

## X LEGAL COSTS AND EXPENSES

### *Arguments of the representatives of the victims and of the next of kin*

129. The representatives of the victims and of the next of kin stated the following:

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<sup>196</sup> Cf. *Durand and Ugarte Case*, *supra* note 24, paras. 68, 69 and 71.

<sup>197</sup> Cf. *Trujillo Oroza Case. Reparations*, *supra* note 2, para. 118; *El Caracazo Case*, *supra* note 28, para. 43; and *Benavides Cevallos Case*. June 19, 1998 Judgment. Series C No. 38, para. 57.

a) COFAVIC incurred various expenses in connection with steps taken before domestic entities during the period from 1989 to 1995, for which they request as compensation US\$46,800.00 (forty-six thousand eight hundred United States dollars). They do not include the attorney fees of Liliana Ortega Mendoza, who provided legal assistance to the victims, in view of the fact that she donated her professional services. COFAVIC also incurred a number of expenses in steps taken before the bodies of the inter-American system, which they estimate amount to US\$45,700.00 (forty-five thousand seven hundred United States dollars ); and

b) CEJIL, in turn, as co-applicant with COFAVIC before the bodies of the inter-American system, requested payment of a number of expenses incurred, adding up to US\$6,579.90 (six thousand five hundred and seventy-nine United States dollars and ninety cents);

*Considerations of the Court*

130. Legal costs and expenses must be understood to fall under the concept of reparations set forth in Article 63(1) of the American Convention, as the activities carried out by the victim or victims, their next of kin or their representatives to obtain justice under domestic and international jurisdiction involve expenses and financial commitments for which there must be compensation when the respondent is found to be responsible of violations.<sup>198</sup>

131. The Court must judiciously assess legal costs and expenses, taking into account the circumstances of the specific case, the nature of international human rights jurisdiction, and the characteristics of the respective proceedings, which are specific and different from those of other domestic and international proceedings.<sup>199</sup>

132. To this end, the Court deems it equitable to recognize for COFAVIC, as reimbursement of legal costs and expenses incurred under domestic jurisdiction and before the inter-American system, US\$75,000.00 (seventy-five thousand United States dollars) and for CEJIL as reimbursement for expenses incurred before the inter-American system, US\$1,000.00 (one thousand United States dollars).

133. According to documentation supplied to this Court, COFAVIC has taken numerous steps within the country to seek justice in the instant case (*supra* paras. 66.63 and 66.64). The Court also foresees that COFAVIC must take various steps regarding compliance with the instant Judgment, in view of which it deems it appropriate, in fairness, to set the sum of US\$10,000.00 (ten thousand United States dollars) for future expenses in connection with said steps.

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<sup>198</sup> Cf. *Trujillo Oroza Case, Reparations*, *supra* note 2, para. 126; *Cantoral Benavides Case, Reparations*, *supra* note 27, para. 85; and *Cesti Hurtado Case. Reparations*, (Art. 67 American Convention on Human Rights), November 27, 2001 Judgment, para. 71.

<sup>199</sup> Cf. *Trujillo Oroza Case, Reparations*, *supra* note 2, para. 126; *Cantoral Benavides Case, Reparations*, *supra* note 27, para. 85; and *Cesti Hurtado Case. Reparations*, *supra* note 198, para. 71.

## XI MODE OF COMPLIANCE

### *Considerations of the Court*

134. To comply with the instant Judgment, the State must execute payment of the compensatory indemnifications, reimbursement of legal costs and expenses, and adoption of other measures ordered within twelve months of the date it receives notice of the instant Judgment, with the exception of the provisions of paragraphs 73 and 106 of this judgment.

135. Payment of compensation ordered in favor of the victims and the next of kin, as the case may be, will be made directly to them. In case any of the victims or any of the next of kin have died or die, payment for non-pecuniary damage will be made to their heirs.

136. The Court deems it appropriate to add that, if for any reason it were not possible for the victims or the beneficiaries of indemnification to appear so as to receive them, the State must deposit the amounts in their favor in an account or certificate of deposit at a solvent Venezuelan banking institution, in United States dollars or their equivalent in Venezuelan currency, within twelve months, and under the most favorable financial conditions allowed by banking practices and legislation. If after five years of the date it was deposited such indemnification has not been claimed, the capital and the interest earned will be returned to the State.

137. As regards compensation in favor of the beneficiaries who are minors, the State will open an account or certificate of deposit at a solvent Venezuelan banking institution, in United States dollars or their equivalent in Venezuelan currency, within twelve months and under the most favorable conditions allowed by banking practices and legislation. The earnings derived from interest will augment the fund, which will be delivered to the beneficiaries, in full, when they attain majority or marry. In case of death, this right will pass on to their heirs.

138. Payments for reimbursement of legal costs and expenses generated by steps taken by the representatives of the victims and of the next of kin in domestic proceedings and in the international proceeding before the inter-American system, will be made to their representatives, as established above (*supra* paras. 132 and 133).

139. The State may fulfill its obligations by payment in United States dollars or an equivalent amount in Venezuelan currency, using for the respective calculation the exchange rate between both currencies in the New York, United States of America exchange, the day before the payment.

140. Payments ordered in the instant Judgment are exempt from all currently existing taxes or those that may be decreed in the future.



141. In case the State incurs in arrears, it will pay interest on the amount due, equivalent to the overdue banking interest rate in Venezuela.

142. In accordance with its usual practice, the Court reserves the authority to supervise full compliance with the instant Judgment. The case will be closed once the State has faithfully complied with the provisions of this Judgment.

## **XII OPERATIVE PARAGRAPHS**

143. Therefore,

**THE COURT,**

**DECIDES:**

unanimously,

1. that pursuant to paragraphs 118 to 120 of the instant Judgment, the State must undertake an effective investigation of the facts in this case and identify those responsible for them, both principals and accessories before the fact, as well as possible accessories after the fact, and punish them administratively and criminally as appropriate; that the next of kin of the victims and the surviving victims must have full access and the power to act at all stages and in all proceedings during said investigations, in accordance with domestic legislation and the provisions of the American Convention on Human Rights, and that the results of those investigations must be made known to the public;

2. that the State must find, exhume, identify by means of suitable techniques and instruments, and deliver to their next of kin, pursuant to paragraphs 121 and 124 to 126 of the instant Judgment, the mortal remains of the eighteen victims listed in those same paragraphs;

3. that the costs of burial of the mortal remains of the persons mentioned in the previous operative paragraph, in a place chosen by their next of kin, must be paid by the State, in accordance with paragraph 124 of the instant Judgment;

4. that the State must take all necessary steps to avoid recurrence of the circumstances and facts of the instant case, in accordance with paragraph 127 of the instant Judgment, pursuant to which it will

a) take all necessary steps to educate and train all members of its armed forces and its security agencies regarding principles and provisions on protection of human rights and the limits to which the use of weapons by law enforcement officials is subject, even under a state of emergency;

b) adjust operational plans regarding public disturbances to requirements of respect for and protection of said rights, and to this end take among other steps those required to control actions by all members of security forces in the field of operations to avoid excess, and

- c) ensure that, if it is necessary to resort to physical means to face public disturbances, members of the armed forces and security agencies will use only those strictly required to control such situations in a rational and proportional manner, respecting the right to life and to humane treatment;
5. that the State must, within a reasonable period, publish at least once, in the Official Gazette and in a widely read national daily, chapter one, Introduction of the Case, paragraph 1, subparagraphs a), b), c), d), e), f) and (a) and the operative points included in chapter VII of the judgment on the merits and paragraphs 66 to 66.16 of the instant Judgment;
6. that the State must pay, as compensation for pecuniary damage, the total sum of US\$1,559,800.00 (one million five hundred and fifty-nine thousand eight hundred United States dollars) or its equivalent in Venezuelan currency, a sum resulting from the following items:
- a) US\$13,800.00 (thirteen thousand eight hundred United States dollars) due to compensation, pursuant to paragraph 85 of the instant Judgment, for damage in connection with expenses in burial services incurred by the next of kin of the twenty-three homicide victims whose bodies were delivered by the authorities;
- b) US\$37,000.00 (thirty-seven thousand United States dollars) due to compensation, pursuant to paragraph 86 of the instant Judgment, for expenses incurred in searching for and finding the 37 homicide victims and disappeared persons, in various public offices, and expenses caused or to be caused by medical treatment that the next of kin of said victims required or will require;
- c) US\$1,348,500.00 (one million three hundred and forty-eight thousand five hundred United States dollars) due to compensation, pursuant to paragraph 88 of the instant Judgment, for damage pertaining to lost earnings of the 37 homicide victims and disappeared persons;
- d) US\$29,000.00 (twenty-nine thousand United States dollars) due to compensation, pursuant to paragraph 87 of the instant Judgment, for damage pertaining to expenses incurred or to be incurred for medical treatment and to purchase necessary means to alleviate disabilities caused by the facts of the case to the three victims of violations of the right to humane treatment; and
- e) US\$131,500.00 (one hundred and thirty-one thousand five hundred United States dollars) due to compensation, pursuant to paragraph 89 of the instant Judgment, for damage pertaining to lost earnings of the three victims of violations of the right to humane treatment;
7. in connection with payment of the items stated in the above operative paragraph, the procedure will be as follows:
- a) the items listed in subparagraphs a), b) and c) of the above operative paragraph will be aggregated into a single amount and distributed among the next of kin of the victims in the manner shown in the table of paragraph 90, in combination with paragraph 91 of the instant Judgment; and

b) the items listed in paragraphs d) and e) of the above operative paragraph will be distributed among the three victims of violations of the right to humane treatment, in the manner stated in paragraphs 90 and 92 of instant Judgment.

8. that the State must pay, as compensation for non-pecuniary damage, US\$3,921,500.00 (three million nine hundred and twenty-one thousand five hundred United States dollars) or their equivalent in Venezuelan currency, a sum that includes the following items:

a) US\$555,000.00 (five hundred and fifty-five thousand United States dollars) as compensation, pursuant to paragraph 101 of the instant Judgment, for suffering caused by the facts of the case to the 37 homicide victims and disappeared persons;

b) US\$35,000.00 (thirty-five thousand United States dollars) as compensation, pursuant to paragraph 102 of the instant Judgment, for additional suffering caused by the facts of the case to each of the seven homicide victims who were minors at the time of those facts, an amount that will augment the sum stated in the previous subparagraph;

c) US\$90,000.00 (ninety thousand United States dollars) as compensation, pursuant to paragraph 103 of the instant Judgment, for suffering caused by the facts of the case and by subsequent disability, to the three victims of violations of the right to humane treatment;

d) US\$2,310,000.00 (two million three hundred and ten thousand United States dollars) as compensation, pursuant to paragraphs 104 and 105 of the instant Judgment, for suffering caused by the facts of the case to the next of kin of the 37 homicide victims and disappeared persons;

e) US\$256,500.00 (two hundred and fifty-six thousand five hundred United States dollars) as compensation, pursuant to paragraphs 104 *in fine* of the instant Judgment to the next of kin of the fourteen homicide victims and disappeared persons whose remains have not been delivered to the next of kin, an amount that will augment the sum stated in the subparagraph above;

f) US\$630,000.00 (six hundred and thirty thousand United States dollars) as compensation, pursuant to paragraphs 107 and 108 of the instant Judgment, for non-pecuniary damage related to violation of the rights to fair trial, to due process and to effective remedy, of the next of kin of the 37 homicide victims and disappeared persons;

g) US\$30,000.00 (thirty thousand United States dollars) as compensation, pursuant to paragraphs 107 *in fine* of the instant Judgment, for violation of the rights to fair trial, to due process and to effective remedy, of the next of kin of the four persons listed in those same paragraphs; and

h) US\$15,000.00 (fifteen thousand United States dollars) as compensation, pursuant to paragraph 109 of the instant Judgment, for non-pecuniary damage pertaining to the violation of the rights to fair trial, to due process and to effective remedy, of the three victims of violations of the right to humane treatment;

9. regarding payment of the amounts specified in the above operative paragraph, the following procedure will be followed:

a) payments listed in subparagraphs a) and b) will be aggregated into a single amount and distributed among the next of kin of the victims in the manner described in the Table in paragraph 110, and in paragraph 111 of the instant Judgment;

b) payments listed in subparagraphs c), d), e), f), g) and h) will be made directly to those entitled to the respective compensation, in accordance with the amounts stated in the Table of paragraph 110 and paragraph 111 of the instant Judgment; and

c) regarding persons whose ties with the victims have not been established in this Judgment, and who may be beneficiaries of reparations as compensation for non-pecuniary damage pursuant to paragraphs 73 and 106 of the instant Judgment, the respective payment must be made insofar as such persons appear before the State within twenty-four months of the date the instant Judgment is delivered and they supply authentic evidence, in accordance with domestic legislation, of their status as next of kin of one of the victims, pursuant to article 2(15) of the Rules of Procedure of the Court;

10. that the State must pay the Comité de Familiares de las Víctimas de los Sucesos de Febrero-Marzo de 1989 (COFAVIC), pursuant to paragraphs 132 and 133 of the instant Judgment, as reimbursement for legal costs and expenses incurred in proceedings under domestic jurisdiction and before the inter-American system, US\$75,000.00 (seventy-five thousand United States dollars) and US\$10,000.00 (ten thousand United States dollars) to cover expenses to be incurred in future proceedings pertaining to compliance with the instant Judgment, and that it must pay the Center for Justice and International Law (CEJIL), pursuant to paragraph 132 of the instant Judgment, as reimbursement for expenses and costs incurred in proceedings before the inter-American system, US\$1,000.00 (one thousand United States dollars);

11. that the payments ordered in the instant Judgment will be exempt from any existing or future levy or tax;

12. that the State must comply with the measures of reparation ordered in the instant Judgment within twelve months of the date they are notified, except with respect to operative paragraph 9.c of the instant Judgment;

13. that the State must report to the Inter-American Court of Human Rights every six months after notification of the instant Judgment, on steps taken to comply with it; and

14. that it will oversee compliance with the instant Judgment and will declare the instant case closed once the State has fully complied with the provisions therein.

Drafted in Spanish and English, the Spanish text being authentic, in San José, Costa Rica, on August 29, 2002.

Antônio A. Caçado Trindade  
President

Alirio Abreu-Burelli

Máximo Pacheco-Gómez

Hernán Salgado-Pesantes

Oliver Jackman

Sergio García-Ramírez

Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles  
Secretary

So ordered,

Antônio A. Caçado Trindade  
President

Manuel E. Ventura-Robles  
Secretary